

**UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF NEW YORK**

• 445 Broadway; Albany, NY. 12207-2936 •

Unified United States Common Law Grand Jury;
P.O. Box 59, Valhalla, NY 10595; Fax: (888) 891-8977.

Sureties of the Peace

AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY;

Grand Jury, Sovereigns of the Court
We the People

- Against -

Undisclosed (sealed)

Defendants

Jurisdiction: Court of Record, under
the rules of Common Law
Action at law:

Case NO: 1:16-CV-1490

Magistrate: Daniel J. Stewart

EVIDENCE REPORT



**GRAND JURY REPORT
REGARDING THE HOMICIDE
INVESTIGATION OF
LAVOY FINICUM**

AUGUST 17, 2017

On January 26, 2016, in Harney County Oregon, LaVoy Finicum, while in route to see the Sheriff had no warrants out for his arrest, was unarmed, was the target of an illegal dead-man's roadblock and was then shot multiple times by law enforcement under the orchestration of the FBI.

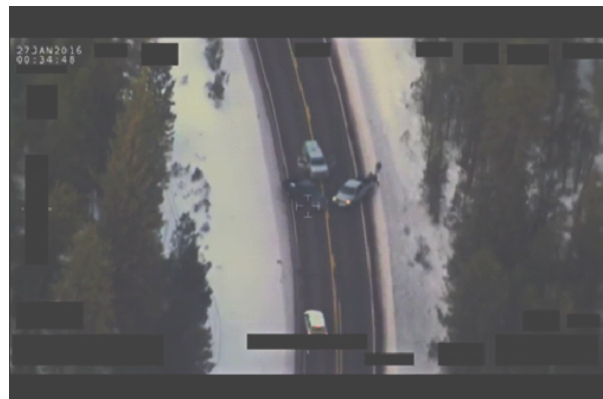


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KEY VIDEO EVIDENCE, CD ATTACHED

(clickable youtube links)

- LaVoy Assassination by FBI - Forensic Proof
<https://www.youtube.com/watch?v=oo-cYEc2nuE>
- Why LaVoy Finicum was Assassinated
<https://www.youtube.com/watch?v=bRfJuMUxDYE&t=5s>
- BLM Whistleblower Reid - Bunkerville and the Military Industrial Complex at Bundy Ranch
<https://www.youtube.com/watch?v=BNGJXDuLkdI&t=518s>
- Nevada Water Rights
<https://www.youtube.com/watch?v=JfFZTdBq-Xc&t=126s>
- Feds Burning Cows, Homes, Imprisoning Rancher
<https://www.youtube.com/watch?v=Aeeclad8G3E>
- Corruption-Patriots Fix Refuge
<https://www.youtube.com/watch?v=TxMxKiOVPdk>
- Patriots clean and repair Malheur Wildlife Refuge #2
<https://www.youtube.com/watch?v=3LAsHbawLzE&t=257s>
- Patriots clean storage shed at Malheur
<https://www.youtube.com/watch?v=HAj4XeyQn9M&t=2s>
- Greg Walden U.S. House on Harney County
<https://www.youtube.com/watch?v=bx4ocLdWE90>
- Harney County Fire Chief Chris Briels caught FBI posing as Militia at Local Armory
<https://www.youtube.com/watch?v=UeEgYR5OFbE>
- Brianna Bundy - eye-witness
<https://www.youtube.com/watch?v=Y92PvMFL0Eg>
- Oregon Stand Off - Harney County Fire Chief Chris Briels exposes judge
<https://www.youtube.com/watch?v=Ji2dLz3a2-8>
- Victoria Sharp - eye witness
<https://www.youtube.com/watch?v=Y92PvMFL0Eg>
- Attorney reads Bundy's statement
<https://www.youtube.com/watch?v=f5Ky6Mr2U1g>
- Former Police Officer says LaVoy murdered
<https://www.youtube.com/watch?v=tZbxmaWQj2A>
- Shawna Cox and Finicum's Last Moments, Government Turning On It's Own People!
<https://www.youtube.com/watch?v=8aonuoxbeSQ>
- Raw interview - Ammon Bundy on Oregon standoff
<https://www.youtube.com/watch?v=BmTXfgZi7RE>
- FBI agent indicted in Oregon wildlife refuge occupation
<https://www.youtube.com/watch?v=ncKcRvX3Ur8>
- Kris Anne Hall - Killing of LaVoy Finicum
<https://www.youtube.com/watch?v=vt2XxunkWYw>

AFFIDAVIT OF LAVOY FINICUM

I, James Magee, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading:

I am functioning in the capacity as a next friend for LaVoy Finicum, a husband, a father, a son, a cowboy, a patriot, and a Christian who sacrificed his life so others may live. LaVoy was assassinated by law enforcement agents and police at a dead-man's road block on January 7th 2016.

The following is a true and accurate transcript from a series of videos most of which were recorded by LaVoy Finicum himself, between May 5th 2014 and January 6th 2016, a period of about twenty months. The videos were downloaded from LaVoy's website (You Tube) and are in chronological order a copy of which is attached to this affidavit via DVD.

The videos as evidence are best served by watching (see attached DVD). These videos document the events leading up to the death of LaVoy and the arrest of Dylan Wade Anderson, Sandra Lynn Pfeifer Anderson, Sean Larry Anderson, Jeff Wayne Banta, Jason Charles Blomgren, Ammon Edward Bundy, Ryan C. Bundy, Brian D. Cavalier, Blaine Cooper, Shawna Cox, Travis Cox, Duane Leo Ehmer, Eric Lee Flores, David Lee Fry, Wesley Kjar, Corey Omar Lequieu, Kenneth Medenbach, Joseph D. O'Shaughnessy, Jason Patrick, Ryan Waylen Payne, Jon Eric Ritzheimer and Jake Ryan. These videos accurately bear witness to the character of LaVoy and the other patriots that took a peaceful stand against a rogue group of federal agents, the county sheriff's office and police departments that conspired for political reasons to assassinate the spokesman of ranchers, loggers and miners that were being driven off their land by the Bureau of Land Management, a federal agency, through extortion; burning down homes, terrorizing them and falsely imprisoning some for reasons explained in these series of videos. The following will become self-evident of the true story of these patriots that took a peaceful stand against tyrants acting as law enforcement agents under the color of law and turning a peaceful demonstration into violence at the end of a barrel of a gun upon unarmed men and women.

14-05-06 LAVOY FINICUM - ONE COWBOYS STAND FOR FREEDOM

Hello everyone. This is LaVoy Finicum.

I once again feel like I would like to make this video in response to President Obama's White House correspondence dinner. As I listened to him speak, I was troubled a little bit. He spoke about, he made jest, made light of, made joke of the Bundy ranch situation in Nevada. And I'd like to ask President Obama why would you feel to jest and make fun of a situation where you have Americans pointing guns at Americans. I don't understand that. Why would we joke about such a thing?

And also I would like to ask a question, why is it OK that they become labeled as terrorists? Under the NDAA Act, which you signed, a terrorist can be held with indefinite detention without trial. And these

people have been labeled, I have been labeled, as a terrorist by Harry Reid, more than once. And this week, the court case was just lost where the People of America had asked the government to at least define what a terrorist would be. What is the definition of a terrorist? That case was lost. So now a terrorist can be defined by anyone in the government who so decides that someone is a terrorist. Harry Reid has determined that we are terrorists. Does that mean, President Obama, that I, the Bundys can now be picked up and held with indefinite detention? What do you think about that? Why would you call these people terrorists?

Why, Harry Reid, would you call us terrorists? Let me explain some of the terrorists that were there according to you. There's a young mother who rode with us from a cowboy family. Our families have known each other for generations. She's a fine mother. She works as a waitress during the day. She raises fine young children. She rode. She didn't have a gun. So is she a terrorist? She works hard every day to feed her family. But now with this joking, this jesting, that you do, and the labeling that Harry Reid does, we didn't come seeking out you. We didn't come to somebody else's place to create a disturbance, to cause a conflict. You came here.

You came to the Bundy ranch. You're the one that came and labeled. You are the one that came with the guns and with the agents. All we want to be is left alone. We just want to raise our families, work, enjoy our lives, enjoy the freedoms that this country offers. So I again, question sincerely, why would you jest about such a thing? It makes no sense to me. Just my thoughts. I hope that those who are sincerely trying to figure out what's right and what's wrong in this case will consider the words that are being spoken by me and by others and weigh in their heart and try and determine what is right. Cause there is no two right sides to a conflict. There can be two wrong sides. But there is never two right sides. One last question, just as an aside, President Obama, how does it feel to finally be on the same side of an issue as Glenn Beck? Just interested. Thanks. And have a good day. And God bless, all of you.

14-05-31 ONE COWBOYS STAND FOR FREEDOM

Hello everyone. This is LaVoy Finicum.

It's been awhile since I've made a video, in my effort, in my attempt to promote the cause of freedom. We've been gathering some cows. I had a colt come over on top of me and it laid me up a little while. I'm back in the saddle now and so I want to continue my effort in trying to explain what freedom is and what freedom isn't. And so I want to talk briefly about the case *Wickard v. Filburn*. That was a Supreme Court case that extended greatly the power of the federal government using the commerce clause. I believe it is Section 1 Article 8 of the Constitution. Which means that the government has the right to keep commerce regular amongst the states. Not to regulate all of the aspects of commerce. The case was that this farmer, Filburn, Roscoe Filburn, was growing wheat on his own farm for his own consumption. Wasn't going to go into the economy. Wasn't going to be sold across state lines. Was to be used with his own farm on his own farm for his own animals for his own consumption. Well, Wickard, the Secretary of Agriculture, brought the case, *Wickard v Filburn*, and the Supreme Court decided that the federal government does indeed have the right to tell a farmer what he can farm

on his own property for his own consumption. Now anyone knows that, that's not freedom. Here is a case where the Supreme Court violated a person's natural right, his opportunity to have right and control over his own property. And they've used that breach of freedom to begin to now regulate almost every aspect of our lives. The commerce clause. Oh it's commerce, we can regulate it. And they do. And that's not freedom. And I appreciate Roscoe Filburn making the fight, but I wonder what would have happened if Roscoe Filburn would have said after the Supreme Court ruled against him saying you cannot farm what you want to farm on your own land. If he would have said, like Cliven Bundy, I don't think so. I think the farm is mine, I think I'll farm it the way I see fit. And had he took that stand maybe we could have rolled back the power of the federal government before they used the commerce clause against us. At some point you have to say that my freedom is worth more than my life. That I don't care, I know what natural rights are mine, they don't come to me from the government. They come to me from birth. They're natural to me, to my being. They come to me from Nature's God. And he says, I'm sorry, you may take me out in a body bag but you won't stop me from growing the wheat on my own farm for my own consumption. Had he drawn a hard line then, maybe we wouldn't be where we are at now. I'm glad that there are people starting to draw hard line. They're beginning to value their freedom more than their life. And it's the citizens of this country, the average citizen that is going to save our freedom. Politicians are not going to save our freedom. They talk a good talk but they don't walk the walk. When the Republicans control all three branches of the government, the size and scope of government marches on. When the Democrats control all three branches of the government, the size and scope of government marches on. By their works, by what they do, that's who they are. They're on the same side. They play a little game for our consumption saying that one is going to protect freedom and the other one is going help out the downtrodden. In the meantime freedom continues to be taken away from us. I just want to say that I think it's time that those who love freedom begin to draw a hard line. That they begin to love freedom even more than they love their own life. Those who gave us this freedom loved it more than they loved their life. They gave us a great gift. Put our lives in order. Make things square with our family. Make things square with our God. Get things straight in our lives so that when you have to in your own little realm, in your own little sphere, draw a hard line saying, "No, no, I'm not going to." It's my rights. They come to me. You can stand. Draw a line. Hope you begin to do this. I'm going to again once or twice a week try to talk about an issue and make them relevant to the day, what we're dealing with. I'm her on my ranch working my cows.

This week we had a drone go over us. What the heck is that? Why do you have to run a drone over us and take a look at what we're doing while we're out here working? We're not hurting anybody. We're not causing any problems. What are you doing looking down our backs? Things are changing. America, please, those of you who love freedom, stand up. This is LaVoy again. Making my little voice heard. My little voice. My little stand for freedom. Stand, America. Have a good day.

14-06-04 LAVOY FINICUM - ONE COWBOYS STAND FOR FREEDOM ENERGY.MP4

Hello everyone. This is LaVoy Finicum again, One Cowboy's Stand for Freedom. I wanted to talk to you today a little bit about energy. A man is free to the degree that he is self-reliant and independent;

and that holds true for our country. Our country is at risk when we are not self-reliant and independent. So I want to talk just a little bit about energy for our country. If you look at this country behind me, I'm here on my ranch, this land covers an area about the size of some European nations. It's large. And mostly sagebrush, cedar trees, pinion, and it's wide, it's vast. And, you might not realize it, but there is a great amount of wealth upon this land here. A vast amount of wealth. And it's in the uranium. And you know there are other aspects. When I was a youth, in my early 20s, I worked on a wildcat rig, a drilling rig, on some of the first uranium test holes that they ran out here. Hack's Canyon, I was the drill hand on one of the two rigs that drilled down to, that found those great loads there in Hack's Canyon. Let me tell you just a little about that ore, that uranium ore there. That uranium ore is some of the richest in the world. And it's found in breccia-pipes, there in small concentrated areas. When we drilled down into that breccia pipe, and they went and put the probe down from the probe truck or van, it was so rich, it was so hot, that they had to take the vans back and recalibrate the probes so that they could get an accurate reading. Extremely rich uranium. And this country is filled with it. It's not a strip mine that you get with, it's not open pit mines. These are subterranean mines, they go down in, mine out these breccia pockets, these breccia pipes, and easy to reclaim, doesn't cause damage to the environment. But we've been shut down. Our country has been shut down. So we get our uranium, a lot of our uranium, from abroad. From Canada, from other nations. And so you need to understand that right here on this area, this ranch, there is vast amounts of wealth. And it's tied up, it's shut down. It's kept from our country. Ken Salazar, under Barack Obama and his administration, was instrumental in shutting down any more mines. There's a couple of mines that continue to operate but once they're done, no more mines. All these claims have been laid out here. All this great high grade uranium is kept offline. So you ask yourself, why? Why do they shut this down? Why do they close this off? It makes us more vulnerable for our power to outside influences. Why do they shut down the Keystone Pipeline? Why are they shutting down the shale, great oil shale that we have in Utah, they're trying to shut down the fracking. We have so much resources in our country for producing our own energy yet the powers that be, those that weigh and hold the power, those in government, federal government, are basically puppets for these great powers. Why do they shut it down? Why are we dependent upon countries who do not have our best interests at heart?

Just wanted to bring this up, that things don't make sense. Our ability to be self-reliant and independent is here in our own country. We can do it. But they shut us off from it. We are dependent on those who really don't like us. You have to ask yourself, why? Just some thoughts for today. Again, you really ought to be self-reliant and independent yourself. Don't believe them when they say all is going to be well. Might be well. Ten months. Ten years. Don't know. But it's not going to last. Our national debt 18 trillion. Put that in perspective. What does 18 trillion mean? It means the wealth of this nation. It takes the annual wealth of this entire nation to make 17 trillion. And we have our unfunded liabilities. 95 to 100 trillion. Those are things that we have promised to pay that we have not funded. We don't have the means to pay it, 100 trillion? Let me put that in perspective. That's the wealth of the entire world. They keep telling you all is well. All is going to be well. Better not believe them. You better not believe them. Again with energy, why is it that we are not going to do anything with Ukraine and Russia taking Ukraine? It's because Russia, all of our oil contracts in

the world, are supposed to be satisfied in dollars. So Europe has to purchase dollars to buy oil from Russia. All that Russia needs to do is, if we start pushing too hard, is to say, you know what Europe, you can buy our oil and anything. You can buy in euro, you can buy it in ruble, you can buy it in gold. And that would threaten our dollar. Our dollar is only held up by confidence. Once that confidence is gone, we're in trouble as a country. Just some thoughts to think about. If Russia pushes, if we push this thing, it can go to war. We're over a barrel. Figuratively speaking. Because Russia just has to say I'll sell my gold, or my oil in anything. And then that dollar becomes really weakened. And once that dollar starts to lose confidence on the world stage then you better be prepared as an individual. Again I'm calling upon you Americans, those of you that love freedom, please stand by our Constitution. Rally to it. It's the standard for us to stand by. We can do this. It is the standard. Hold it. It is being shredded right now. Let's rally to it. Let's repair it. Let's hold it up. In its original intent. Again everyone, this is LaVoy Finicum wishing you a good day.

14-09-18 DEFEND THE CONSTITUTION

Hello everyone. This is LaVoy Finicum with One Cowboy's Stand for Freedom. It's September, 2014 and I am out here on my ranch and it's great out here. The rains have come this summer and the grass is tall. It's still green. My cows are fat. And my water tanks are full. Just feeling really grateful for all of the blessings that I am enjoying right now. Love being out here. Don't have a cell phone. It's peaceful. I feel like when I'm out here, all's well, all's right and nothing's wrong. No worries. And I love this life out here. But it doesn't take too much to see that dark storm clouds are gathering. And we really need to open our eyes if they are not already opened. We need to take care of those we love. We need to have our houses in order. We need to have our relationships in order. We never know how many days we have on God's green earth here. And we need to make the best of each and every one of them. And about those storm clouds that are gathering, it is easy to see that our government has eviscerated the Constitution. They are a We the People placed upon them. And so what do we do? This thing isn't going to be solved legislatively. It's too far gone. And there's too few politicians with real conviction, with real courage. The establishment is too firmly entrenched. We're not going to turn this thing around legislatively. The judiciary is in a large major crap too in so far as their unwilling to judicate on the simple Constitution. And you look at the executive branch. It is just amassing power unto itself. Governing by dictate, by fiat, and by executive order, completely outside of the powers that We the People gave them. So what do we do? And as I ponder on this I wondered where is the right and the wrong. Where is that line where it's wrong and where it's right in resisting this? And I come across some words by a man that I respect a lot by the name of Ezra Taft Benson, and he asked that question. He said, "Is it morally right to resist tyranny?" And then he answers his own question by saying, "With all the fervor of my soul, I believe that God intended man to be free." And then he went on to say that, "Rebellion against tyranny is a righteous cause." So there you have it. That is exactly how I feel. Good to read and hear other people that feel the same way. He went on to say that, "The fight for freedom is God's fight. So when a man stands for freedom, he stands with God. And as long as he stands for freedom, he stands with God. And even if he stands alone, he still stands with God. A man will be truly vindicated and rewarded for his stand for freedom." So the way I do the math, I think there's about 50 million Americans out there who love freedom as much as I do.

They're willing to put their lives on the line, their fortunes, their sacred honor, as our Founding Fathers did in the beginning. Cause the conflict that is building, the storm clouds that are gathering are over this very same issue. Will a man be free or must he be coerced? And me, for one, I'm going to live my remaining days as a free man. May be long, may be short. But I'm going to live as a free man. And so, what about you? My appeal is to you, the 50 million, those of you that are making the good fight, that are standing for freedom. And I believe that we still should fight through the legislative avenue, through the judiciary avenue, through the legal avenue. And I think that we should still make those efforts wherever we can. But we know when our natural rights are being violated. When we are being trampled upon. And it's time for us to say, "No, no more." Now if your rights are being trampled upon, if your property rights are being violated, I'll come and stand with you. You can reach me on Facebook. LaVoy Finicum or at my e-mail, LaVoyfinicum@yahoo.com. I'll come. I'll stand. There's 50 million of us. There's 50 million of us willing to stand and pull together and say, "No, leave him alone. Leave his property alone." No aggression. No hate. But willing to stand, willing to defend. And by all means necessary. To say, "Leave us alone. Don't bother us. Let us raise our families. Let us enjoy this land upon which we live. Let us be free to make our own choices." It's a great land. It's a great country. I'm going to live as a free man. Invite you too, stand up, defend the Constitution, the rights that are guarded by this document. Stand, stand for freedom, stand for the Constitution. Have a good day everyone. This is LaVoy Finicum. One Cowboy's Stand for Freedom. See ya later.

14-09-27 PART 1 LAVOY FINICUM - ONE COWBOYS STAND FOR FREEDOM

Hello everyone. This is LaVoy Finicum with One Cowboy's Stand for Freedom. I recently posted a video where I spoke in general terms about defending the Constitution and standing for freedom. I think now I want to speak in a little more specifics. Particularly about some of the bureaucracies that control our country. Our government, particularly our federal government, has created an empire inside of our country. This empire is controlled, managed, and directed by bureaucrats that aren't elected and unaccountable to the people. Particularly, let's go with the Bureau of Land Management, or the BLM.

The BLM controls vast amounts of land in acreage. Put it in comparison, the land that they control is greater than many European nations. And so they traded this empire wherein it is managed by those who are appointed, who are hired. They are not elected. They have advisory boards where people may come, hat in hand, and ask for dispensations and favors. But they are not accountable to the people by the voice of the people. Don't get me wrong. There are some really, really good people that work within the Department of the Interior, particularly the BLM. I have several range cons that I work with that are just great individuals. I like them a lot. They are good people. Good men. So I don't want to disparage their character or who they are. But that does not mean that the BLM is a legitimate and lawful organization. And I'll tell you why. You need to go to the Constitution, which is our Supreme Law of the Land. And if you go into Article 1 Section 8, I believe that it is paragraph 17, the Constitution specifically limits the amount of land that the federal government can own and control. The intent of the Constitution was to keep a centralized government from amassing power. You cannot amass great land and control it without amassing power. And that is what they've done.

They've breached the intent of the Constitution. In paragraph 17, this is where our Constitution specifically lays out what lands the federal government can own and control. It says: To exercise exclusive legislation in all cases, whatsoever, over such district not exceeding ten square miles as may, by cession of particular states, and the acceptance of Congress become the seat of the government of the United States, Meaning Washington DC, a seat where they can operate out of.

And it goes on and says: And to exercise like authority over all places purchased by the consent of the legislature of the states which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings, In other words they are also given right, by the Constitution, to purchase those real estate necessary for the defense of our country. Reasonable, appropriate, right. But nowhere did we give them, as people of this country, the right to control these vast lands, these vast amount of acreages that they control. It's illegitimate. It's illegal. And we need to understand that. We need to go to the simple boundaries that we set up on this government and hold them to this. Now Utah is making a noble fight to bring this dragon and put it back in its box. You have Mike Lee, the Senator from Utah. You have the local legislators like Ken Avery and Mike Newell doing a noble job in trying to fight this in the courts to require the federal government to uphold its responsibility to seed back these lands to the states.

Oh, there's one other place where the federal government can control land and that was in territories. But once a state became a territory those lands were to be ceded back to the states. As they came out here, and came further and further west, they begin to realize that it's hard to let go of this great wealth that's here. In one of my videos I talked about here in this particular area the great amount of wealth in uranium that's here. Ken Avery talked about the other day that naming three particular states here in the west that there's recoverable oil equal to all of the oil in the Middle East. They have it locked up. Tied up. You have to ask yourself why. But it needs to be given back to the people. But this fight that they're making it's not going to succeed. It needs to be made so that people can be educated. But this federal government will not give back this land just because the states ask for it. They don't fear the states. They don't fear the people of the states. They are not going to unentangle themselves from the control of this great wealth in these land masses. But you need to understand that. That's the law. They're in violation of it.

Now I'm going to speak a little more specifically about these law suits that are going on and some of the other things. And I'll make that here in a moment but for now I'll end with that.

14-09-27 PART 2 LAVOY FINICUM ONE COWBOYS STAND FOR FREEDOM

Hello everyone. This is LaVoy Finicum, One Cowboy's Stand for Freedom

Part two here: What I want to talk about a little bit was again about some of these public land issues. Here it is. I have in my hand a Deseret News Newspaper and a Salt Lake Tribune, September 18, 2014. The top article reads here: Public Land Issues Concerning Utahans. Protest ATV Ride Results in Charges Against Commissioner. This one here says: Fed Charges Canyon Ride Leaders for Recapture Canyon.

You know after the Bundy standoff, some of these people up in Utah were really concerned that the overreach of the government where they shut down Recapture Canyon that had been a road and a right of way for ever since the pioneers moved in. And then a bureaucrat decided that they needed to be shut down and they didn't want to , for seven years I believe it was, that they've been trying to get that right of way to go through and they're just sitting on it. Finally they said well we're going to ride here in protest of what you're doing. After the BLM was embarrassed over at Bundy Ranch, they didn't make any arrests, they just kind of sat and took names and waited and watched. Now they're charging them. They're going to make somebody an example to show that you better not get out of line, stay in line, don't think that you can do this, break the law with impunity. Let me read here what it says, It says: page 4, Carlie Christensen, one of the, this is part of the bureaucracy that is unelected, it says that we respect the fact that citizens of this state have differing and deeply held views regarding the management and use of Recapture Canyon, and recognize that they have the right to express those opinions freely. But, when individuals violate the law rather than engage in lawful protests, we will seek to hold these individuals accountable, she said. So here they are lecturing about obeying the law when they themselves won't be governed by the law.

Let me just go back a little bit and explain a little bit about how this BLM came into being. As they became states the lands were to be succeeded back to the states once they moved from territory to state. Well, they quit doing that. Or doing it very slowly. Finally in 1936 they passed what was called the Taylor Grazing Act and that's just by simple majority vote and they created this, the beginning of the BLM, where they then say in act that we now permit you, people on these lands, we permit you to be here. And every ten years we will reconsider if we want you here, and in fact, any time within that ten year period of time, we may change our mind. Well, We as the People of the United States never gave the federal government authority to permit them to do this. They didn't have the right to permit or to take away. They were supposed to give those lands back. And then they were continuing to do it at an ever increasingly slow pace until in the 70s when they completely quit. And they just decided to hang on to these lands. 80% of Nevada, 70% of Arizona, 80% of Utah and so they hold all these lands and they tie up all of the wealth in it. And so that's the law. That's the law. Who is the legal? Who is the illegal? Just because we function within this bureaucracy does not make it a legal entity. And we need to be clear on that line. It's time to put this dragon back into the box that was created for it in the beginning. Cause it's out of its box and it's rampaging. It knows no bounds. Again, there's good people in it. But it's illegal. It's illegitimate. This is LaVoy Finicum again for One Cowboy's Stand for Freedom. Thanks.

14-10-03 ONE COWBOYS STAND FOR FREEDOM IF YOU ARE NOT BREAKING THE LAW

Hello everyone. This is LaVoy Finicum with One Cowboy's Stand for Freedom. I want to talk a little bit today about what freedom is and what freedom isn't. Sometimes we as good people violate the principles of freedom by trying to be good or compassionate. For example, when it comes to drinking or smoking, where you can smoke, and where you can't smoke. I've never had a cigarette and I don't know what a cigarette tastes like. And I've never had a cold one, and don't know what a beer tastes like. But who am I to tell somebody else that he can or can't smoke. Who made me lord and master

over another man? Is his body his? And my body mine? If he wants to smoke and treat his body that way, I should respect it? It's his body.

If a man takes and builds a restaurant with his own money at his own risk and decides that he would like to allow smoking to be in that restaurant, who are we as a people to go to that man whose made the effort with his own money, his own effort, his own risk, to say that you cannot have smoking in this building. If it's freedom he should be free to do that. And all the people that like to smoke can go to that restaurant and get something to eat. And if those of us who don't like to smoke, we can go to a restaurant that doesn't allow smoking and we can enjoy that. And those of us who really don't care one way or another, we can go to both restaurants. And we can all be free. We can respect another man in his person and property. And his body is his. And my body is mine. His property is his. And my property is mine. If you don't rape my land nor pick my pocket it's not my business. That's kind of what I think. That's where we should be as a people.

Let freedom prize and freedom reign on this earth, in this country as it used to and let us deal with the consequences of it. I smoke, I get cancer, well, that's my problem. Just don't ask me to pay for your problem of fixing your cancer. I won't ask you to take care of my health problems when I have them. That's my responsibility. It's not yours. It's not society's. It's the individual's responsibility. The individual bonds, they're ours, not the government's. We don't need somebody telling us what we should or shouldn't do with them. As long as we are not hurting another person or taking another person's property, how about we just leave each other alone? Just a thought for today. I'll leave that with you. And this again is LaVoy Finicum with One Cowboy's Stand for Freedom.

14-11-01 ONE COWBOYS STAND FOR FREEDOM SELF-RELIANCE

Hello everyone. This is LaVoy Finicum at One Cowboy's Stand for Freedom. I want to talk just briefly about independence and self-reliance. To the degree that us as individuals are dependent upon any government agency or government, federal government, state government, or local government for our food, our water, or shelter, to that degree we are not free. And so it would be a wise thing, I would suppose, to build and have the means to provide your own food, shelter, and water for at least a year. There is a great comfort that comes when we're prepared. When we know that we got enough for a rainy day. We've got enough for food for our family, water, shelter. There is a real peace of mind that comes with that. So I want to talk briefly about that. A lot of times we think, man, a year's supply of food, that would cost a lot of money. Where would I put that much stuff? I don't have the room. I don't have the money. Well let me dispel just a little bit about the myths about the costs and the space for that. Right here, I'm sitting on a year's supply of food, right here. It's not that much stuff. If you use these number ten cans right here, put them in these boxes, six go into a box. Slide right under a bed. You can put a year's supply of food for two people under a queen bed. And so you got the room, you got the space. It's a matter of priority. Clean out what's under your bed. Put something of value under it. For cost, let's just go over a little bit of the cost. I buy this stuff in bulk. It's not that expensive. For example, I got 300 pounds of wheat here, only cost me \$75. 100 pounds of rice, \$40; 100 pounds of beans, \$60; 100 pounds of rolled oats, \$45; 30 pounds of all vegetable shortening, \$25; 50 pounds of sugar, \$25; 50 pounds of potato flakes, \$50; comes to \$320, \$320 for a year's

supply of food. You can easily live upon what I just listed here for a year. Not a lot of variety. You're going to get tired of it. But you are going to keep body and soul together. Everything here, except my liquid shortening here, is ensured a shelf life. I've used this up to six years when I keep it in a cool dry place, cooks fine, bakes fine, fries fine, but keep it all vegetable. And don't put any lard in it. All vegetable shortening, 30 pounds here \$25 at Costco. That's ensured a shelf life of six years. My next ensured a shelf life is my powdered milk. And that's a 20 year shelf life. But the rest of the stuff that I'm sitting on, a thirty year shelf life. Under \$400, you've got a year's supply of food. \$320 of all the things that I've listed here. No reason why we shouldn't have that. Get it, put it up, put it away, don't worry about it. Great peace of mind. Prepare for a rainy day. Prepare for when things might not be as rosy as they are right now. This Ebola thing, everybody's got a little worried about it. I don't think that it's really going to blow too much out of proportion here. Could, but I don't think it is. But something will, sooner or later, something will. Will cause us great distress in this nation. Take the time to be self-reliant. Prepare. You can fight for freedom better when you are prepared yourself. Just a few thoughts for today. Hope you all have a good evening. Wishing you well.

This is LaVoy Finicum and One Cowboy's Stand for Freedom. Thanks

15-08-07 BLM STEALING WATER

Hello everyone, this is LaVoy Finicum. It's been awhile since I made a video, but I think it's time that I made another one.

I'm here at my White Springs. This is my only live water on my ranch. This is my storage tank here for it. I purchased this with a lot of blood, sweat, and tears. It's mine, I own it, it's private property. The tank holds 100,000 gallons of water. That spring and the water in this tank is mine and I own it. There have been a few fires in the area. The BLM came in here, they set up a tank and they drained it. They took just about every bit of it to use for their own fires to put them out. Without so much as a hidey ho, or please, or we are going to use it. They just set up and they took it. I don't care if they take half of it. They can take 50,000 gallons of it, but they can't take 100,000 gallons of it. It's mine. It's for my cows. I need it! They didn't pay for it. They didn't ask for it. They just took it. They stole it! It's not OK! They got tankers. They got all sorts of choppers. They can just drop in buckets in the river over there. Colorado River is a few miles over there. Me, all I got is a flatbed that can hold 900 gallons of water and take me an hour and a half to two hours through rough roads to get water out here. It would take me over a hundred days just to haul water out here to make up for what they've taken. It takes over 200 days just to fill this dang tank. And they just stole it! It's not OK! I'm going to post this and tell them to knock it off! If they take more than half, then they better come and ask me. Quit stealing! It's not theirs. I'm going to let the Mohave County sheriff, Jim McCabe know that they are stealing my water! They need to stop it! It would be really nice if they would take one of those tankers and fill it up, replace it. Or, how about they just leave it alone. Anyway, this is LaVoy Finicum's own, my ranch, my water, telling the BLM to quit stealing my stuff!

Catch you later, Bye

15-08-14 LaVoy BLM

Hello everyone, this is LaVoy Finicum, One Cowboy's Stand for Freedom. This is a very important video that I'm making. I'm hoping that you can have a little bit of patience as I try to do a little bit of educating. I'm calling this Part 1 of LaVoy vs BLM. I'm here on my ranch and it's beautiful out here. It's time that we do something more than just talk about freedom and about defending our Constitution. So, I want to educate and I want to teach. I want to let you know what I'm personally doing to defend our Constitution. First off, I'm just going to pan here and show you what this pasture is. This is just one of the pastures on my ranch. I don't know how many acres are here? Three or four thousand acres in this particular pasture. In six years I have never grazed this pasture off. This is the first year that I am turning out on this pasture. That's going to be significant and I'll explain why. But first I'm just going to pan and show you this pasture. As you look around, this is my reservoir, I call this my upper camp pasture, a few of my cows sitting by the reservoir. And the range goes to those tree lines, those mountains over there, and it continues to go down to those tree lines that way, looking south, goes to those tree lines there, and then from there this pasture goes to that mountain right there. My ranch also goes up to the top of that mountain but this particular pasture is just this valley here. And, daughter, come back over here. This is the best part of my ranch. This is my daughter Catriel. She's my second to the youngest. And she helps me with all of this with the rest of my family. But my pasture goes up that way several miles. Again, a lot of acreage here. Never have grazed this off in six years. If you look, see the grass, look how thick it is, look how green it is. And we're in late summer. Late summer. So this is my pasture here. This is part of my ranch. This grass, I own it. It's called my grazing rights. My forage rights. These cows are fat and sassy and looking good. Got a few more of my cows down under some trees down there. I'm not very good with technology, but they're down there. So let me move forward here. Put this back down. Hope you can see me. This is my dog over here. DiAmmond, heel. Great cow dog. She's pregnant right now. Going to be her last litter. She's getting a little old. Kind of like me. A year ago she and I both got laid up. She got stepped on by a bull. Bull got her. And broke all of the bones in her back leg. So, she's never really been quite the same but she loves being out here with me, and my family, and my cows. She loves it out here. I had a colt come over on top of me about the same time. And we were both feeling kind of old and broken up for a while. It's good out here. Life's good out here.

Now the reason I'm making the video: And this isn't about cows and this isn't about grass. It's not even about my dog. But it is about my family. It's about freedom. It's about the Constitution. I've never been crosswise with BLM in all the years that I've owned my ranch. Never had a trespass filed against me. I've never been over what they call the AUM which means how many cows that I should run. Like I said, I've never run for six years in this pasture here. The point is, they claim that this is theirs. And I claim that the forage rights to the grass is mine. So let's go to the Constitution, the Supreme Law of the Land. This is the point, this is the road, and this is the focus. In Article 1 Section 8 clause 17, and let me start by going back and laying down the intent of our Founding Fathers, the intent of the Constitution. Our Founding Fathers came out of tyranny. And they were really concerned that this land be a land of freedom. So they did several things. One of the first things they did when they laid out the Constitution was they divided the powers into three branches. And we all know what

those are, the executive, the legislative, and the judicial. So we have three branches of power. So they separated those. And the other thing they did to keep from having the centralization of power into a central government which decreases the freedom of the individual is that they limited the amount of land mass that the central power could control, called the federal government. Because if you can control the land, you can control the food production, you can control the people. Currently the BLM, or the federal government lays claim to one third of the land mass of the United States. To put that in perspective. You got to put together the country of Germany, and you must combine it with the country of France, and then you better put in Italy, Spain, throw in Portugal, and then throw in Britain. You got to start throwing in all those countries together to begin to come close to the comparison of the land mass that the federal government says that they own and control. Now, in this land mass, they claim to have what's called exclusive legislative ability. What they have done, they have combined all three branches of powers. And I'll explain that. You have bureaucrats that sit behind desks. And they will write a statute or regulation. It has the effect of law. And then they implement that. And now that regulation is enforced by federal rangers and they are armed. And they are empowered to enforce it by lethal means if necessary.

If a person gets crosswise with one of these statutes, they're then hauled into a federal court and tried by a federal judge. All three branches of power combined under one head. Now, none of these people do We the People here, over whom this is imposed upon, have the power of recall. In other words we don't elect them. They are not accountable to us. And so our Founding Fathers knew that that was a potential of combining great power under one head. So they limited by the letter of the law what land that the federal government can control. And it's found in Article 1 Section 8 Clause 17. Let me read it to you. I've shared this before but let me read it again. It says, referring to the federal government, it says:

To exercise exclusive legislation in all cases whatsoever, over such District not exceeding ten miles square as may, by cession of particular states, and the acceptance of Congress. What is that that ten square miles? Well, that's Washington DC, the seat of the federal government. Now that's proper and that's appropriate. They go on, it says: become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

OK, they limit the federal government to purchase only those lands needful for the defense of our country. Docks, arsenals, forts, and other such needful buildings. And not only that, they can't take it by eminent domain. They must ask the state legislatures if they can purchase it from them. So in this very clause here, by that very sentence there, it acknowledges that the states are the owners of the land. What happened was that in the beginning these states, there's one other place that the federal government can exercise control over in land mass and that's territories. And that's appropriate. It's in the Constitution, they have that right. And so when a territory was to be admitted to the Union, they were to come in on equal footing as the original thirteen colonies. And so they were not to be less than. And so at the moment, at the time of statehood, those lands were to be disposed of to the people

of that state. And if you look on a map you can see that that procedure was followed until you start getting out here west. And as time lapsed, and as governments want to do, they like to hold onto power. Hold onto wealth. And so they became slower and slower at disposing this land to the people as they are supposed to do. Until at such point they almost quit. And then they did. And then they said, you know what, this land is ours. And they said that we own it. Let me give you a little history on this. I hope that you follow along a little bit because it's important to understand this. And it's important to understand so that you can understand who is lawful and who is unlawful. Let's actually go to what I'm actually involved in here. And it's called grazing rights. Now grazing right is a right that is established by prior appropriation. It is a natural right. And preemptive or prior appropriation is the legal term and that's how property rights are established. And it's called common law or natural law. For example, I explain this to people to help them understand this, we understand rights when we look at lines. Rights are not granted by the government. A person claims a right. There are three things to establish a property right. The first thing is that you must claim it. The second thing is that you must use it. The third thing is you must defend it. Now I'll do a quick analogy so that you can get the jest of this. We all know about lines. We stand in lines at the grocery store. We stand in lines at the DMV. We stand in lines at the movie theater. When you stand in line, you create a right. It's self-evident. That's what our Founding Fathers meant. Certain rights are self-evident. I am the first in line at the theater, I have established that by prior appropriation. That is claimed. I claimed. As long as I stand there, I'm using it. Not giving it up. And so I'm using it. So I claim it. I use it. Now the third thing is I must defend it. Let's go back to use it. I cannot after I make this claim walk away because it's taking too long. And I go get a hamburger and a drink and come back and the line is really long and say hey, I'm first in line. No, what happened. I lost that right because I didn't use it. Now suppose I'm sitting there first in line and the line is long and in comes a bigger fellow and he says man, that line is too long. And so he steps in front of me, I can do one of two things. I can mumble and complain and step back and in such case I have given up my right. Or I can defend that right. Those are the two things. What has happened, the federal government has come in and started claiming it, we had been here prior. Prior to the BLM being formed, these grazing rights were established. And I'll explain it to you. This particular grazing right, right here where we're sitting on, all this green grass, all this acreage here. I bought this grazing right from the ranching family by the name of Ballards. Ballards bought it from the ranching family called the Heatons. The Heatons were some of the first settlers in this country here. There's nobody grazing out here. There wasn't Indians out here grazing on this. There was nobody grazing here. They'd come out here and create a reservoir, or they'd take a spring and develop it, they'd come with a little herd. And they'd say, you know what, man, there's good grass and I got some water. I am going to claim this as my forage right, my grazing right. And so they did. And they used it. And then here would come another rancher with some herd and they'd make a reservoir here and develop a spring over there and they would run. And sometimes we would run in common. We'd have good waters and they'd say, I'm going to run 100 head and you run 100 head and it is called running in common. And eventually as time passed we put fence lines on all the borders of these grazing rights. And when we had conflict, a bigger guy come in and says, you know what, I know you were here first but I'm tough and I'm going to take and so sometimes we fought and we shot each other over these grazing rights. Down in Central Arizona there's a big old basin as you

drop off the Mogollon *Rim* called the Bloody Basin. So we established things through blood, sweat, and tears. These grazing rights are natural rights. They exist so separate from any written law. The Constitution doesn't even give us these rights. We have the Constitution because we have these rights. And so here we are, sitting on these grazing rights, ranching it, and along comes the BLM, 1935 or 1936 around there and they look around and they say, you know what, we now passed the Taylor Grazing Act, and now all these grazing rights now belong to us. And we have exclusive legislative ability over all these grazing rights. And we will now permit you, we'll permit you to graze on this. Here, we're going to give you a permit. And we will re-examine every ten years if we want you here. And in fact any time in between those ten years, if we don't want you here, then we'll change it anytime we want, any time we choose, through our wisdom and our prerogative. As ranchers, we kind of got bullied, we were negligent, we were uninformed, and they grew, they came in very softly, very kindly, very nice to help. They didn't come in with a heavy hand. Government never does when it comes to take our freedoms. It's always to help us. Always to take care of us. And they come in softly. Well that's what they did. And they continued to move forward. Now they're claiming that this is all theirs. And so one third of the land mass they claim they have exclusive legislative power over. No representation. That is not America. That is not in the intent of our Constitution. And it is not in the letter of the law. So this is the question: Who is the law breaker and who is the law abider? I stood with Cliven Bundy, my friend, and his family in helping them get their cows back for this very issue. I've never been one to try to cause problems. I didn't get in trouble in school. I always raised my hand. I always stood in line. To this day I do not have a speeding ticket. So it's not in my nature to go out and poke my finger in people's eyes. But there's a time when we need to come and stand up for the Constitution. It is being eviscerated. It is eviscerated. We have lost it. Where does it exist? It only exists in the hearts of about fifty million Americans that understand it. And have the fire of freedom burning in their breasts. Those willing to stand up. And so many people, you know good people, what can we do? We've been voting. We've been donating money. And the candidates always promise to stand up for freedom. Well, what do we do? We gave the Republican Party the House and the Senate. What have they done? Nothing! Nothing! And you think we're going to get a Republican president and they're going to stand up on the Constitution and they're going to require the federal government to live within the frameworks that We the People have given them. Namely the Constitution. It's not going to happen. But this is where it will happen. Because this Constitution will be saved. The principles vouched safe herein will prevail. And this is me doing my little part. So what I've done, I sent a letter to the BLM saying thank you so much for your help in managing my ranch. I shall no longer need your help. I shall manage it myself. And so I will no longer pay them the mandatory fees nor sign the mandatory terms and conditions because they're illegal, illegitimate. It's not theirs. I didn't buy it from them. I bought it from the Ballards. The Ballards, the Heatons. The Heatons established it. It's not theirs. It never was theirs. They're forbidden from having it. So let's make that clear. The first thing, if you're going to stand for freedom, you better figure out where the line is. Who's legal, who's lawful? Now, this is the first time that I am going crosswise with the BLM. I've told them that this grazing right is mine. For six years I have not been able to graze off this green pasture. Three, four, five thousand acres. It might even be more than that. I don't even know. So now I got water in the reservoir, my cows need some pasture, and they say, you can't turn in here.

We got a regulation on a piece of paper. You, LaVoy Finicum, cannot turn in here on this grass. We don't care that you don't graze this off in six years. But we have this regulation on this piece of paper that you cannot turn on here until October fifteenth. By October 15th the water in this reservoir might be dry. It probably will be dry. Now how do I graze off all of this grass that is mine that I paid for? That I fight every year to make my mortgage payment on. Everything that I have is tied up into this, my home, my lifetime trying to obtain a ranch. To live like I love as a young boy riding with my dad chasing some cows on the weekend. I always wanted to raise my family out here, and raise them like this. So I'm putting everything on the line. My home, my dreams, my ranch. But I'm telling the BLM, right now, I'm saying to you, this isn't yours. It's mine. Leave me alone. I'm bringing in my few measly little cows and while I got water in this reservoir I'm grazing it off. I was very kind and polite as I talked to them. Sent them a very cordial letter. And so I get a call last week. LaVoy, are you going to turn in there, I saw some cows down there. Yes Mr Range Con, I told you that I am not recognizing you as the owner of the land. I can't buy it from you. I'm not paying you. It's not yours. My mortgage isn't to you, BLM. And I didn't buy it from them. I bought it from the Ballards. It never never was yours. And so, yes Mr Range Con, I'm turning in my cows here. It's grass. It's green. I'm turning in about eight or nine weeks early. He says we're going to have to start trespassing you, we're going to have to start document it. I got to account to my supervisors. I understand that. Go ahead and do what you want. This isn't anything personal against you. It's just not yours. It's mine. So here I am, I'm beginning to document me, as an individual, standing for the Constitution. There's a lot of talk and a lot of poking holes in the air with the fingers and very little doing when it comes to standing for our Constitution. Oh, if we'll just donate to the right candidate, we'll just donate more to the Republican Party, if we get a Republican in the White House, it will surely be better. That's crazy. Washington is not going to vote away power. For a hundred years, it took them a hundred years to gather in this land mass and seal it down. They have complete control over it. One third of our country, America. One third of our country. And these federal rangers that run around here. They're armed, military style. They got their M4s, they got their tact vest, they got their bullet proof vests. You saw them down there at Bundyville or Bunkerville. You saw them pointing their guns at us. They promised to shoot us. Dan Love, you're one of the head of them. You're the point of the spear. You're the enforcement arm of this. You're not a good guy. No way you're a good guy. Nowhere do you have authority to run around here with policing powers. No where do We the People give you authority by force, by lethal means if necessary, to enforce these regulations on these pieces of paper. What are you going to do, Dan? You and the FBI? There's my few little cows right down under that tree there. You going to come in here like you did with my friend, Cliven, and say we're taking these out and you better not get in our way? Well, I'm telling you, leave me alone. Leave me alone. Leave Cliven alone. There's some tough ranching families up there in Utah. Stan Gleaves, by name. Now you have three, Mr. Federal Government, that's willing to stand for the Constitution as the ancient law of witnesses. You have a witness in Nevada, Cliven Bundy. You have a witness in Arizona, LaVoy Finicum. And you have a witness in Utah, Stanton Gleaves. We have three ranchers that are going to stand and defy you. It's not yours. I'm breaking the law right now, just by saying this. Just by saying this is called conspiracy to commit crime. And that's why you hauled that county commissioner into court with, Phil Lyman, and you convicted him. And he's going to face a year in prison possibly. And

one hundred to three hundred thousand dollars in fines. Because of this very thing that I am saying right now. I don't care. If you go to the Bible there's actually a story that I really love. You might be familiar with it, it's called, the captives were in Babylon by the names of *Shadrach, Meshach and Abednego*. Three. Well anyway, the greatest force upon the face of the earth at that time was the *Babylonian Empire, Nebuchadnezzar, most powerful man in the world. He knows Shadrach, Meshach and Abednego and*

Italics

they're out there and they make a golden image and the command everybody to fall down and worship the golden image and Shadrach, Meshach and Abednego, they don't fall down. They don't worship it. Nebuchadnezzar gets a little upset. And he calls them up and he says, Shadrach, Meshach and Abednego what are you doing? If you just sign these mandatory terms and conditions and pay your grazing fees it's going to be OK. We can work it out. The music will play again and you just fall down and worship the golden image and it will be OK. And I love the response. Nebuchadnezzar said, "You can save you, because if you don't, I will throw you in the fiery furnace." What god can save you from the fiery furnace? And I love the answer. It's great. Shadrach, Meshach and Abednego replied and said, "Oh, King, we are not careful to answer thee." They were saying we're not going to measure our words. We're not going to be tepid. We're not going to be timid. They're speaking to the greatest power in the world at this time, these three captives. They said, "Oh, King, we're not careful to answer thee. Our God, who we serve, will deliver us. But if not, be it known unto thee, we will not sign those mandatory terms and conditions. We will not pay those grazing fees. And He will save us. And if not, so be it. But we will not bow. We will not comply. We will not bend." America, stand. If you want to know what you can do, here you go, stand. I'll let you know what's going on. I'll keep updating you. I want you to download this so it doesn't get scrubbed from off the internet. Share it. Upload it. Send it out. And you can follow me here. You can follow me here. You can follow Stanton Gleaves and Cliven Bundy. Here I am. And I'll document this as it goes forward. They called me and said we're going to have to start doing something. Well, we'll see what the next step is. Maybe they'll just leave me alone. I hope they do. Because it's not theirs. Stanton Gleaves has some county commissioners with some grit and some county sheriffs up there. He ranches in five different counties. And those county sheriffs are standing up against them. The BLM says to Stanton Gleaves, you can't turn out here in these pastures. And Stanton Gleaves says yes I'm going to turn out in these pastures. And the county commissioners and the sheriff stand up behind him. Proper form of government. Government closest to the people. Those county sheriffs are elected by those people. Those county commissioners are accountable to those people. They have the power of recall. And any way they back them down. Now I've talked to my county sheriff here. I'm going to go visit with him some more. He's been very friendly over the phone. I'm going to visit with him, shake his hand, and take the measure of the man. See how deep his love is for the Constitution. See about his understanding. But whether he backs me or not, I'm going to stand. But he said some very kind things. The BLM tried to get him to give resources, the Mohave County Sheriff Department manpower and stuff, to move against Cliven here recently, and he told them, no way. So good for him. We shall see how it goes. America, stand. The night is far spent. The Constitution has been shredded. But it lives in your heart. You

know what freedom is. And what freedom isn't. Stand, because when you stand, others will stand with you. And God can't stand with you if you don't stand. Once you stand, you can expect the Hand of Providence to be over you. Don't matter how it ends. Matters how you stand.

This is LaVoy Finicum. One Cowboy's Stand for Freedom. See you later.

15-08-20 LAVOY -v- BLM WATER

This is LaVoy Finicum, One Cowboy's Stand for Freedom. Thought I'd just bring you up to date on how things are progressing. I'm kind of tired. I've been hiking this water line up to this mountain trying to fix some of my water lines. My spring I talked about in one of my earlier videos. But this is a good example to try to highlight how the BLM combines all three branches of power. And that sound in the background is a bull. He's kind of been following me down off the mountain. I'm not sure what he's thinking but he keeps bellowing and following me down here. He may show up some time in this video. Anyway, let me explain what's going on here. This is the deed to my ranch. It's recorded in Mohave County. That's the county in which my ranch is in here in Arizona. And here is the description of my spring along with my other assets and description of my ranch. I have ½ interest in Coyote Springs and pipeline. Period. So I have half interest in that spring. That spring flows about 500 gallons a day. Goes into a hundred thousand gallon tank. So in a year's time there is about roughly 200 thousand gallons that flows out of there. So I have 100,000 gallons of water that I have purchased, that I own, off that spring a year. Well, here's a letter. Again they claim to have exclusive legislative ability and power whatsoever. That means that they can write and create laws and back it up by the rangers or take us into their court. Remember, I don't recognize them. I don't recognize their right to own and control it. But here they have a letter saying. It says: As discussed Tuweep, Little Tuckup, Little Tuweep holds half interest in White Springs. And that's correct. Water during the permitted season of use from October 16th to May 15th, seven months, after this time the entire flow will be allocated to the Tuweep allotment which is theirs. Let me explain that.

Environmental group came in here by the name of Grand Canyon Trust, purchased up that ranch, then gave it to the BLM. The BLM now has, they claim not only that they claim the grazing rights and everything worth it plus the water. So now I have a deed for half that water. They're now sending me a letter saying, no, you don't have half the water, you only have a quarter of the water. A little more than a quarter of the water. You have the water for seven months and that's it. Which is close to a fifty per cent reduction. Which means I only have 58,000 gallons that I can use for my cows in the year.

Waterlines go to my different pastures and I have reservoirs and holding areas for my water that I'm going to flow in. Half that water. 100,000 gallons a year. I own half that water twelve months out of the year. But they send a letter and let me know now that they are taking almost 25% of it. And they say that it's theirs. Just with a letter. I'm not losing any sleep. I use it and I'll run it where I need to run it. I see that there turning my line off. I'm down here hiking this mountain fixing water lines and stuff. Tired. Hiked this whole dang mountain and back and get up there and try to find the leaks and get up there where I turn the water on; they turned it off. They turned it off. Got to be careful. I'm only assuming that it's them. They run a particular tread on their trucks which is pretty notable. They

know where the valves are. And so I'm assuming that tread is like the treads that they run and went over to the valve and they turned it off. Well, we could have a little problem there. But, just letting you know where it's going. They're continuing to increase their holdings. They continue to buy out ranchers. And every year the BLM's holdings are greater than the year before.

Remember, the federal government already controls one third of the land mass and each year that land mass expands. Well, anyway, I'm tired, I'm going to go home and get some dinner. Hope you have a good evening.

This is LaVoy Finicum, One Cowboy's Stand for Freedom

15-09-07 BLM UPDATE

Hello everyone, this is LaVoy Finicum, One Cowboy's Stand for Freedom. And I promised to make more videos when things progressed between me and the federal government. The BLM in particular. And they have. Before I get into the particulars, I want to say a few things. It's kind of easy for people to see what I am standing against but maybe not quite so easy to see what I am standing for. What I am standing for is I'm standing for freedom. I'm standing for liberty for the individual American. I want my children to grow up in a free country. We've lost our freedoms. We've lost our Constitution. The federal government is enmeshed and entwined in almost every aspect of our lives. You can see that in Obamacare and thousands of other things. And so when the federal government begins to refuse to be confined by the laws of the land, by the Supreme Law of the Land, the Constitution, it's up to our politicians and the courts to check it. But they haven't. They're actually part of the problem. They've continued to grow the power, and drop the power into a central government, and when the central government begins to overreach its bounds, then the states, the individual states are supposed to stand up and check the federal government. And they haven't. And so what happens when these balances of power, these checks on our government are no longer working? The last remedy for freedom rests in the individual Americans. The individual American has to stand up for liberty. They need to understand the Constitution. They need to understand what liberty is, what freedom is. And so here we are. We're at that point. The point where the federal government has said to the west that we only control your land. As I've said earlier, the federal government is laying claim to 1/3 of the land mass in the United States. Now my ranch here in Mohave County, Mohave County is about the fourth largest county in all of the United States. Millions of acres. I actually have to drive through two different states and around the Grand Canyon to get to our county seat. It's 300 miles from my doorstep to the doorstep of the county building. Our county seat is in the city of Kingman. Well, this Mohave County is 98% controlled by the BLM. They say we own and control 98% of the land mass of Mohave County. Now, you need to understand, as I've said before, why this is so bad. They consolidate all of three branches of power. The BLM, the federal government has said has exclusive legislative power over these lands. And so a bureaucrat behind the desk will write a statute, and then they enforce it by federal rangers, armed and authorized to use force. Legal force if necessary. Contrary with them you're hauled into a federal court. Now none of these bureaucrats do we elect here in Mohave County. None of them are accountable to us in Mohave County. They're not subject to the power of recall. This is the definition of tyranny. You say well is it really that bad? Well just let

me just show you an example. Over here where my daughter goes to school is the town of Fredonia. Fredonia used to be an up and coming town. It had a vibrant logging industry. Ran two shifts. One shift and the swing shift. I worked at the saw mill there for a little while. They shipped lumber all over the country. And they also had an oil refinery. That little town had an oil refinery. And then they had a vibrant mining industry. An expiatory industry. What has happened? Well they clamped down on the lumber industry. And Kaibab Industry went out of business, folded. There's a little family that has a little lumber operation where they lumber just a few boards, a little bit of board feet compared to what Kaibab Industry did. It's just a very very small operation. So that lumber industry is gone. All of the people that were employed in those two different shifts in that big company, they're all gone. People came down from Utah, from Kanab working in that besides the people in Fredonia. What happened to the oil refinery? EPA shut it down. It's gone. It doesn't exist. What happened to the mining industry? Well, they shut it down. Ken Salazar, no more, no more mining here on the Arizona strip. When the last two little mines are played out, it's done. So what's happened? All of our industry has left this little town. And that leaves the people there, they either have to leave the community to go find work or they have to try to stay alive some other way. A lot of times that's by receiving some government welfare, or some government subsidy, some help. And what happens to the individual when that happens? When a man is out there busting his butt on a drill rig or out in the timber logging and working hard every day, sweat of his brow, bringing home the bacon to his family, or he's out there in the mine, or working his ranch, that builds the individual, builds his character. And he has self-esteem and self-worth. And the community reflects it. And so now the government shuts it down. They say no, that's ours, that lumber's ours, the minerals are ours, the grazing is ours, it's ours and we're shutting it down. But here's some welfare. You can have that. And so in that way they destroy the fabric, the character of our citizens of our nation. And so it is oppressive. Go down here to our county seat, the city of Kingman, drive up and down the main streets there, look at how many stores are boarded up. You tell me that Mohave County is thriving? It is not thriving. Because the federal government owns, they claim ownership of 98% of Mohave County. We're subjects to the federal government. We have no representation. There's no election to these people that rule over us. So it is wrong. This is, again, the definition of tyranny. OK, enough with the preaching. Again, trying to reteach these principles that I've tried to teach before. Let's get down to the brass tacks. What's happening? Well, I've acknowledged Mohave County Mohave County in the state of Arizona as the rightful owners of this land. Remember during statehood these lands are to be disposed of to the states. Federal government says nope we're holding on to them. So here we are. But I as an individual can uphold the Constitution. And so I'm acknowledging Kingman, our county seat in Mohave County as the closest government to We the People. And so I'm going to pay a production tax off my cattle to Mohave County. I will no longer pay my mandatory grazing fees to the BLM. So what happens? Well I'll show you what happens. Here is a certified letter from the BLM. Let me go through it. It's important that I go through it with you. It says: Dear Mr. Finicum, As you are aware, the Arizona Strip District Office of the BLM identified 24 head of your cattle with calves on the Tuckup allotment on August 4th. Tuckup allotment, that's my ranch. They call it allotment. We allot it to you. On August 7th we contacted you by phone and requested that you remove these unauthorized livestock within seven days. On August 17th and on August 21st we counted a total of 38 head of your unauthorized

livestock on the allotment. Based on these findings we have enclosed a trespass notice identifying the laws and regulations which you are violating. What laws and regulations are those? Well, they're the laws and the regulations of the bureaucrats. Did I vote on them? Did We the People here of Mohave County vote on them? No we did not. People behind the desks wrote these laws and regulations. If these allegations we have made are correct you must permanently cease and desist from the violations. Charges and damages due to the United States are estimated as follows. Charges and damages? Now remember, I've shown you that in pastures, down in thousands of acres in that pasture. For six years I have never grazed on that pasture. Never grazed it off. It's my first time turning in on that pasture on that ranch of mine. They said no you can't have them there. You come in too early. They said you can't come in here until October 15th. And so you've come in here too early. And so you're in violation of our regulations. Doesn't matter if the grass is high and I finally have water there and for the first time I can graze this off. Doesn't matter. You're in violation of our regulations, of our laws. There is a non-lawful trespass fee of \$92 and change and willful trespass fee of \$180. I've got two fines for ten days of trespass this is just ten days. Maybe I better look at the administrative costs that they level against me. Administrative cost of \$1,185 and change. Now that's pretty typical of government, isn't it? And so the total amount that I owe them now for fees and fines for ten days is \$1,458 and change. Now, continue on here, these charges and damages will continue to accrue until your livestock are removed from the allotment. Now you get your dang cows off our land. You don't come in here until we say. I didn't buy this from them. They don't own it. They didn't purchase it from our state legislature. Study the Constitution. They must purchase any land from the states by approval of the state legislators. They never did. They don't own it. And even then it can only be for forts, docks, and arsenals, those things for the defense of our nation. So who is the lawbreaker? It's not me. It's them. Need to understand that. Let's continue on here. You are allowed five days from receipt of this notice to appear at the BLM office at 345 Riverside Drive in St. George to affect a settlement for your trespass damages. Get your butt down here in five days. Pay these fees. And ask for forgiveness. And we can probably work this out. You know that that's not going to be happening don't you? Now it's also important that you begin to put names to these people. These bureaus are made up of people. District Manager says, Sincerely, Timothy J Burke, District Manager. There he is. This is the man. This is the bureaucrat that's threatening me. Not only me. Here he goes. He sent a copy of this letter to my lending institution. OK so he's going to put some pressure on. LaVoy, get back in line. I'm just a small rancher. I don't have deep pockets. I have mortgages on my house here and breech on my ranch. My truck's out there. I have payments on my truck I got to make. I'm just like most Americans. Working hard trying to make payments. Trying to put a roof for my family, put food on the table. I'm not out there fighting with people. I'm not out there threatening people. OK, well, so here's my response. Certified letter. Return receipt. Certified mail. Dear Mr. Burke This is my letter to inform you that the BLM stole approximately 45,000 gallons of my water out of my Coyote Springs Holding Tank this summer. I understand that it was used to fight some wild land fires. But you neither asked nor paid me for my water. You could have used the helicopters to draw water out of the Colorado River and had plenty of water without taking mine. Coyote Springs is my only live water on my ranch and I have deed to 50% of that spring. That is 50% for twelve months out of the year. You, the BLM, claim you own the other 50% of the spring to be used on your ranch, the

BLM's ranch, which borders mine. I hereby give you notice that you have seven days from the receipt of this letter to return to my Coyote Springs tank 45,000 gallons of water. At the end of seven days, if you have not restored by water, I will turn all 100% of the water onto my ranch until I have recovered the stolen amount. The spring flows approximately 500 gallons a day. It's not a big spring, just a little spring, my only spring. My daily amount is 250 gallons a day. That leaves 250 gallons a day that you claim is yours illegally I may claim they have no constitutional right to own that. To repeat, if my water is not restored in seven days, I will be taking all of the water flow of Coyote Springs for the following 180 days. Divide 45,000 gallons divided by 250 gallons it takes 180 days to make up the stolen amount. In addition, I give you notice to leave my water alone in the future. To leave my cattle alone. To leave my grazing rights alone. I am sending a copy of this notice to Mohave County Sheriff and to the American people. This is me giving notice to you the American people that you may know what's going on. So now you can see the pressure that's starting to come and you know that I am not going to bow. I am not going to bend down. When, as I said earlier, when the states, our politicians, our representatives fail to confine the federal government to the strict confines of the law, remember, there are specific and enumerated powers narrowly defined that the federal government has to function within. They're way out of bounds. Politicians fail to hold them in that. And then when our courts, the Supreme Court, fails to hold them in that. And remember, people say when the Supreme Court says it's OK then it's OK. That's not true. Our rights are defined by five men in black. And let me quote you Thomas Jefferson. In 1820 as he got older and saw what the Supreme Court was doing he said, "To consider the Supreme Court to be the sole arbiter of all constitutional questions is a dangerous doctrine and will lead to despotism." And that's what it's done. My grazing rights do not exist because there's a federal government or there's a Supreme Court. Those personal property rights existed because they're natural to me. And I've explained how personal property rights are established. I won't do that again here. So when a politician and courts fail to restrain the federal government, then the individual states are to step up and restrain the federal government. Well our states have failed to do that. They failed to restrain them. What is the final recourse to uphold our Constitution, the law of the land and the liberty of the people? It has to be the individual Americans. That's the last line of defense. It's the last recourse we have. And so here I am. Here I, as an individual person, can make a stand. I can stand up and defend the Constitution. And that's what I'm doing. I'm telling the federal government that this land belongs to the state of Arizona and to Mohave County. There are public lands for our state. You didn't buy them. You didn't purchase them. They're ours. The state of Arizona's. Now those grazing rights are personal property rights. Those mineral rights belong to the state. Those lumber rights belong to the state. This is Arizona public land and I uphold the rule of law. I uphold the Constitution. I believe in the government. I do. This isn't about me trying to be an anarchist. It's me holding up the Constitution and the rule of law. And so as an individual here I can. I can stand up to the federal government, one of the greatest powers on the face of the earth at this time, and say, I will not comply with your lawlessness. I am not going to bow down. I am not going to sign your mandatory terms and conditions. I am not going to present myself in five days and ask for your forgiveness. I am not going to pay your additional fines and fees. And so I'm not the only one. Cliven Bundy's done it in Nevada. I'm doing Arizona. Stan Cleave is doing it in Utah. Here is three separate ranchers, in their own sphere, with the opportunity to stand up and hold up our Constitution and to

show the country, the world, that the federal government has far outreached its defined powers. It is not restrained by the law. So what can you do? Since I made the video back a couple of weeks ago, hundreds of you have contacted me through different means, social media, and other avenues saying, "We're going to come and stand by you. You are going to willingly put your life on the line and help me defend my ranch. I tip my hat off to you. What more can a person give than his life." But, now is not the time. It's not the time to come here and help me defend my cows and this little place here. That time will probably come. But now is not the time. So what can you do now? Well I don't have deep pockets. There is something that you can do to help me finance this fight. I've written a book a couple of years ago and it's just been published. This is a way that I can help finance this fight with the BLM. The book is called, "*Only By Blood and Suffering, Regaining Lost Freedom.*" Here's a picture of it. It just got published. It's doing well on Amazon. It's running five stars. It's a novel of end time scenario with an issue in crisis and a family trying to pull together in a time of great national crisis. And what it is, I believe I have written what we are going to be facing as a nation and as individuals. It highlights the natural rights of man vs the collective. It's a great book to teach these principles at an emotional level at the family level. And so I believe it is a great tool for you to help teach your families that. It pulls at the heartstrings. It is difficult to read in that emotionally it gets to you. At least it does me. I rewrote it a couple of times and it still gets to me even though I wrote the book. If you want to buy that book, it will help me to fund and finance this fight because they will come on every angle and every level. But the time will come with me or with Cliven Bundy in Nevada or with Stan Cleave in Utah, you Americans, you people who love freedoms, in whose hearts and breasts that fire still burns. You are going to have an opportunity to come here and stand with individuals that are standing. Not sure which ranch it is that they will take out first but they got to crush all three of us. They can't let this go. What happens if other ranchers start standing up? They got to put this down. The rumor is that the head of the BLM, Dan P Love, is trying to run at this time, the FBI is going to run the next operation against us. Not sure how it is going to come or when it is going to come. Things could develop very fast particularly over my water. Because I am going to protect my water. I am going to use my water. That means that I am going to shut the water off to the BLM's ranch. They stole my water. And I am going to replace my water or they can take that tanker, get some tankers and fill my tank back up, then don't have an issue. Be fair. Be just. Anyway, please share this, please let everybody know how it is progressing. Don't need to hop into your car or your truck and come here just yet. Might next week, might next month or six months from now or whenever. Don't know how it will progress. Please keep American in your prayers. Please keep those who are seeking to defend the Constitution in your prayers. It means a lot. This land is a land of freedom. It was a land of freedom. It will be again. If you as an individual American stand up. And I'm standing here. And Cliven is standing there. And Stanton is standing over there. And other people are standing in their place. And we'll stand together. We will uphold these freedoms. We will restore these liberties. I truly believe that we will come out on top. I believe God is on the side of freedom. And I want to say that. Thanks again for all of your support. Catch you later. Keep you updated.

15-09-10_water_tank_sabotage.mp4

Hello everyone, this is LaVoy Finicum, I'm here on my ranch. I got a little tip that the government might be messing with my waters so I come out here and checked. This tank here has been sabotaged. Can't get the water to flow from my holding tank down to my drinkers. Never had problems all the years I ran here. My holding tank, up here, for my cows, is also sabotaged. Can't get the water out of the holding tanks into the thing, into my drinkers. I know that the hunters have all of their cameras here. This water is for big game, not just for my cows. I like the hunters here. I like the cameras on my waters. And now there's no water here, where all these cameras are, for the deer, the guides are using. So I'm appealing to you hunters, to any of you guides, any of you that have ever seen any government vehicles coming through here. If you heard of anybody sabotaging these waters, please let me know. Contact the Mohave County Sheriff or myself, LaVoy Finicum, 435-215-7307. 435-215-7307. Choking my dang cows down. When you start messing with water, that keeps your cows alive, that's not OK. Any information anybody has please let me know. I'm going to have to try to work on these things and get the water flowing again. I'll let you know how things progress. But, here goes. Catch you later. Thanks for any help. Bye.

15-09-21 RECLAIMING MY STOLEN WATERS

Hello everyone, this is LaVoy Finicum. One Cowboy's Stand for Freedom. Want to give you an update where things are going. But first, before I do that, I think that it's important that I kind of clarify some things. People may think that I am antigovernment or I'm an anarchist. I'm certainly not. I believe in government. I believe in the federal government. We need the federal government. How else are we going to protect our country, protect our borders, keep commerce regular amongst the states? That's what the federal government is for. Unfortunately they seem to be doing a poor job about our country and our borders. But I do believe in government. And I believe in a proper relationship between the states, and the federal government, and the counties. And I'm upholding the Tenth Amendment. Anyway, let me get down to where we're at. Their seven days to return my 45,000 gallons of water has come and past and plus plenty more. And they haven't done that nor contact me to make arrangements with me to restore the water they have taken. As so as I stated in the letter that I sent to them that I'll be needing to take all 500 gallons per day out of this tank until I get my water restored to me. It's going to take at least 180 days. You know, if you were to look, this is a huge tank, you know, 100,000 gallons. And the water level, if you feel it, the water level is right there. Warm here. Cold here. And you can see that. And if you climb up to the top you can tell. So, you can tell. They drained just about all of the tank and since the summer, we're going into fall now, you know, it's only recovered that much. I need this water. It's going to flow down to my pasture down here and my reservoir's almost out of water. So now I'm going to turn all 100% of the water down line here. I want to show you how it's done. So you can kind of understand it. So here we go. I'm going to climb up here. Let me give you a little idea of where I'm headed. Then I'll pull this thing up. Let's see, where is the ladder? The ladder's up there somewhere. There, you can see a little bit of the ladder there. I got to jump up and grab that and then I'll pull up the ladder. Kind of high up here. All right. There you go. We're on the top of the tank. It's a great view out here. Now down over there is the reservoir. The BLM, this is the ranch that they call theirs. The BLM, and they got water in the reservoir down here, so, they got water for their cattle. But there taking all of the flow out of this tank to a little drinker

down there. And none of its going down to my place. I'll show how this works. This is the lid, and we got a hole down there which you can see with all of this bright sun and stuff, but goes way down there. Explain to you what you're looking at. You probably can't see a dang thing down there. There's two straws or two pipes. And what happens is, the lowest pipe takes all of the water. And the highest straw gets left out of the water. They have my straw pulled out of the water. So no water is running down into my lower camp where my reservoir and cows are at this time. And their straw is in the water running down to their cows and their tank over here. And so, I'm pulling it up. Again, their cows still have water, they got springs over here and reservoirs with water. I'm going to pull up their straw. I'm going to put my straw in the water, and this is how you switch the valves. There is actually valves on the line but this is where the water gets into the lines. I'm going to do that right now. This is really sophisticated stuff. A rope and a pipe. Their straw is out of the water. Tie it off. Remember these cows are actually a rancher's who's working with them on their ranch. Their cows have plenty of water, not giving me a single drop out of this tank right now. So I'm taking all of it. Just dropped that just below the surface. Tie it. There we go. That's how it's done. Now the hard part is getting all of their locks out of the line now. It could take several days to get that done. To get the water to start flowing down to my pasture down there. But I gave them the seven plus days to restore the water. They haven't done it. They haven't contacted me. I need the water. It's my water. I own half of it. They claimed the other half of it. So there it is. Catch you later. I'll let you know how things progress. Oh, and to let everybody know, I got one of my other trick tanks over there working, the two that have been stopped up. One of them is working. It took me a couple of days but got the most important one working. I'll try to check on it before I head home.

Thanks everyone and appreciate everybody's support. And we'll catch you later.

15-09-23 MET WITH MOHAVE COUNTY SHERIFF

Hello everyone, this is LaVoy Finicum. I promised you that I would keep you updated on how things are going and so I need to update you. A lot has happened in the past few days. I've just had a long day. It's late in the evening. I've travelled to Kingman, our county seat, and back. That's a round trip of approximately 600 miles. So I went down there and I had an appointment with our county sheriff, Jim McCabe. Good visit with him. I learned a lot and I liked what I heard. And so I'll tell you what the conversation was about. He's already been approached by the feds, by the FBI, and the head of the BLM law enforcement. Forgive me if I get the names wrong but I think that it's special agent Bean, I think that's the name, forgive me if I have it wrong. And Blakeley is the BLM head of the BLM rangers, law enforcement in this area. And they've already approached the county sheriff. They have a plan. It's being implemented. The sheriff says he doesn't know what it is but he promised me they were not going to let things lay. But this was the interesting thing, and I want to take my hat off and give a tip to Sheriff McCabe. I appreciate what I saw, what I heard. He seems to be a man of integrity. First time I met him. I spoke to him before. This was his stand, he says that he is interested that there is no physical confrontation. And that he doesn't want the feds pointing guns at me. And me not to point guns at them. And that's a dang good idea. In fact it would be a stupid thing for me to point guns at anybody. I've never pointed guns at anybody. I don't intend to. But let's get some of the

history straight. They have pointed guns at me. And have promised to shoot me. So let's get the history straight. Because I rode down there with my friend and neighbor, Cliven Bundy, they pointed a lot of guns at us. Snipers, SWAT teams, federal rangers and promising to shoot. So there's only one side pointed guns when it comes to me. And it's not me. It's them. But this is an interesting thing is that they had my letters that I sent to Washington DC to the solicitor general saying that I am cancelling all of my grazing contracts with them. And so they had that to present and they requested, an interesting thing, they requested to be deputized by the county sheriff. That's actually a good thing. That's recognizing that the county sheriff is the chief law enforcement officer. And they're trying to cover all of their bases this time. They've studied and learned from the Bundy standoff. They're laying good groundwork. The sheriff refused to do that. So thank you Sheriff McCabe. He says, I see this not as a breaking the law thing. And forgive me if I don't get everything quite right, Sheriff McCabe, but this is the way I remember it. The way I understand it from our conversation is that you won't tolerate people pointing guns at each other. And thank you, I appreciate that. Now let's go down the track a little bit more. Special Agent Bean and Chief BLM Law Enforcement Officer Blakeley, what are they doing? Well, yesterday they were out scoping out the lay of the land on my ranch. They're getting a feel for the land. They're meeting with some of the neighboring ranchers and pumping them for information. Getting a feel of where they stand on this issue. Tend to be trying to sow a little bit of seeds of fear and distrust. And so they've done that. They've gone to the county sheriff asking to be deputized. And the county sheriff said, I don't know what their plan is but they are not going to let it lay. But they said to the sheriff, the feds said to the sheriff, we promise you that we're not going to have a physical confrontation with Mr. Finicum out there. We're going to solve this thing and the word that was used was administratively. Well that's good I guess. That they're not going to make a physical confrontation but let me ask you a couple of questions. If there's not going to be a physical confrontation, why are you asking to be deputized? If you are not doing anything physical, why are you scoping out the lay of the land? What are you going to do if I don't leave? All those things tend to look like something is going to happen physically. So I would like to know what your plans are, feds. Are you going to come at me financially? You already contacted my lending institution. It looks like this meeting that is set up for this Friday with Mohave County supervisors, the brand inspector, and head of the grazing board. I imagine pretty certain that you already made your contacts with them. And so I'm a little curious about this meeting that it sounds to me like it is kind of a set up to me. I have a hard time trusting you, federal government. I really do. Why should I trust you or take your word. Well, I think our chief executive officer, Mr President Obama, who says things like if you want your doctor, you will be able to keep your doctor period, in relation to Obamacare. And it will send the cost of health down \$2500 per family. Knowing full well that those were lies. Those are just simple things. We're lied to from the rise of the sun to the setting of the moon. And you've lost all credibility. And on a personal note, I am very well aware of the deceptions that you were playing down there at Bundyville. You were very deceptive. In your actions and in the way you presented yourself. The things that you tried to do. So I'm well aware of that. So here's another line that I need to draw in the sand. It is very important that I am very clear and up front with everybody. And please America pay attention to this. This is not a small thing. I will not step into a federal court. Now why? I have been listed as a domestic terrorist with all of us who stood with Cliven Bundy

down there. That is no small thing. More than once, at the highest levels of the federal government, we have been classified as domestic terrorists. Under the NDAA Act, The National Defense Authorization Act, a domestic terrorist can be detained indefinitely without trial. So there is no way that I am going to take your word that I will get a fair shake in a federal court. So it's just not going to happen. So whatever your next plan is administratively, know this, I'm not going into a federal court. I will not take your word. You are deceptive. I love the feel of wind on my face. I love the smell of the sage. I love the smell of the cedar and the pinion. And the desert after a rain, that smell is just unique. I love that, one of my favorite smells. I love the feel of a good strong horse beneath me. I love being a free man. So no matter how long or short my days may be, I am going to live as a free man. I am not going to bow down before you. I am not going to take my cows down off of there. How about this? How about you go home? How about you leave us alone? How about you leave Mohave County to manage Mohave County? You, federal government, have woven yourself into every nook and cranny and aspect of our lives in America. Nobody can say that the Affordable Care Act is freedom. We are not free. You have found a way to regulate every aspect of our lives. Well, here I am. I'm just a little simple rancher out here. And I can stand up and say, you know what, I'm through. I'm going to live as a free man. Well, Mr. Obama, this goes out to you. You are the chief executive officer, this goes out to you Loretta Lynch, you're the attorney general. This goes out to you special agent Beam, again I hope I got your name right, and to you BLM ranger Blakeley. I'm not going. I'm not leaving. How about you leave? How about you leave me alone? How about you leave my cows alone? Sounds good to me. Well, I'll let you know how things go, and everyone, how about we just stand up for freedom? How about we quit bowing down to this type of overreach of a federal government that has amassed control and power ever increasing unto itself. How about we stand up and tell them go back, return to the confines of the Constitution?

This is LaVoy, One Cowboy's Stand for Freedom. And I'm tired and I'm going to go to bed, and I hope that you have a good evening. Thanks.

15-09-26 MEETING WITH COUNTY STATE REP. AND OTHER STATE AGENCIES

Hello, this is LaVoy Finicum. I told you that I would give you an update on how things are progressing. In my last video, I told you that there was a meeting scheduled. They requested to have a meeting with me. The county supervisor, Gary Watson, the head of Fish and Game, the cattle brand inspector, the head of the grazing board, Merlin Esplin. I wasn't sure how sincere this was or if they wanted to work out something with me or if this was a setup. And so let me tell you how it went. It was just going to be me and these agency heads in a meeting. And I figured that they might come in and bear pressure on me. Just before I left I got a call from Cliven Bundy and he said you ought to call a couple of the ranchers to come. So I did. Glad I did. They came and was able to attend there. Cliven and his son was able to come up. I'm very glad that they attended. So let me tell you how it turned out. In the meeting they began to speak. I think the Hand of Providence was in there. As things turned out, it just so happened to be coincidentally a lot of our state representatives were there. Let me put some names to these faces or some names to these people. The head of fish and game is Luke Thompson. County commissioner county supervisor Gary Watson. Head of the grazing board, Merlin Esplin. And

the brand inspector Raymon Christensen. So those are the ones that were intended to be there. It just happened to be that there were some state representatives there. I'm very glad that they were there. Very glad that they were there. Regina E. Cobb, House of Representatives for our area. State House of Representatives, very glad. I didn't get the cards of all of the state representatives that were there and their officials. Margaret Neiberg. I hope that I pronounced that right. Bill Barker, Chief Deputy Treasurer and we also had another one here, well, there was a couple of other ones. But they all happened to be there. It gave me a great opportunity to teach. I spoke for about an hour. I was able to teach about what grazing rights were and how they were established. These state representatives, they were very appreciative of my explanations and of my teachings and the Constitutional line upon which I was standing. They were very cordial of asking questions sincere in those questions. Now, Gary Watson was very cordial, very friendly. Head of fish and game here, Luke Thompson, very friendly guy, seems to be a very decent man. Merlin Esplin, decent man, head of the grazing board. But, I asked each of them, I said, I didn't ask Merlin Esplin, but he works hand in hand with the BLM and the grazing board, I asked Luke Thompson, "Did the FBI come to you with the head of law enforcement from the BLM before you come to meet with me?" Yes they did. Hesitated a little bit in answering that. Gary Watson, "Did they come and meet with you?" Yes they did. Of course they did. OK, so the FBI, head of BLM law enforcement, have come to my state representatives, they're not state representatives but my county representatives. The fish and game, the grazing board, and they all come to put pressure on me. To get me to step down and back off. This is what they said. They said, "Mr. Finicum, very cordial with me, you know, this is not a good time. You know, if you do this, it is going to hurt a lot of people," Gary Watson, Merlin Esplin. "If you do this, they'll cancel all our grazing permits out here on the strip." Luke Thompson, "If the sierra clubs and the people get ahold of this and if you stand and call this your grazing rights and if you don't back down we might lose our ability to hunt here. The federal government might close it down." And I'm looking and I'm saying, "What the heck? Is this the state of Arizona? Or is this just the kingdom of the federal government?" And I'm hearing them being afraid of the federal government. What they're going to do. They're going to pull everyone's grazing rights. They call them permits. They're going to pull everyone's grazing permits. And everybody will lose their jobs here. They'll shut down the hunting and then there won't be any hunting here. This isn't America. This isn't what we are. I'm not backing down. Let's grow a backbone. This is exactly what I am standing up against. This is the state of Arizona. The federal government does not own this, does not control this. Yet here we are afraid that they're going to take everybody's ranches. Afraid that they're going to shut down everybody's hunting. No they're not. This is Arizona. Americans, individual Americans, will stand up and tell them no. But they've got to stand. Instead they come and they say, "Mr. Finicum, you got to stop, you can't do this, wait until we get another president." What does another president have to do with this? This is the state of Arizona. This is private grazing rights. President Obama has nothing to do with my grazing rights. Ben Carson, a good man, becomes the next president, he has nothing to do with my grazing rights. And if Ted Cruz or any of the others become president, good for them, but this is Arizona, the federal government does not own and control this land. Yet, here we are, state officials afraid and bowing down to this overreaching overbearing central government. And giving them power by acknowledging that they have the power to pull everybody's grazing rights. Have the power to stop the hunting on the

land. Well, they may do what they want. But I am not going to back down. They know that they are going to come after me and try to crush me financially and then go after my cows. I promise you this America I promise you. I will spend every last dime that I have, what little it may be, till every last one of my horses are gone. Until the last of my cows are gone. Until I have shed every drop of my blood upon this land. I will not back down. I will not capitulate to this federal government. I will not bow to the pressures as the FBI and the BLM law enforcement goes around collecting their cooperating agencies to all begin to bear pressure upon me. I will not do it. So help me God, I will not do it. I will die before and I'll sleep well at night. I'll live as a free man. You don't worry me, federal government. You don't worry me special agent Dean, You don't worry me head of law enforcement BLM, Mr. Blakely, and I hope I got your names right. We all only have one life. We spend it upon what we really believe in. You believe in government. You believe in a central power. I believe in the freedom of the individual American. My life may be long or it may be short, but I will spend it on freedom. Maybe we will get a chance to look each other in the eye. So be it. Anyway, hope you have a good evening. Catch you later.

15-10-14 BY DANG I'M MAD

Hello everyone, this is LaVoy Finicum. I think I'm pretty upset this evening. I've been going since five this morning. Headed out to take a load of cows out to my winter range. We'll be back some time tonight in the dark. But I've been following what's been happening in Bend, Oregon with that ranching family over there. The Hammond family. And I'm pretty upset with what the BLM has done to them. Actually I'm really angry. They had a prescribed burn that was allowed. Got off to a hundred acres, burned a hundred acres of BLM. It's just range land, you know, a hundred acres, it will come back just as green next year as ever. They threw them in jail. They fined them a tremendous amount of fines. And now it looks like they're facing five more years in prison. These are real lives. These are real people. And by dang, I'm angry about it. America, how long are we going to put up with this type of stuff? It's time to stop. Here in this area BLM's good to the ranchers here. They don't have a problem out here on the strip. Some good decent people there. But the question isn't are they doing good? The question is, should they have the power to do good? If they got the power to do good, they got the power to do bad. If they have the power to help, they have the power to destroy. They shouldn't have the power period. Cause look what they're doing over to that family, the Hammond family. It's outrageous. And I'm pretty dang angry about it. I'd like to use a lot stronger language but my daughters and my wife will probably watch this, and my mom, and so I'll refrain. But dadgammet, it's got to stop. It's got to stop. BLM, here I am, if you want to pick on somebody, then pick on me. My cows are out here. You tell me I got to get them off. I'm not taking them off. You want to play those antics with other people, harass them, destroy their lives, well here I am, you come pick on me. Come on pick on me. I'm not going anywhere. By darn, it's time somebody stands up and tells you, go fly a kite. I'm kind of upset as you can tell. I got a lot to do before I go home and get some dinner tonight, so, catch you later. Bye.

15-11-15 PART 1 NOVEMBER UPDATE ON FINICUM RANCH

Hello everyone, this is LaVoy Finicum. One Cowboy's Stand for Freedom. And it's time that I give you an update on what's going on. It's been awhile since I made another video. I promised you that I would kind of keep you posted. Well, I've gotten several more letters from the BLM. My fines have gone from \$1,400 to now they have tacked on almost another \$5,000. And they say, "Mr. Finicum, you need to get your tail off of here. And get your cows off." Well, as you know, I'm not taking my cows off nor am I getting my tail off of my ranch here. I want you to know what's going on here. I'm here at my cow camp, my winter cow camp. Here on my trails and I want to show you what I find here. This is the road right by my place and you know this could just be a coincidence but dang I just don't like coincidences any more at this point in my life. And here it is. Take a look at this. Just saw the BLM guy parked here and I stopped to see what's going on and this is what's going on. I wanted to talk to him and he said he wasn't interested in talking with me and went on down the road. Maybe he'll come swinging back by. Maybe he'll take the other way out. This is what he got going here. Now listen. I'm not going to damage anything. I'm not going to hurt anything. So I'm going to leave this just as good as I found it. I don't want anybody else coming around and damaging it and hurting things. This is their property. As much as I disagree with them, I don't believe in damaging property. OK. All right, here it is. I just so happen to has this by my camp, my trails, open it up here, it is a pretty nice sophisticated piece of equipment. Now I'm not tech at all, Advanced Counting Systems, can take care of cars, people walking with backpacks, a bicycle, somebody on a four wheeler, and it will take care of bucks too. Don't know if it will take care of does, but it will take care of bucks, and if we get some snow it will take care of somebody riding up and down the road on a snowmobile. This could just be a coincidence but man I sure hate you putting this right here by my camp. And why won't you talk with me? Why won't you explain what you got going here? And why you put it right here? Just drive off. That's OK. I was being friendly. I wasn't being ignorant nor disrespectful. I don't believe in being that way. I can disagree with somebody. I don't need to call him names. I don't need to be disrespectful. I don't believe in that. I don't believe in destroying things. So there it is. Back the way I found it. Well, this fight I'm making America, it's not about cows and it's not about grass. It's about the freedom of our land. This grazing right is my personal property right. I own it. And once they get me off here, if they get me off here, and they take these grazing rights from me, hunters you'll be next. They've already taken the mineral rights off this very land. Off this very ranch. They've already seized it and taken it with the stroke of a pen. It's theirs. Can't touch it. And if you think that they want you to have a gun, let alone hunt, you're mistaken where this government's going. They don't appreciate you coming out here and hunting and camping without their permission. That's not where things are going. Right up the road here they just stuck up another little blue sign. They say OK, Telly Point, it's closed. We're closing it off. Certain times of the year, it's closed off. Well, now when you go up on the Kaibab, they're closing the roads off there. You think you're going to keep getting access out here to hunt and camp? You're not. They're going to keep squeezing and keep closing in. They just made the Parashant Monument, I'm on half the Parashant Monument, now they're trying to make the Grand Canyon Monument. What's that all about? They say, oh, we're not changing anything. Well then why make a monument? Why change it if you're not changing anything? Well, I don't believe them. I don't trust them. So where's it going? We already have, I've been contacted by my state

representatives down in Phoenix, went in and visited with them at their request and invitation, and I've talked with other county commissioners down in the central part of our state, and let me tell you what I was told, it says that our county sheriffs are already having nose to nose confrontations with the federal fish and game officers. What the heck are we having federal fish and game officers running around here for? Fish and game, hunting is regulated by the state. That's the proper way it should be done. Now we got federal fish and game officers running around here. You know what that state representative told me that that confrontation was? Those fish and game officers were shutting down the roads, locking them off. Putting locks and padlocks on them. And then those sheriffs were going up and cutting them off. They had nose to nose confrontations. You wake up and you see what's coming. But, I'm not happy with this. But this is beautiful land. It's a place for freedom. Freedom's worth fighting for. This land is worth fighting for. Our Founding Fathers never envisioned a central power holding so much control over 1/3 of the land mass. You know, over 80% of this county here is controlled by the BLM with complete legislative executive powers whatsoever. Nothing wrong. It's not. I'm saying no, I'm not going to bow down any more. This is Arizona, this is Mohave County, and, so, here I am. I'm not leaving, and I want to put a thank you out to all the hundreds of people who contacted me through the last little while. Just hundreds. You've been gracious. You've been kind. And I appreciate it. You've been saying, Mr. Finicum, what can I do to help? I'll come if you need to come. I have a couple of security specialist teams here that are just helping to keep safe with their teams. And they're able to help organize and want to come out and take a look at the ranch. It's beautiful out here. Wanted to stop, this is America, we're neighbors, we're friends. And so I want to extend that invitation to you.

One other thing I wanted to say, but it kind of slipped my mind. I'm just a normal old guy out here. Oh, I know what it was, I know what it was. Need to listen what's happening, federal government, BLM. I'm not the only one standing. I got now half a dozen ranchers that says they'll come and stand with me, stand behind me, stand beside me. And guess what? You know what Bundy did and who stands and who doesn't stand with him. Now there's a rancher up there in Utah and he's got more ranchers and stuff standing by him than me and Bundy combined. This guy is a tough character. And he's making things happen. So BLM, this stuff isn't going to go away. And guess what? We now got a rancher in Texas standing up, defying you. And you got a gunner in Texas standing behind him. And so we aren't just a bunch of wanna be anarchists. And we don't say that we don't believe in government or want to take down the government. Contrary. I believe in government. I believe in the federal government. We need the federal government. But in their proper place. They need to be controlled by the confines of the law. Right now, they are the anarchists running beyond all their banks. We need them. We need them to protect our borders, to keep commerce regular, and keep our country safe. Just a few other things very identified in the Constitution. But they have usurped power and authority everywhere. And this is just one place that I can stand. Now there's ranchers standing in Utah and ranchers in Nevada, and ranchers in Texas that are starting to stand up and say no, we will not comply. And so, Mr. Obama, President Obama, what are you going to do about it? Mr. Neal Kornze, head of the Department of Interior, I know this stuff is coming and hitting your desk, cause those little letters that I write to you out there, man, they come back with an FBI agent holding it in his hand. So I know you're listening. And Ms. Loretta Lynch, attorney general, you going to leave us

Americans alone? Are you going to start stepping on us some more? You're stepping on Americans already. What you did to the Hammond family up in Bend, Oregon, you sent them to jail. And then they served their time and they got out of jail and then you charged them as terrorists because they were doing a controlled burn, burn 100 acres of what you call your land. Brush, seven years ago. The land is now more fruitful, more feet on it now, because of what they did. You convicted them on a terrorism charge. They served their time. One three months. The other one a year. And you come back and say that's not enough. We need more flesh from these. That's a good family. That's what you did. You re-litigated their sentences. Now they got five more years approximately they got to serve. That's a good family. America, these are good people that are being hurt and destroyed. That rancher in New Mexico that they took out. The ranchers in all the other parts of the country that they have taken out. That they're putting pressure on. I know that they are putting pressure on one of my neighbors right now over here on the Kaibab. These are families. This is our livelihood. This is our grazing rights. This is our heritage. And you want to trample on it. Well, give it a try. I'm right here. I'm not going anywhere. America, I love you. I love you Americans that love freedom. And I'll stand here with you or wherever any other American wants to stand for freedom. Freedom's worth living for. Freedom is worth dying for. Anyway, this is LaVoy, One Cowboy's Stand for Freedom. Have a good day.

15-11-15 part 2 water tank sabotage

Hello everyone, this is LaVoy Finicum. This is the second day I've been out here trying to get my water running on my tanks. This here is my second tank that I was telling you about in my first video. As you can see, I'm full to the brim. The large tank goes down subterranean ways and this is my most crucial tank here. And you'll see how this works. It's an apron. It's called a trick tank. The rains come and gather on this tarp here, this apron, and then it flows down and it will come in here, right there, and runs into my holding tank. I've been working all day. My best guess is that they dumped in some bentonite or dry concrete and it's flowed down and plugged my lines. And I'll show you what I've been doing. I had to siphon out to try to get water to my drinker here. So, follow me on down here. This is the hose where I was able to siphon it over the top. And then, I've been digging here in my float box. It's called my drinker right over here. That's where the deer and the cattle come in. You'll see, the float box wasn't damaged. I don't know if you can see down in there or not. You see, that's my water line coming in. It's cut. I've cut it to see why I'm not flowing. There's no flow of water from there out to my tank. They put something in that's plugged that up. Flowed in the line and plugged my line. I'm reminding you that I was tipped off by a very good source. The government did this. And so, I'm not very happy. There's no water in here for days. I followed my cows even in here this morning and their tracks came in here this morning looking for water; went back out; no water. Got some water in here now. Large, range only have a few head up here on this part. I hope they can swing back in and check one more time and hope they find water. Well, this is LaVoy Finicum bringing you up to speed. What's going on? I'll be working on my other one again tomorrow and this one here again tomorrow and see what I can do. You can see right here you'll see on that post that's a game camera. Look over there, take that in a little bit, and you can see there's game cameras right there. This is prime mule deer hunting for big ol bucks. This is one of the most coveted trophy mule deer areas in the whole United

States. And dang guys cut off the water not only to my cows but also to the deer. And again, any of you guides, any of you hunters that know anything, please let me know.

435-215-7307

Thanks

Catch you later

Bye

16-01-11 BURNS OREGON PRESS CONFERENCE

LaVoy:

The Committee of Safety met here Saturday night. While that meeting was happening, retired Col. Nelson O'Leary came in and presented to Ammon his own personal bronze star. Ammon would never say that. And he doesn't want me to say that. But I'm saying that for him. That was a tender thing for that gentleman to do. And as far as things of action that we've been talking about in deed, we're going to go out and today we'll put together, we have a work crew being put together. We're going out and open up that fence that was put in by the BLM this very last year and fenced off the pockets major part of the range making the ranch not profitable, hard to operate. We'd put them out if we couldn't have them access to the range that they had for many years. So we're going to go down, open that up, take down a section of fence, put in a gate, and that's what we got doing today. And just for logistics, we're going to come up here when the crews together, probably in an hour or two and we'll come out here. The ranch is close. And we'll come out this way and circle around to the ranch. And so if you want to follow us, you follow us. If you don't. If you want to help bring some gloves. And I'm going to turn the time over to Ammon for more new business here.

Ammon:

Thank you. Again, beautiful morning. I'm glad to be able to speak to you. I want to right off the bat give a special thanks to the many state representatives from Oregon, Washington, and Idaho that came and visited us the other night. We appreciate your support, and your action, and your understanding of the need for you to get involved. And we appreciate your desire to assure that people's rights are secured. And that they have access to their rights. And have access to the land and resources. And also all that you are doing to help expose the corruptions that the Hammonds have been so subjected to. We thank you for that. Also, I want to announce that we have several ranchers in the area and in the adjacent counties that have plans, are in the middle of ending their contracts with the federal government and are going to be standing on their own rights as was established by their forefathers many generations ago. We also, I guess I would like to say that this goes way beyond agriculture. What is happening here is not just happening to the ranchers, or to the loggers, or to the farmers. It is also happening to the auto industry, the health care industry, it is happening to the financial advisors as we speak right now. I have a good friend who is in the financial advising industry. He is an advisor. And mandates are coming down upon them as we speak. They are not going to give them the

opportunity to truly help their clients. And it is coming from the federal government in control of these financial circumstances and advising that they do. This goes full broad beyond ranching and extends into all industries across this country. And we desire, and our stand here is very clear. It is to say that there are rules that the people have placed upon government. The federal government's rules are outline in the Constitution of the United States. And it is our duty that when they will not step back in that case that we have given them, it is our duty as a people to assure that they do that. And that is what we are doing here. We also would like to recognize, and this may be a little hard to say or to acknowledge, but we know that if we continue to go down the road that we have been going down, that it will ultimately create a war among the people. This is an effort right now, a peaceful effort, to make sure that that war never comes. To make sure that there is not a war between government and the people. And if we do this correctly now, if we do this correctly now, we will make sure that there is peace that will continue to reign in this country. That our children will be able to have a future and to be able to prosper. We believe that we are making the right stand. That it is a moral and a righteous stand. And it is a stand for the future of this country. Now with that being said, we cannot forget the pain and suffering that the Hammonds, Dwight and Steven and their families, are experiencing as we speak. And that must be at the forefront. It must be the primary purpose in which we are here and we must get them out of that circumstance, out of those prisons and back to their families. We have uncovered several pieces of evidence that will be coming forth in the proper manner. The 2006 fire, we have video evidence and two eyewitnesses of the Bureau of Land Management starting those fires around the Hammonds ranch themselves. They said it was a lightning fire. We know that there was a lightning fire in the area. But the fire that threatened the Hammond's ranch, that caused the Hammonds to start a backfire in protection, was actually started by the Bureau of Land Management. We also know that Frank Papagni, the prosecuting attorney, knew of these witnesses and did not disclose them. We also have uncovered several records down in the refuge that show clear discrimination against the Hammonds on many occasions including taking of the permits and giving them to others right in the middle of contract. And also when the Hammonds were at the top of the list to receive permits for certain grounds, they were denied that and given to other people. A clearly shown discrimination. I offer you that as just a starter of what we have found and uncovered. This is very real. The Hammonds have been subjects to great abuse. They do not deserve what they are getting. We are doing everything that we can and will not stop until they are out of prison and back with their families. They are our primary concern but this goes way beyond just agriculture. And so I want to thank you for your time.

Reporter: There has been rumors that the BLM was destroying documents, have you been able to confirm that?

Ammon:

We've heard that from three different sources but we do not have concrete evidence of that that has happened.

Reporter: Has the sheriff addressed your redress of grievances; has anyone addressed those redress of grievances?

Ammon: No and we intent to take up legal matters to basically enforce that those grievances are addressed and that is part of our actions right now.

Reporter: There is a new group in town, the Three Percenters, what is your response to them being here?

Ammon: They are part of the Pacific Patriot Network. They have basically said that they are going to protect from without to make sure that nobody, as they say, doing something stupid. They do not want the FBI or any other group coming down upon us and killing American citizens. And so they are here to make sure that that does not happen.

Reporter: What did the Committee of Safety say to you on Saturday night?

Ammon: The Committee of Safety, we met with them again last night, so we have had more communications than just Saturday night. They understand and are supportive in the efforts we are doing and we hope to be able to transfer these efforts onto them soon. They are definitely acting.

Reporter: Have you accessed personnel files on computers? Have you seen records with personnel and employee information? Have you guys accessed any of that?

Ammon: We have not because we, as far as the computers go, we have kept them off because of personal information. But we do have access to the files. And at this time that is the way it will remain.

Reporter: Are the Hammonds going to be released from jail with the anomalies that have been exposed up to this point?

Ammon: We do expect that they will be released, yes.

Reporter: You are going through the federal files? Is that what you are saying?

Ammon: We are going through the Refuge files of the permits, absolutely, to expose many of the things that they have been doing over the past several decades.

Reporter: Is Nevada Michelle Fiore here?

Ammon: She is not here, no.

Reporter: Did the Committee of Safety ask you to leave? They had a letter asking you to leave.

Ammon: They did not ask me to leave, no.

Reporter: What is your long term outlook?

Ammon: So the long term outlook? is exposing these concerns, these abuses, exposing them to the point that the Hammonds are released and that the people of Harney County have enough grounding and enough strength to get back in using their rights again.

Reporter: Do you see your guys as sort of now modern day advocates for all these issues? Are there any other takeovers down the road? Nevada and now this.

Ammon: I don't think that that is necessary because much of the exposure has already been done. What is necessary is that the people of other counties, and we are starting to see this happen, stand and say these are our rights, not your rights. The financial advisor standing and saying, "Hey look, you do not have authority from the people to be making acts or regulating our industries." And that is really where this comes. We have an outline in the Constitution of the United States that says what the federal government can do. And beyond that the people have given them no power. I just reiterate that because it is very clear. The Tenth Amendment says what? I'm going to go ahead and read it:

The Tenth Amendment clearly says:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

And that is what this is about. The federal government does have limits and they are listed in the Constitution of the United States. And they must be enforced before they go into all industries and destroy it.

Thank you

16-01-15 NEWS CONFERENCE PART 1 BURNS OREGON

LaVoy walking and talking to reporters: We'll make it happen soon. LaVoy at microphones: Good morning everyone. Today was supposed to be an important day. Today was the day that we said that we would have our meeting with the community to outline exactly why we're here and when we would leave. Unfortunately Judge Grasty has been most active in squashing that. Making sure that we have no access to facilities to talk to the residents, to talk to the people. So I ask, Judge, what are you afraid of? Are you hiding something? Why are you afraid of an open dialogue? This is the same judge that put great pressure upon all those state representative from three different states. And put great pressure to have them not come and meet with us. Again, Why? Why, Judge Grasty, are you not allowing this to happen? And also, we would like to ask the FBI to go home. If you'll all notice, who has guns at schools? Who has guns around the public buildings? It's not us. It's the federal government. They're fear mongering. We want them to quit acting this way. Quit being provocateurs. Quit acting as militia and stirring up fear. There's no need for that. We can get on with the business and get out of here quicker if you go home. Take your guns away from the schools. Take your guns away from the county building. Take down those barricades. This isn't Russia. This isn't the Berlin Wall. So having said that, I have a few things to announce here. I understand that the annual coyote hunt is coming up. And we're excited for that. We invite the hunters to go ahead and access the refuge. I listen to the coyotes every night. There's lots of them out there Their pelts will be at their prime right now. This is an annual thing for this county so we don't want that to be disrupted. We want those traditions to continue and for them to feel welcomed. All those who come from all areas. There are other counties, neighboring counties that are reaching out to us at this time. Asking us to meet with them and to look

at doing some of the same things that are happening here in Harney County. I don't have any specifics that I'll give you at this time. I think that that's about all that I really want to give at this time. If there are any questions. We got a lot of work to do. But if there are any questions I'll take a few questions.

Question: The coyote hunters have been advised on the sheriff alert page to stay away from the refuge. Is it an area that they normally are allowed to hunt? Do you encourage them to come to this area to hunt, if in fact they are allowed?

LaVoy: This is Harney County. And they should be free to access all the public lands. And this is Harney County public land and so we're not worried by them and they shouldn't be worried by us. If they're hunters they know that you should not point guns at people. We know that we don't point guns at people.

Reporter: So what will you do to get county permission to use their facilities for meetings?

LaVoy: Well we have been exhausting every resource and if they do not do that, we shall still make this meeting happen soon. We are looking at other facilities from local residents that will open this up and be more generous than the judge here. Again, why Judge, why not have dialogue? Why not be open? We're looking for transparency.

Reporter: Are you going to take part in the coyote hunt?

LaVoy: No, no, we got too much to do. Sounds like a lot of fun. No, we haven't got much sleep. Thanks.

Reporter: Regarding other talks with the other counties. Can you say what other counties you have been in talks with?

LaVoy: No, not at this time but they're bordering counties.

Reporter: Are they officials from counties or are they local residents?

LaVoy: They are residents. And Ammon has been doing most of the interfacing

16-01-15 UPDATE

Good morning, America! This is LaVoy Finicum. I am here at the Harney County Resource Center formerly known as the Malheur Wildlife Resource National Refuge. And it is not the Harney County Resource Center. This is January 15th about a quarter to eight and it has been about 13 days since the Hammonds have been in prison unjustly. And that was the match that struck the fuse that put a lot of us in motion. And so that is going to be forefront here in much of what we do. And it's been 13 days since we occupied this as a peaceful place to work from to restore our Constitution. What I'm going to do is, America, I am going to give you a daily update from the inside here of what's going on, what we're doing, and try to get the message out in another venue here. And so, I hope you understand what this is about. This is about all of America. This is about our Constitution. It's about requiring our federal government to return to the confines of the law. To deal with the things of the national level.

To allow the states to deal with the things of the states. And the counties to deal with the things of the county. To restore a republican form of government. This land is special. This land needs to be free again. It cannot be free when our government has become lawless. And they find no restrictions to their actions. They completely disregard the limits that we the people put upon them, namely the Constitution. So we're requiring them to return to the confines of the law. Now, America, I want to speak to you a little bit more broadly. This fight is not just for the ranchers here that have been oppressed by the federal government in the destruction of their way of life, their ranches, the logging. But it's about every American citizen. It's about those of you who love this land. It's about those of you on the West Coast, the East Coast. Believe me that they are already restricting your freedoms in major ways. They're limiting access to the land. Once they get the ranchers off, they will then get the hunters off, and then your access to freely move in this country, in this land, upon these public lands, will be more restricted. Now, every day I will bring to you a, maybe several time a day, anything that I feel is breaking and pertinent. And so that's what I'll do. You can follow this here on my Youtube channel and also probably on the webpage, One Cowboy's Stand for Freedom. Maybe I can just go back and explain how the day it was that we got here and how it happened, because I was one of the first ones that pulled in here. We came up here on that day to do a peaceful support march for the Hammond family before they were thrown into prison. Not once, but a second time for the same charges. And the hour before the rally Ammon Bundy pulled us aside with a group of residents, a group of people that came up to support. And he took the time to go through the litany of all the things that he did to get redress for the Hammonds. And it was extensive and over a considerable period of time. And he was completely ignored. Had tens of thousands of signatures turned into Judge Grasty! Judge Grasty's simple comment, not to him, but to the world was, "These are just crazies!"

The ability to get redress from our elected officials, this is what failed, this is what Ammon said. He said, and I'll paraphrase it, because I'm just doing what I remember. He said, "I feel very strongly that if we allow to go unchecked this persecution of the Hammond family and do nothing about it. It will become the new normal for American citizens." So, America, this is about your freedom, about having justice equal under the law. And he said that we have to do more than just hold signs and peacefully march. Those are basically my words. But he laid out the plan an hour before the march to say that we need to come here and occupy this resource center, this wildlife refuge that the federal government has placed here. He said that this is the place from which they base out of, that they've used to destroy many of these ranches and these ranching families. So we left. I left with Ryan Bundy. Ammon did the march. With Ryan Bundy and a handful of others, and we drove out here. And I want you to know that as we came out here, there was a lot of thoughts going through my mind. There's a term called crossing a Rubicon. The generals in Rome were to cross the River Rubicon and go to the head of their army. But when Caesar crossed the Rubicon at the head of his army there's no turning back. And I thought to myself, I have not yet crossed the Rubicon. I have not yet walked in and seized this federal facility. And as I thought upon this, I says, once I do that, there will be no turning back. As I pondered, I was driving, there was a rear guard and it went across this great flat of frozen water and snow. There, up ahead, was a bald eagle, a large beautiful bald eagle sitting on the fence post watching us coming. As we passed, it lifted off and flew. And I said to myself, this is not about cows and grass, it's about freedom. And so I crossed the Rubicon. I'm all in. And so it is time to require our federal

government to return to the confines of the law, to uphold the Tenth Amendment, to allow the states to function in the proper role. To allow the county governments to function in their proper role. And so this is what we're doing. And I will keep updating you there on my webpage, One Cowboy's Stand for Freedom. And if any of you have questions, you can post them there and I can try to answer them. If I can get a chance. I'll do my best. But I'm going to keep you updated with what we're doing. Yesterday, Ryan Bundy and myself left, slipped out of here, actually two days ago, and went to another state. I knew a county that is very strongly being pressed, not near as bad as here, but is ready to stand up and to ask the federal government to leave their county. And so we were there to support and encourage that from happening, to happen, pardon me, to happen. A very good meeting. Some very good people. This is not to stop. This Resource Center is very symbolic. It is like their fortress which they operated out of for many years and seized the resources of Harney County. We have now occupied their fort. And we are not giving it back. It goes to Harney County. This does not, this facility, this compound, does not return to the federal government. It is the state of Oregon, it is the Harney County's Resource Center. And here we are to help the Harney County citizens reclaim their right to access to the resources of their land. There's many particulars that I could go into, which I will not at this time. But I'll try to feed those out to you maybe several times a day, maybe once a day. But to keep you updated. Thank you very much. This is LaVoy Finicum reaching out to you America! Asking you to stand up! Uphold the Constitution! Uphold the Rule of Law! Catch you in a little bit. Thank you.

16-01-18 Occupation leader Robert LaVoy Finicum speaks to supporters, protestors and the media

We've been occupying here for 16 days.

The Hammonds have been in prison for 14.

That is way too long.

This is not just a little occupation.

This is a movement that's taking place across our country.

And I want you to know that this Friday at 4 PM here on site we're holding a signing ceremony.

We have ranchers that have committed here in Harney County, and ranchers from New Mexico, and we're hoping that the ones in Utah will make it too. They're travelling here to have a signing ceremony and throw off the over lordship of the federal government.

There have been some great articles that have come out here.

I only got to look at a couple of them.

Like Joe Heim of the Washington Post, I thought that he did a very good job in an article that he gave out. Pretty fair representation. But I text him back and I said, "Joe I appreciate it, but there's one

correction. Where does it say the antigovernment, and I hear that in a lot of articles, the antigovernment people?” But I’m calling this out here, we are not antigovernment. We are not anti-federal government. I believe in the federal government. We believe in the federal government. We need the federal government. The federal government has some very specific responsibilities. Such as keeping our borders secure, defending our nation, keeping commerce regular, and just a few other narrowly defined things. So I’m going to say that again, we are not antigovernment.

I also want to reach out to the Native Americans. I grew up on the Navajo reservation. A little place called Page, Arizona. From a child till I left high school, I was on the reservation. And I am very aware of what the federal government has done with the native people, the tribes. The BIA rules over that res in lots of ways, through either money or control, but BIA. Bureau of Indian Affairs. The tribes need to be free. The Native American people need to be free.

And so we’re reaching out to have a liaison between us and the Peyote people here. If they have concerns, we would like them to come and visit with us.

And this contest is just beginning.

We will not stop

We will not back down.

We will not be deterred.

Make it known clearly, these buildings are very symbolic.

They’re a bunch of rock buildings, 35 miles away from nowhere.

But they’re symbolic.

We’re holding this, it’s been the federal government’s fortress, their castle.

And we’re holding it.

We shall not give it up to them ever.

It returns to Harney County when it goes back. So make that clear.

16-01-20_exclusive_oath_keepers_interview_with_LaVoy_finicum_at_the_masher_refuge_center_resource_center

Hey guys, this is Jason Vanchano with Oathkeepers Media here, I’m here at the Malheur Refuge with the Citizens for Constitutional Freedom, here with my friend Finicum LaVoy, LaVoy Finicum. I’m here with LaVoy Finicum, who as you know I’ve interviewed before and he’s really taken a stand with the BLM with his own ranch. And now we’re very pleased to see that he is here amongst our fellow patriots that are out here taking a stand against the BLM. Thanks for taking the time to meet with us.

LaVoy: Oh, absolutely. It's an honor to meet you in person. I enjoyed visiting with you but now I get to meet you in person.

Jason: That's what's great about these operations is that you build these relationships online and then when it's time to do some real work, men and women get out there and do that work. So it's good to meet those people when you can. So tell us why you're here. What made you decide to leave your ranch to come out here, outside Burns, Oregon, and do what you're doing?

LaVoy: Let me tell you. I hadn't planned on being here. But this will be very clear what brought me here. It was the atrocities that are being perpetrated upon the Hammond family. Where he and his son, he's 75 years old, and he and his son, Dwight and Steve, are now throw back into prison a second time for the same offense. After a fire of 140 acres of brush. Which happened eleven years ago, by the way.

Jason: And this is, you and I, you being, you're from not Nevada, you're across the line, right?

LaVoy: Arizona.

Jason: Arizona, but very close to the Bundy ranch. And me being up from Montana, cattle country up there. These types of burns happen, I run passed burns happening really on a weekly basis up there. Whether it's part of the forest burns, or part of the ranch land burns.

LaVoy: Prescribed burns have always been a part of land management. Federal government does it all the time. Private industries do it on private land, it's ways for maintenance of the land to help burn off unproductive brush that there's no feed, to drive the nutrients back into the soil so that there's more feed for wildlife and cattle alike.

Jason: Absolutely. Now, this case is a little different than we saw with the Bundys or yourself where we have private land happening. And there was a court case. They were found guilty by a jury of their peers, supposedly. Now there's some real questions with that, and I want to address that because...

LaVoy: I don't think that there was a jury. It was just a court ruling. By a judge. Not a jury of their peers.

Jason: So, but they were found guilty, there's some serious questions around that. In that there's evidence now that's coming up that the prosecution...

LaVoy: Oh, you're referring to the Hammonds. I thought that you were referring to Cliven. It was a jury of their peers and they were found guilty and yes there are some real serious questions coming to light where this needs to be relooked at. That's part of that redress of grievances and that is where Ammon has taken an exhaustive over many, a long period of time, trying to get the officials, the judge, the county commissioners, and others to reconvene, just an evidentiary hearing, to relook at these new things that have come to light. The petitions had tens of thousands of names on them. They completely ignored that large of a response. Just to say, "Oh, they're all crazies!" So that is what the judge said. These people here in this area and other places that had concerns and signed that petition, they're just crazies!

Jason: Right. That's how they try to label the entire movement. A lot of times we've seen that. But that's far from the case. Everybody involved seems to be very level headed, very calm, very intelligent people to begin with. And you're right, Ammon has done an exhaustive study. If any of you people want to check that out, it's at bundy ranch.blogspot. I'll put the link at the notes at the bottom of this video. But please check that out. It really is an important part of this case.

So, a lot of people also are a little concerned that you guys occupied these buildings here. And I'm going to say that at first, when I heard about it, I thought that it may not have been the wisest decision, just of the timing with what was happening with gun legislation, but seemed like a good gift wrapped gift. But I got to tell you, being here, experiencing the people that are out here and the atmosphere, my mind has changed a bit and I got to say that it feels more like the occupation of a dean's office that you'd see at a campus. And how many people in the administration right now have been part of those types of political activism.

LaVoy: I think a few might have. Don't know specifically.

Jason: So, let's talk about that. And yes, there are guns here. Their second amendment is being exercised. But I think that it's important that as a whole the liberty movement, since Bundy ranch on, and you recall that at Bundy ranch, it first started off without any guns. They started off, I remember pulling up his shirt and saying, "Hey you guys I left my guns at home, I don't have a pocket knife." Now is the day that they sic the attack dogs on them. The next day guns came out and it changed dynamic. People were treated with respect. People were treated like human beings.

LaVoy: Well, there's an old saying, I thought it came from the old country of France, where it says, "One sword tends to keep another sword in its sheath." And that's exactly where all the guns should be, is holstered in their sheaths. And we should all be neighborly, kind and friendly.

Jason: Absolutely, I want to really point out folks. I've been to every operation Oathkeepers been part of. Now this is not an Oathkeepers operation but it's an important part of the liberty movement. Which is why I'm here. From every operation I've been to, not one bullet has flown, not one drop of blood has spilled, that every one of these operations has been done with men and women who are acting responsibly.

LaVoy: I hope it always continues to be that way. But, regardless, we stand for freedom. We stand peacefully. But we stand firmly.

Jason: Could you tell us a little bit about what the decision process went into the occupation here?

LaVoy: I can't. For myself, I came here because of atrocities upon the Hammond family. I was going to come and put some flowers on the doorstep and then go home. As I was travelling up here, I think Cliven had called just to check on me. See how I was doing with my own issues with the BLM. I told him that I was going to go up and support the Hammonds. And he said, well maybe we can do some carpooling. And so his son Ryan met me and we hopped in my truck and we tolled on up here and we expected to be back the very next day. Ryan didn't, I think he had one good change of clothes. I had a

couple extra change of clothes. But that's the way it went down. We found it out just prior to the march. In other words when we got ready, just about an hour or 45 minutes before the march, we were pulled into a meeting where Ammon listed all the avenues that he had exhausted over an extensive period of time to get redress for the Hammonds. And how they had been flatly ignored. Not responded to. And then he said, if we allow this to stand, this shall become the new norm for American citizens. It is time to do more than to just allow these things to go on and to have good people to be terrorized as they have been and now imprisoned not once but twice and this is just unacceptable. So he says we need to act. At that point he laid out the plan that we should come out here and occupy.

And so what happened was just before the march, about 45 minutes before, we pulled into Burns, me and Ryan , just prior to the march, by about maybe 2 hours or an hour and a half before the march . And so he called us inside with a meeting. There's locals there, I met them. And there's us and a few other people that come to support and where he again, as I said, laid out his case that every avenue that had been exhausted and flatly ignored and refused to be even responded to in any manner. He said, "We cannot allow this to stand." There on he says, "I feel from my heart," he says, "Come on over here and occupy this Malheur Wildlife Refuge." And so I raised my hand and said, "Ammon are you telling me that all these years we've been trying to draw a defensive line, being pressed here and stepping back, pressed here and stepping back and we keep losing ground. Are you now saying that this is a peaceful step forward to reclaim?" He said, "Yes I am." I said, "That's what I thought you meant." And he said, "Who will go with me?" And there was actually a county deputy in the room. And there were several people that said we appreciate what you are doing but this is just one bridge too far for us and they excused themselves. At one point, Ammon did the support march. And me and Ryan and a handful of other people, I was the last car in a caravan of four or five vehicles that came here. I think it was four or something like that. Not very many, just a handful of us. I'm actually the only one in my truck. Actually it was a rent-a-car because my truck broke down. I'm chillin out here. And so as I'm coming out, you do a lot of thinking because, have you ever heard the term crossing the Rubicon? It means that when you cross the Rubicon, as soon as you cross the Rubicon, that means there's no turning back. And so, anyway, I'm driving out and the very last vehicle, and I'm saying, I haven't crossed the Rubicon yet, but I'm getting close to it. I said to you, "I'm with you," before he said, "Are you with me?" We actually knelt down and prayed. And we came out. You got a lot of time, almost 45 minutes to an hour out here. So a lot of time to think about that as you're travelling out. Because there's no going back. And as I'm driving out, I want to share this experience with you, there's big flats, so your viewers understand, just snow, and the big old flat, and the roads kind of vary, and there's fence posts along the sides on both sides. Up ahead there's this big beautiful bald eagle. Just sitting on the post watching us come. And as we go by, I'm the last to go by, he lifts off and flies. And I go, It's OK. This is for freedom. Freedom is worth everything.

Jason: It's amazing that you say that story because as we were coming in convoy yesterday, I was embedded with three percenters and guys coming out here. As we were driving up, not before this turn here, but over literally the same thing happened where there was an eagle, we made mention of it on the radio, there's this bald eagle and it seems to be a good sign for freedom.

LaVoy: Well, you know, this to me is deeply personal. And spiritual to me because I believe that God intends for all the children to live free. I believe that. And there's no way that what has happened to the Hammonds is freedom. And the reason that has happened is that we have allowed such centralization of power without accountability of the people. And so, if it had not been for that, I would not be here, sitting here in the now newly renamed Harney County Resource Center. And so, I am. We have laid everything on the line. All that we have is in jeopardy. And that's OK. It doesn't matter. What matters is that you try to do what's right and just let the chips fall where they may. That's what you do.

Jason: Thanks for taking the time to talk with us is there anything else that you want to add before we let go.

LaVoy: No, one thing I do want to say, because sometimes they get a bad rap, the militia. They came out with Tact-out and stuff but they travel that way in a protective detail. And that's understandable. But the media loves to heat it up. But that's who they are. And from a distance we have felt the support of them saying to the federal government, just leave them alone. They're not hurting anybody. They're 35 miles from the nearest place. They're out in the middle of a snow patch. They're not threatening anybody. Just leave them alone. Don't do crazy. Leave them alone. And I think they feel that. And I understood, when a new media person told me today, that indeed they were going to unoccupy the school, and let the kids go back to school today. The federal agents that occupy that, made a fortress out of the school, they're the ones that instill fear in the community. Coming in and setting up like an armed camp and then lying to us saying, oh, we had to close it down because the families were scared. They closed it down so that they could use it as a staging place for military operations. What liars. We don't need to escalate things like this.

Jason: Well, it's illegal for me and you to lie to them. We get in trouble for that. There's no laws for them.

LaVoy: There's a double standard. It's time for the federal government to be held to where we should be equal under the law. For example, talk about equal under the law, the Hammonds set a backfire to save more land, a backfire to stop another fire. And they are charged as a terrorist and go to prison. OK. Twice. Where I'm from Kaibab Mountain, there's what's called the Warren Fire, just the last big fire out there, not that long ago. It was a controlled fire by who? The federal government. It gets out of hand. Burns thousands and thousands of prime timber. Did anybody go to jail? Did anybody ever lose their job? So we live under two sets of standards. We are not equal under the law. We have the federal class that protects their own. And then we have us, the lower class.

Jason: Sure, the state employees too, I think, there seems to be, you're either part of the system or you're not.

LaVoy: And then, where does the privileged class actually receive their money from? It's from the working class.

Jason: It's a false economy.

LaVoy: It is. And we all understand that. But this is such an egregious example. How could we have done anything less? Ammon exhausted every avenue. There was no other recourse to take but to peacefully stand up and make the statement to try to get redress for the Hammonds and for other purposes of freedom too.

Jason: Well, folks, I want to make it very clear that we talk a lot about the background to this story, the research that has gone into it and all that background information and I want to challenge each and every one of you to go out there, I'm going to include links in my articles and in this video, to these different references, these information piles if you will, that back up everything that we are saying, and I want to challenge you, go through it, read it, and understand the back story that we are talking about here. And really cross the board with what he stands with, each one of these egregious happenings. Whether it's a guy in Montana or Wyoming with putting a pond in his backyard and being prosecuted as a terrorist there, to the Hammonds, to the Bundys. The information is there folks and we need to really bone up on that information and be able to speak intelligently about it. So please take the time, go out there and take the time to read up.

LaVoy: I'm not sure that I completely finished my thought about those that showed up. Came down and talked to us. Again I just really want to put out a thank you because from a distance they make us feel safe here. And they don't have to be here on site. From a distance we feel their support. So again to all, and all the Americans that have prayed for us, even though they may not have agreed or not quite understand, but we felt their prayers. We have heard and listened to their support and stuff. We are not stopping. We are not going to back down. And as Ammon said, we will leave not a minute too soon. So thank you so much.

16-01-06 ON DAY BEFORE HIS DEATH ROBERT LAVOY FINICUM SPOKE ABOUT POTENTIAL ENCOUNTERS WITH FEDS?

Reporter: What do you think of the fact that it's gotten to the point where public meetings are being cancelled?

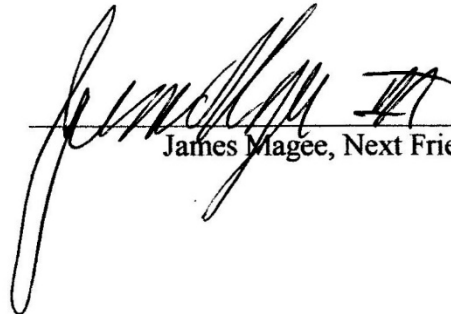
LaVoy: Well, he cancelled it. We should have as much dialog and openness as possible. Have you felt the change in the tone and tenor of the feds out there? We certainly have. We used to could walk up to them and talk to FBI agents in a friendly manner unarmed and stuff. But the tenor has changed. They have become more hardened. When they step out of their vehicles now they're stepping out with their rifles. And they're not willing to engage in just friendly dialogue. And then, I'm assuming, that you're aware of all the extra vehicles that they're bringing in and the increase in manpower that they're ramping up.

And we're saying why the rattling of the saber? Why when we are so far away from anybody, out here in the middle of nowhere, why are you ramping it up? Why do you fly your planes over us nonstop? And why do you have your drones? They're droning us now. And they're actually flying their photographer planes. They're doing all of the things that show that they want to take some

kinetic action against us. And we're saying, why be so unfriendly? Why be so threatening? Why are you threatening lethal force when we are so far away?

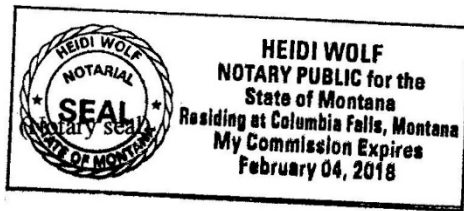
Reporter: Do you really feel like they're ramping it up? That they're going to take some kinetic action?

LaVoy: All their behaviors is like in the preparation of a campaign of some sort. And whether it's just a saber rattling to try to intimidate or whether they actually mean it, we don't know. All we know is what we see. And so what you're also seeing, is that's why you're seeing the upkick in the saber rattling from the feds because they do not want to let go of this. They do not intend on losing here. And we do not intend on giving it back to them.


James Magee, Next Friend

NOTARY

In Montana State, Flathead County, on this 19th day of August, 2016, before me, Heidi Wolf, the undersigned Notary Public, personally appeared James Magee, to me known to be the living man described herein, who executed the forgoing instrument, and has sworn before me that he executed the same as his free-will act and deed.



Heidi Wolf
Notary

My commission expires: Feb. 04, 2018

ROBERT L. FINICUM
HARNEY COUNTY
16-0092

AUTOPSY PERFORMED:

BY: Clifford C. Nelson, MD 
ON: Thursday, January 28, 2016 - 9:15 a.m.
AT: 13309 SE 84th Avenue, Suite 100, Clackamas, Oregon 97015

CAUSE OF DEATH: GUNSHOT WOUNDS OF THE BACK, ABDOMEN
AND CHEST

MANNER OF DEATH: HOMICIDE

SUMMARY OF AUTOPSY FINDINGS:

- I. GUNSHOT WOUND OF THE LEFT SHOULDER:
 - A. Indeterminate-range gunshot entrance wound of the posterior left shoulder.
 - B. Back-to-front, left-to-right gunshot wound path perforating the deltoid muscle.
 - C. Gunshot exit defect of the anterior left shoulder.

- II. GUNSHOT WOUND OF THE LEFT UPPER BACK AND CHEST:
 - A. Indeterminate-range gunshot entrance wound of the left upper back.
 - B. Back-to-front, right-to-left, slightly downward gunshot wound path with:
 1. Perforating fracture of the posterior left 3rd rib.
 2. Perforation of the upper lobe of the left lung.
 3. Perforating fracture of the anterior left 4th rib.
 - C. Gunshot exit defect above and medial to left nipple.

- III. GUNSHOT WOUND OF THE RIGHT LOWER BACK, ABDOMEN AND CHEST:
 - A. Indeterminate-range gunshot entrance wound of the right lower back.
 - B. Right-to-left, back-to-front, upward gunshot wound path with:
 1. Perforation of the posterior right 10th intercostal space.

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2. Laceration of the lower lobe of the right lung.
 3. Perforation of the diaphragm.
 4. Perforation and pulpefaction of the upper right kidney.
 5. Perforation of the hepatic flexure of the colon.
 6. Perforation of the liver.
 7. Perforation of the diaphragm.
 8. Perforation of the pericardial sac.
 9. Perforation of the right ventricle of the heart.
 10. Laceration of the lingula of the left lung.
 11. Perforation of the anterior left 4th intercostal space and fracture of the left 5th rib.
- C. Gunshot exit defect below and medial to the left nipple.
- IV. ABSENCE OF ACUTE BLUNT FORCE TRAUMA.
- V. ABSENCE OF GROSSLY EVIDENT NATURAL DISEASE PROCESSES THAT WOULD HAVE CONTRIBUTED TO THE DEATH.
- VI. OTHER PROCEDURES:
- A. Blood and urine submitted for toxicologic analysis.
 - B. No tissue retained for histology.
 - C. X-rays retained at medical examiner's office.
 - D. Documentary photographs taken by Deschutes County Sheriff's Detective Donny Patterson and Oregon State Police Forensic Scientist Dan Alessio.
 - E. Clothing submitted as evidence to Detective Patterson.
 - F. Personal effects submitted as evidence to Detective Patterson.
 - G. Blood placed on filter paper for possible DNA analysis.

PRESENTATION OF BODY:

The fully clothed body of the subject is first viewed lying on a portable morgue stretcher.

ITEMS ON BODY:

A pair of white metal handcuffs is around the wrists, pulling the arms and hands behind the back.

CLOTHING ON BODY:

1. Brown "Ariat" brand cowboy boots cover the feet.
2. Gray socks cover the feet.
3. A second pair of gray socks cover the feet.
4. "Wrangler" brand blue denim jeans cover the waist, hips and legs. They are appropriately buttoned and zipped. A brown leather belt with brass colored plate-style buckle, which is unfastened, is through the loops of the pants appropriately.
5. Black, cold-proof, full-length thermal underwear cover the legs, hips and waist.
6. White, long legged underwear cover the waist, hips and genitalia.
7. A "Levi" brand blue denim jacket covers the arms and drapes around the back. It is unbuttoned. A defect in the left rear aspect of the jacket corresponds with a bullet hole in the body.
8. A white fleece "Champion" brand vest sweater with black trim covers the arms and drapes around the back. It is unzipped. Defects near the left shoulder and in the left chest correspond with gunshot wounds of the body. Corresponding bullet defects are also found in the right bottom rear and left neck area of the vest.
9. A black snap long-sleeve cotton shirt with burgundy, light brown and white lines covers the arms and drapes around the back. Three holes are in the posterior right rear. One in the left posterior neck, one near the left

shoulder, and another in the left chest correspond with wounds on the body.

10. A black and red trimmed thermal sweat jacket covers the arms, chest and abdomen. It is merino blend by "Paradox" brand. Holes in the left chest, left shoulder, left posterior neck and right back correspond with wounds on the body.

11. A white knit short-sleeve undershirt has defects corresponding with the gunshot wounds on the body.

PERSONAL EFFECTS:

1. In the right front jeans pocket is a red "BIC" lighter and small white metal case.
2. A folding pocket knife and white metal and plastic container holds matches and filters.
3. A pair of dark brown reading glasses is in the shirt pocket.
4. Two "Halls" cough drops are in the right front lower jacket pocket.
5. "Degrees" brand earmuffs are around the left wrist.
6. A white metal "Timex" brand watch with brown leather strap surrounds the left wrist.

EVIDENCE OF MEDICAL THERAPY:

EKG pads are on both iliac crests, the right clavicular region and left axilla.

GENERAL EXTERNAL EXAMINATION:

Received is the unembalmed, well-hydrated, well-nourished, normally developed, relatively thin body of an adult Caucasian male appearing at least 5 years older than the age of 55. When first viewed, the body is in full rigor, and lividity is posterior, fixed and nonblanching. The body is cool to the touch after having been refrigerated. The subject is 67 inches and 167 pounds.

The scalp is shaved bald. The irides are brown. The conjunctivae are free of petechial hemorrhages and the corneas are clear. The nose is midline, externally uninjured, and with a slight amount of blood in the nostrils. The ears are normally formed and set with no blood or debris in the external auditory canals. The earlobes are not creased or pierced. The lining of the mouth and gums is uninjured. The dentition is natural, worn, but in good condition.

The neck is free of palpable masses, and the trachea is midline.

The thorax is normally formed, symmetric and remarkable for gunshot wounds to be described separately.

The abdomen is flat, soft, free of palpable masses and uninjured.

The external genitalia are those of a normally developed, circumcised adult male with bilaterally descended testes and a genital hair pattern appropriate for age and sex.

The arms, hands and fingers are normally formed, symmetric and without traumatic injuries. The fingernails are trimmed 1/8 inch proximal to the tips of the fingers and have no underlying debris. The palms are uninjured and the antecubital fossae are free of perivenous puncture marks or scarring.

The legs, feet and toes are normally formed, symmetric and without traumatic injuries. The toenails are trimmed 1/4 inch proximal to the tips of the toes and have no underlying dirt or debris. The soles are clean and uninjured. On the 3rd left toe dorsally is a 1-1/2 x 1-inch purple and brown contusion with 2 areas of central spacing creating what appears to be the number "8."

The back is normally formed, symmetric and with gunshot entrance wounds to be described separately. The anus and perineum are unremarkable.

SCARS AND TATTOOS:

No surgical or traumatic scars are located. No tattoos are present on the body. What appears to read "2Gas Call" is written in black pen ink on the left palm.

GUNSHOT WOUNDS:

#1 – Gunshot Wound of the Left Shoulder: An indeterminate-range gunshot entrance wound is located on the left shoulder, 58-1/2 inches above the left heel and 9 inches left of posterior midline. The defect consists of a 1/8-inch-diameter hole with crescent shaped, up to 1/4-inch-wide marginal abrasion from 2 to 8 o'clock. Soot, searing and stippling are absent from the surrounding skin or within the depths of this portion of the wound.

The gunshot wound path courses from back to front, left to right and without significant above-to-below deviation. It perforates the left deltoid muscles. The wound path consists of an approximately 1/2-inch-diameter, collapsed hemorrhagic cavity.

A slightly shored gunshot exit defect is located in the anterior left shoulder, 58 inches above the left heel and 6-1/4 inches left of anterior midline. The defect consists of a 1/4-inch-diameter hole with 1/8-inch-wide, near circumferential, irregular shored abrasion. Soot, searing and stippling are absent from the surrounding skin or within the depths of this portion of the wound.

#2 – Gunshot Wound of the Neck and Upper Chest: An indeterminate-range, gunshot entrance wound of the upper left back is located 58-1/8 inches above the left heel and 2-1/2 inches left of posterior midline. The defect consists of a 1/8-inch-diameter hole with 1/8-inch-wide circumferential marginal abrasion.

Soot, searing and stippling are absent from the surrounding skin or within the depths of this portion of the wound.

The gunshot wound path courses from back to front, right to left, and slightly downward. The bullet perforates and fractures the posterior left 3rd rib, perforates the upper lobe of the left lung, and perforates and fractures the left 4th rib. Small to minute fragments of lead and copper are found along the wound path. Approximately 1 liter of liquid and clotted blood is within the left hemithorax.

An irregular, 3/8 x 1/4-inch gunshot exit defect is located above and medial to the left nipple, 50-5/8 inches above the left heel and 3-3/4 inches left of anterior midline. The defect has no surrounding marginal abrasion. No soot, searing or stippling is present on the surrounding skin or within the depths of this portion of the wound. A vertical, 3/4 x 1/8-inch wide superficial abrasion is just lateral to this gunshot exit defect and a 5/8 x 3/8-inch irregular shaped superficial abrasion is located approximately 2 inches from the edge of the exit defect at 2 o'clock.

#3 – Gunshot Wound of the Right Lower Back, Abdomen and Chest: An indeterminate-range gunshot entrance wound of the lateral right lower back is located 44 inches above the right heel, 4-1/2 inches right of posterior midline. The defect consists of a 1/8-inch-diameter hole with up to 3/16-inch-wide marginal abrasion extending from 2 to 8 o'clock. Soot, searing and stippling are absent from the surrounding skin or within the depths of this portion of the wound.

The gunshot wound path courses from back to front, right to left and upward. The bullet perforates the posterior left 10th intercostal space, lacerates the lower lobe of the right lung, perforates the diaphragm, perforates and shreds the upper right kidney, perforates the hepatic flexure of colon, and perforates the liver. The bullet continues by perforating the diaphragm, perforating the pericardial sac, and

perforating the right ventricle of the heart. The bullet then perforates the lingula of the left lung, the anterior left 4th intercostal space, and fractures the left 5th rib. Approximately 1500 mL of liquid and clotted blood is within the right hemithorax. Approximately 300 mL of liquid and clotted blood is within the peritoneal cavity.

An irregular, splitting, gunshot exit defect is approximately 3/8 inch in diameter. It is located 48-1/2 inches above the left heel and 3-1/2 inches left of anterior midline. Soot, searing and stippling are absent from the surrounding skin or within the depths of this portion of the wound. No marginal abrasion is apparent.

GENERAL INTERNAL EXAMINATION:

Body Cavities: Pneumothoraces, the perforated pericardial sac, and the hemoperitoneum have been previously described. The thoracic and abdominal organs maintain their usual anatomic relationships.

Cardiovascular System: The 320 gram, normally formed heart is injured by the gunshot wound as previously described. The heart is covered by moderate overlying epicardial fat. Serial sections through the coronary arteries reveal a right dominant system with no stenosis by atherosclerotic plaque. The cardiac valves are thin, supple, translucent, free of nodularity, and of normal circumference. The homogeneous red-brown myocardium has no focal pallor, softening, hyperemia or scarring. The aorta arises and courses normally through the thorax and abdomen. It is uninjured along its course. No atherosclerotic plaquing is identified, and the ostia of the major branches off the aorta are widely patent.

Respiratory System: The right 580 and left 360 gram lungs have hemorrhage associated with the gunshot wound paths as previously described. The pleural surfaces have moderate anthracotic pigmentation but no adhesions. The airways contain bloody mucus but are free of foreign material, purulence or

masses. The pulmonary arteries course normally and are free of thromboemboli. The sectioned pulmonary parenchyma is free of cysts, masses, abscesses or areas of consolidation.

Gastrointestinal System: The esophagus is lined by an unremarkable beige mucosa without lesions. The stomach contains approximately 800 grams of what appears to be ground meat material and potatoes. The rugal folds of the stomach are covered by an uninjured beige mucosa. External examination of the small bowel and colon reveals no strictures, adhesions, diverticula, masses or injuries. The appendix is present.

Liver, Gallbladder and Pancreas: The 1420 gram liver has a smooth, red-brown surface where not injured but gunshot wounds. The sectioned hepatic parenchyma is free of nodularity, increased fibrosis, cysts or masses.

The thin-walled gallbladder contains approximately 15 mL of bile and no stones.

The beige, lobular pancreas has slight surrounding hemorrhage but no cysts, masses, parenchymal hematomas, abscesses, saponification or calcification.

Spleen: The 110 gram spleen has a wrinkled purple capsule. White pulp is evident upon sectioning.

Genitourinary System: The right kidney has a shredded upper pole and is 100 grams. The left kidney is 130 grams. Intact capsule of both kidneys is smooth without nodularity or granularity. The pelves are not dilated and the calyces are sharp. The cortices and medulla are distinct. The bladder contains approximately 100 mL of urine. The bladder wall is not thickened or trabeculated. The testes and prostate are not examined.

Endocrine System: The pituitary, thyroid and adrenal glands are in the usual locations and appear of normal size, shape, color and consistency.

Axial Musculoskeletal System: The ribs are fractured by the gunshot wounds as previously described and hemorrhage within the intercostal muscles has also been described.

Neck Contents: The anterior strap muscles of the neck are free of hemorrhage. Thyroid and hyoid cartilages are unfractured. Paracervical and paratracheal soft tissues are uninjured, and the larynx is unremarkable.

Head: Scalp and subgaleal hemorrhage are absent. The bones of the cranial vault are intact and unfractured. Epidural, subdural and subarachnoid hemorrhage does not exist. The normally formed, nonsoftened, nonflattened gyri of the 1600 gram brain are covered by a thin, transparent, glistening pia and arachnoid. Coronal sections through the cerebral hemispheres and serial sections of the brainstem, midbrain and cerebellum reveal no focal lesions. The vessels of the circle of Willis course normally about the base of the brain and are free of atherosclerotic disease or aneurysmal dilatation.



Kate Brown, Governor

February 3, 2016

Department of State Police
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13309 SE 84th Ave.
Clackamas, OR 97015
State Medical Examiner
971-673-8200
FAX 971-673-8321

Harney County Medical Examiner's Office
559 W Washington Street
Burns, OR 97720

Attention: CLIFFORD NELSON MD
FINICUM, ROBERT L. (DOD: 1/26/16)
Lab No. 16M-000184
Agency Case 16-0092

Analytical Report

Described below is a summary of the analytical results and/or conclusions of the undersigned analyst concerning the referenced exhibit(s) submitted by your agency and received sealed on January 29, 2016 via Tommy Bottom.

Exhibit 01 - A grey-stoppered femoral blood specimen which is labeled as FINICUM, ROBERT L.

Toxicological examination fails to confirm the presence of controlled substances or common pharmaceuticals.

Refer to other report(s) regarding this case.

This analysis was requested by Clifford C. Nelson, M.D.

Evidence will be returned at the earliest convenience.

Janet L. Schultz, Forensic Scientist

Pursuant to ORS 40.460 (25), I hereby certify that I retrieved this document directly from the computer system maintained and operated by the Oregon Department of State Police and that this document accurately reflects and is a true copy of the information contained in that computer system. In testimony whereof, I have affixed my signature.

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February 3, 2016

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Attention: **CLIFFORD NELSON MD**
FINICUM, ROBERT L. (DOD: 1/26/16)
Lab No. 16M-000184
Agency Case 16-0092

Analytical Report

Described below is a summary of the analytical results and/or conclusions of the undersigned analyst concerning the referenced exhibit(s) submitted by your agency and received sealed on January 29, 2016 via Tommy Bottom.

Exhibit 02 - A red-stoppered urine specimen which is labeled as FINICUM, ROBERT L.

Toxicological examination indicates the presence of the following; however, these results are not confirmed:

- Ibuprofen

Toxicological examination also indicates the presence of 7-Hydroxycoumarin; however, this result is not confirmed.

This analysis was requested by Clifford C. Nelson, M.D.

Evidence will be returned at the earliest convenience.

Janet L. Schultz, Forensic Scientist

Pursuant to ORS 40.460 (25), I hereby certify that I retrieved this document directly from the computer system maintained and operated by the Oregon Department of State Police and that this document accurately reflects and is a true copy of the information contained in that computer system. In testimony whereof, I have affixed my signature.

Oregon

Kate Brown, Governor

January 2, 2016

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559 W Washington Street
Burns, OR 97720

Attention: CLIFFORD NELSON MD
FINICUM, ROBERT L. (DOD: 1/26/16)
Lab No. 16M-000184
Agency Case 16-0092

Analytical Report

Described below is a summary of the analytical results and/or conclusions of the undersigned analyst concerning the referenced exhibit(s) submitted by your agency and received sealed on January 29, 2016 via Tommy Bottom.

Exhibit 01 - A grey-stoppered femoral blood specimen which is labeled as FINICUM, ROBERT L.

Alcohol/volatiles analysis confirms:

- Ethanol Not Detected
- Acetone Not Detected

This analysis was requested by Clifford C. Nelson, M.D.

Evidence will be returned at the earliest convenience.

Shane Bessett

Shane A. Bessett, Forensic Scientist

Pursuant to ORS 40.460 (25), I hereby certify that I retrieved this document directly from the computer system maintained and operated by the Oregon Department of State Police and that this document accurately reflects and is a true copy of the information contained in that computer system. In testimony whereof, I have affixed my signature.

AFFIDAVIT CHRIS ALLEN BRIELS

I, Chris Allen Briels, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading:

Transcript [video available]

16-01-13 Harney County Fire Chief Chris Briels Resigns FBI Caught

My name is Chris Briels. I've lived here in Harney County since 1978. I joined the Burns Volunteer Fire Department in 1979. I took over as the Fire Chief; and, was over the Ambulance for twenty-four (24) years; well, until the Ambulance moved to the Hospital. I have been a servant of this community since the day I stepped on its soil. I want you to know that this is coming from my heart; and, my heart right now has been hurt.

When Ammon had the meeting out at the fairgrounds and a group of citizens from in this community said:

"Maybe we need to have a Committee of Safety. Maybe we need to do some things that maybe can help with some of the problems that have been going with the land grabbing and some of the things that are not constitutionally correct."

They had a unanimous vote that they needed to form a Committee of Safety. Ok? They did that. I was the second person nominated to that position; and, I thought:

"Oh my God, what happened to me?!"

I just showed up to find out what's going on in my backyard. That was the only thing I wanted to do.

"Do, I want to be involved in this."

And, I will tell you straight up, the major reason that I got on this Committee to begin with was because it was said that if the Committee of Safety needed to, they could call in the Militia. To me, at that point, it scared me. It's like, I don't want a bloodbath in my county; and, if there is anything in me that has the power to pull the trigger on something that causes a bloodbath, I'm going to be on that because nobody's going to touch that trigger if I'm there. We don't need violence. We don't need bloodshed. We don't need anything other than to figure out: Is there is a

35 problem? If there is a problem, what can we do to solve it? So, I made that
commitment. Since then, I have learned a lot more about the Constitution for the
United States of America which should be first and foremost in everyone's mind;
anybody's mind. It has to do with our rights; and, the Amendments; all of that; the
history. It is so important. It is so important for everyone to understand what's going
40 on. Ok? We have tried to have meetings. We have been told that we couldn't have a
meeting at the Elks Club. We have been told we couldn't have a meeting at the
Senior Center. That nothing having to do with the occupation of the Refuge or
Ammon Bundy or anything else would be in any county building.

Then we showed up to a meeting at the Fairgrounds where the only thing that was
ever spoken about was exactly what they said was never going to occur. Since it was
45 a public meeting we had the opportunity to speak; and, our Committee Chairman Mr.
Tim Smith, spoke up and said that we've been blackballed within the community.

The very next morning we received an apology from Mr. Grasty, saying that we
could have a meeting at the Senior Center. Ok? Fine; so, we did that. People came
and people spoke. People heard what was going on. People had a chance to voice
50 their opinions; and, to be heard as their rights allow them. We've been trying to do
anything and everything that we can do as the Committee of Safety to mitigate this
situation; to de-escalate this situation. I want these people to be able to go home to
their families. I want the law enforcement to go home to their families I want to
figure out what it is that we can do as citizens of the United States of America to
55 retain our rights.

I guess that must be a bad thing because I was just informed just a few minutes ago
by Steve Grasty that I'm an old man; and, I have nothing left; and, I'm not dangerous;
and, that my perception is all wrong.

I stand before you as a 63-year-old man; and, I don't feel old right now. I've got scars
60 all over me; and, I hurt all the time; big deal. I am still a man; and, I still stand strong.

After Mr. Grasty told me that; notice I'm not saying Judge Grasty. That to me is a
respectful thing. I say Steve Grasty told me my perception was wrong. I asked him
for a piece of paper. I have been the County Fire Chief here since 1984. I have
served. I have worked with the Hammonds. I've worked with ranchers all over this
65 community to help with fire prevention; to help with controlled burns; to do what I
can to help my fellowman. I took a piece of paper. I wrote down the date. And, I said:

"I Chris Allen Briels do hereby resign my position as the Harney County Fire Chief."

70 Ok? Does that mean... When you quit, who do you quit? That might say that I just quit this county. I did not just quit this county; but, I will not work for a government or a person that I do not believe in and have faith in. I will not work for somebody that I don't trust. I will stand before you and tell you the truth. Do not ever ask me a question if you do not want the answer.

75 I've been told by Steve to distance myself from this Committee of Safety. I've been told that we don't know what we're doing. I've been told that my life is in danger. I've been told all kinds of things. I will not be told what to do. I have my own mind; and, I will use my own mind; not somebody else's. And, I feel that the people in this county, in this state, in these United States have the right to free speech and the right to assemble and the right to figure out if there is a problem what can be done about it.

80 I have not quit this community. I have not quit this county. If there's a rancher out there anywhere that needs my services or anything; if they can use any of my skills and expertise to help them for fire prevention or anything, my door is still open.

We have to have a place to assemble. We have to have a place to be heard. We do not need violence. I don't want violence. I do not want violence. But, I stand before you
85 as someone that has been tried to be intimidated in many, many ways.

The other day a friend of mine poked me in the chest and said:

"You need to find out what your cohorts are doing at the Armory because there are people that have been at the Armory, twice. They've been turned in to the police."

90 And, I thought:

"My gosh..."

So, I followed the people until they stopped; and, I got out; and, I asked them who they were. They were dishonest with me. They would not tell me what they were doing. I asked them what they were doing in our Armory; what they were doing.

95 *"Well we're just two guys going through town looking for a place to have a business."*

And, I said:

“Sir, typically you don’t have a business in an Armory.”

Then they said:

100 *“Well, we weren’t even at the Armory.”*

And, I said:

“I followed you from the Armory.”

Then they said:

105 *“Well, yeah, we were at the Armory; but, really, we were looking at the deer. There’s a big shooter 4-point in there.”*

I am not sure how often you shoot deer in an Armory. But, I asked them to please be truthful with me because I was trying to be truthful with them; and, that there’s too much fear in our community. When push comes to shove, let’s just kind of get down to the end of it.

110 I pursued information. I took a picture of their vehicle. I was not allowed to see our County Sheriff. I went up to ask to speak to him. I was told no, I couldn’t. I was supposed to call 911. I said:

“Ok. I will call the dispatch.”

115 And, I called the dispatch because 911’s for emergencies. It’s not for just chit chat. Ok? I understand that. I don’t want to abuse that.

They ran the license plate. It came back to undercover FBI agents. Mr. Grasty told me today that I’m the one that’s causing the fear. That I have no right to question anybody about what anybody’s doing at our Armory. And, that I have no right to follow anybody and question anybody; that I’m the one that’s causing fear.

120 I stand before you; and, I ask you:

“What do you think? Do I have the right to talk to another human being? Do I have a right to ask what’s going on in my community?”

125 This is absolutely appalling to me. I’ve had a lot of... My life has turned completely upside down and inside out since I’ve been involved in this Committee. I have no personal life anymore; ever. I’ve been told:

“Why don’t you distance yourself from them? Why don’t you run?”

I was born in Denver, Colorado. The only place they have ostriches is in the zoo. I never learned to stick my head in the sand. And, I stand before you right now. I will not stick my head in the sand. And, anytime anybody has any questions of me, here I

130 am.

Chris Briels

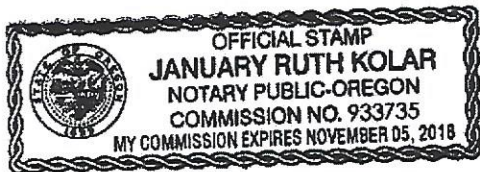
NOTARY

135 In Oregon State, Harney County, on this 20th day of August, 2016, before
me, January Kolar, the undersigned Notary Public, personally appeared
Chris Briels, to me known to be the living man described herein, who
executed the forgoing instrument, and has sworn before me that he executed the same as his free-
will act and deed.

140

(Notary seal)

January Kolar
Notary
My commission expires: Nov 5, 2018



Affidavit of Shawna Cox

5 I, Shawna Cox, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading:

10 **On Friday January 1st, 2016**, 5:30 am, I traveled to Burns, Oregon, to participate in a protest rally for the Dwight Hammond family. Dwight and Steven Hammond are ranchers sent back to federal prison for a second time (double jeopardy) for fires they started to improve grazing on their range and to protect their homes from a wildfire. I picked up my cousin, along the way. We had sleeping bags, blankets and warm clothing, because we were planning to sleep in my van. (We were raised to be very frugal and didn't want to waste money on a motel room. We were taught not to be whimps).

15 I called my friend, Ammon Bundy, to find out if Pete Santilli knew about the rally. I was informed he was in Burns. We arrived in Burns after 10 pm that night. We posted some flyers outside of some businesses about the Rally the next day at the Safeway. Being 14 degrees below zero at 11:00 pm, we decided to stay in a motel room in Burns.

20 **On Saturday January 2nd**, I tried to phone Ammon to find out where in Bend the rally caravan was suppose to start to parade to Burns. No reply. Just after 8 am we decided to head to Bend to join the caravan back to Burns. Just outside of Bend I got a text message from Ammon, that they are at the Fairgrounds in Burns, not in Bend. We turned around and went back to Burns, arriving at 12 noon, just in time to join in the Rally with our flags, poster signs, flowers for the Hammonds, and loose change for the Sheriff's office.

30 I finally caught up with Ammon in the Rally, and towards the end he told me to follow him to the Malheur Wildlife Refuge. Not knowing what the Refuge was or where it was, I told him I would have to follow someone. We had not heard of any meeting back at the Fairgrounds afterwards. Nor did we know anything about what took place at the Fairgrounds before the Rally.

35 As we found ourselves in a small caravan of vehicles headed toward the Refuge, we noticed an American bald eagle perched on a telephone pole above us as we passed. Having no idea where we were headed, it was very good to see some of my old friends, from the Bundy Ranch Saga in 2014, were there to greet us. They had gone on ahead. They told us they had found the doors to the first two buildings open, and

40

the keys to everything else were in there. Later I discovered that you can't lock those old doors in one building for sure. The other building couldn't lock, except for a deadbolt, which we could find no key for, but it was already open.

45 We were shocked by how many buildings were actually there! There were three complete houses, totally empty and cleaned out of food and most supplies, but still had TV and cable connected. Heaters and lights were still on. We moved our things into room #1 of one house called "Coyote House". There was a man already in room #3 and no one was in room #2 yet.

50 In the bunkhouse / kitchen I had four ladies who helped me unload food and begin to set up housekeeping. There was a 50# bag of potatoes that were frozen and thawing out from the back of someone's truck. I grabbed a large kettle and put the potatoes on the stove to boil. While they were cooking I assigned a lady, Melissa, to be in charge of the kitchen and cooking with others to help. Another man, Neil Wampler, was also
55 made our early morning cook and kitchen help.

I made a quick trip to town to the grocery store to buy milk, flour, toilet paper, celery, spices etc. to finish the soup. I filled some propane tanks and bought some small
60 propane canisters. I also purchased some warm socks, gloves, and snow bibs. When I returned, we ladies finished making the soup. It was very cold outside and people were getting hungry.

Some media had come down from the entrance at the highway, and were walking
65 through the Refuge. About a half a dozen men with large media cameras came into the kitchen to see what we were doing. They must have been hungry, because they came right over to the stove where I was stirring the soup, and began to take close up pictures of my boiling soup. The soup was hot and fogged up their lenses. They retreated to defog their lenses and returned. They asked what we were doing and I
70 replied, "Making soup!" They wanted to know why? I told them that there are a lot of cold and hungry people here. I asked them if they were hungry and invited them to eat with us. They declined, even though I knew they really wanted some. I organized people, who made sleeping arrangements for those arriving.

75 **On Sunday January 3rd** at 7 am, for breakfast we had biscuits and gravy. At 8 am we had a meeting at what had been designated our headquarters. We spent the rest of the day organizing and welcoming people arriving. We took time finding beds and housing for everyone.

80 **On Monday January 4th**, at 7 am we had breakfast, prayer, and a "meet & greet" of people. On the TV that was still hooked up, we watched Fox News. Mr. Coulson from the FBI said, "This group (referring to us) is serious in their disdain of federal government." I replied, "Only with corrupt government!" Mr. Coulson also states

85 that "The FBI will just wait it out and let it end peacefully, because we have learned from Waco and Ruby Ridge. We have people with patience and cool heads." The FBI thus seemed to believe they could negotiate with us.

At 8 am we had a meeting at HQ. We held prayer and I take notes of the meeting. Duties were assigned and many others were added over time. We were to be careful
90 not to allow others to speak for the group, especially to the media. We chose a name for the group: Citizens for Constitutional Freedom (C4CF). We decided on a mission Statement: To restore and defend the Constitution.

C4CF held a press conference at 11:00 am. Ammon spoke and I read our "Redress of
95 Grievance" for the Hammonds. This was a list of grievances compiled by Ammon on 11 December and posted on the Bundy Blog. It was subsequently signed by 10s of thousands of people. The list had been addressed and served to 1) Harney County Sheriff David Ward, 2) Commissioner Dan Nichols, 3) Commissioner Pete Runnels, 4) County Justice of the Peace Donna Thomas, 5) District Attorney Tom Colahan, 6)
100 State Attorney General Ellen Rosenblum and 7) Oregon State Governor Kate Brown. None of those government officials responded to this Redress of Grievances. Thus our action of taking over the Malheur Wildlife Refuge.

Local ranchers met a group of us at 12 noon at the back gate. Ammon and Brian
105 Cavalier rode with the ranchers in their truck. I rode with an older gentleman and a body guard in a car following them. I did an interview on the Kate Dalley show out of St. George, Utah, as we are traveling to a nearby ranch. I was on the show live to explain what and why we were here at the Resource Center. We met with the Potters at their ranch, as they showed us how they had been fenced out more and more over
110 the years. The fencing had stopped them from grazing their cattle.

As we traveled across the wide open land of snow and ice, the car I'm riding in runs into the back of the truck ahead of us, as they slowed down to look at something on a side road. There was some damage to the car, but not much to the truck. At last we
115 arrived at John Whitsle's home in Frenchglen, about 30 miles south of the Resource Center. John shares two videos with us about the burning of the ranchers and the Hammonds. He also told us about the other witnesses who saw the BLM burning weeds with drip torches around the edges of the Hammonds' ranch that day, when fire was threatening the Hammond Ranch home. The ranchers, Whitsles and friends, said
120 they offered the information to the Hammonds' attorneys and the prosecuting attorney, but they never came to collect it for any trials.

John and his family told us of all the abuses they had received from the federal
125 government (BLM and Refuge) over the past years, that have driven them totally out of business. "What else do we have to lose?" they asked. They also told us of others that can testify and some of their stories.

As we were leaving with videos and photos, I received a text on my phone from a friend in Salt Lake City. The Mormon Church has just put out a statement about the takeover of the Refuge. My contact had verified it and is truly shaken up.

130 Back at the Resource Center, after much discussion, fasting and praying, Ammon & Ryan Bundy and LaVoy came out with a consensus that it would be very dangerous for us to leave so early in our mission, because we knew that by so doing the federal government would come back with a vengeance upon the people of Harney County
135 who dared to speak out and testify against them. C4CF had given the people its word that we would stand with them, beside them and behind them until they could stand alone. C4CF couldn't leave yet.

140 At 4:30 pm I received a text message from Harry Barber, a personal friend and head of BLM in Kanab, Utah. He had missed our meeting last week.

145 I had been going through buildings, with someone's help, looking for file folders, trying to find everything we could on the Hammonds. We were just getting a feel for where we would find the information. We couldn't access any Refuge computers, so we had to find the hard copies and make copies of those. Rod Johnson, a local citizen, came with his oldest son to visit us and brought homemade soup! It was great.

150 **On Tuesday January 5th**, at 7 am we had breakfast. We had homemade bread being made in the kitchen. Cooking, cleaning and organizing was a full time job. At 8 am we had our regular meeting in our HQ.

At 11:00 am we had a press conference, where Ammon explained our Exit Plan.

155 Many people were beginning to come to visit C4CF. There were lots of press for sure and many came from all over to interview everyone.

160 In the afternoon some of the locals came, including a County Commissioner, Dan Nichols, whom I met for the first time, with two other men. Ammon asked Mr. Nichols why the Commissioners never responded to the "Redress of Grievances" that they, by law were to respond within 10 days. He told us that the fed's had told them not to respond.

165 I also met members of the "Committee of Safety" (COS), who C4CF was working with. We had some people, who were there to help, that had to go back to their jobs, as people rotated in and out.

It was that evening, just after dark, when we got word that C4CF was going to be attacked. It was from a supposedly very reliable source. Suddenly people went into a

panic. I had no idea what we should do, as we had not even discussed such a scenario.
170 I asked Ammon what he wanted me to do. He told me to get the women out now!

We did not know what time they were attacking, so I drove my car to the kitchen and
told all the women they had 5 minutes to get in my car as it was leaving and that we
needed them to leave. I only had two takers. The others decided to stick it out.
175 The two women got in my truck and we headed into town.

On leaving the Resource Center, we saw nothing out of the ordinary and no one was
moving around. We found a motel in town and got a room. We watched for things
online that were unfolding at the Resource Center.

180 Online in the motel, we saw LaVoy's stand that he took at the Refuge entrance. He
was sitting in a chair with blanket over his lap and a tarp wrapped around his
shoulders. He told the media, if there was a warrant for his arrest, this was where they
could find him.

185 We cried, waited, and prayed for the safety of everyone there. We kept getting texts
and phone calls from family members and friends who also were watching live
stream. We were so thankful for Pete Santilli who had the capability and integrity to
stay to course and report live. We called out to others to see where the backup people
190 were located, who were on their way.

After a few hours we discovered that some of our guys were in town checking with
the police and locating the feds. We found Ryan Payne in town with a number of
others. He had approached the police and had a conversation with them in the parking
195 lot of McDonalds. It turned out it was a psych-op to test us to see how C4CF would
react in a threatening situation. Now they knew that C4CF wasn't leaving and were
not going to be scared off.

Ryan Payne and I went back to the Resource Center.

200 Rod Johnson came back with more local people to be taught the Constitution and
share their feelings. The schools in Burns had been closed due to Judge Grasty's,
Sheriff Ward's and the fed's fear mongering about how dangerous it was for them to
go to school, 30 miles away from where we were at the Resource Center. Presumably
205 for the children's' own protection, a chain link fence had been placed around the
school building.

Rod had told his wife to bring their children on a field trip out to the Resource Center
to meet us and judge for themselves why they should or shouldn't go to school. They
210 were very precocious children and we loved meeting them. They were at the
Resource Center entrance at the highway, up top, during the press conference but we

didn't know who they were at first and would have loved to have had them speak to the press.

215 **On Wednesday January 6th**, after our 8 am meeting at HQ, there was a small group
of local people from Burns who had returned with their friends to see for themselves
what was happening at the Resource Center. They came to meet us, the so called
“Armed Militants”, to ask questions and get answers. I always asked them where they
came from and why they had come. We invited them in and we were always very
220 grateful for the locals who were brave to come and see for themselves, and not believe
the lies that were being put out by the media and their own local friends and
government officials.

Bruce from Pacific Patriots Network (PPN) was working on our new website created
225 for us: <http://www.Citizens4ConstitutionalFreedom.com>

This group of local residents wanted to go before the media and cameras and bear
testimony of the truth to everyone. We all walked up top to the entrance to the
Resource Center and tried to gather the media that was still there to interview them
230 since they got there too late for the Press Conference at 11:00 a.m.

We learned there was to be meeting at the Fairgrounds, and we asked them if they
thought we should attend. They were a little worried about us showing up at the
meeting even though they intended to take a stand and make a statement. I asked
235 them if they felt that I would be a threat being a woman. They all said they thought it
would be fine if I came. I didn't know where the Fairgrounds were, so I asked if I
could follow them in. They agreed.

At 3:00 pm that afternoon a couple of men from Washington brought us some five
240 gallon buckets of fresh oysters from their farm to donate to C4CF. I welcomed them,
but had to run into town for the meeting at the Fairgrounds. So I was only able to talk
to them for just a couple of minutes.

One of them was named Jimi. I asked him why they had come and he told me that the
245 Spirit had told him he needed to come and help us. The Spirit bore witness to me
right then that he was suppose to be here and was a very important piece of this
puzzle.

I followed the young people into town. We arrived at the Fairgrounds about 4:15 pm
250 and saw many vehicles and people there. I could tell the group I was with was getting
nervous. I asked them, as we walked in, if I should sit away from them if I made them
uncomfortable. They said No, it was OK, but I felt they were scared as we walked
through the crowded building to find a place to stand. There were not only Harney

255 County Citizens, but visitors from outside the County and lots and lots of media. I found a chair I could sit in to keep my distance.

260 The Fairground meeting had been called by Judge Grasty and Sheriff Ward. The meeting began at 5 pm. I took video footage of the meeting until my battery on my cell phone went dead. I hadn't brought my camera from home with me. I noticed the man, Jimi from Washington, was there at the meeting.

265 The people I was with did get up to speak. However, they were so nervous that they decided to speak together, instead of individually. Jesse said his piece, and I was a little shocked at a couple of things that he said. He said, while he agreed with the general idea of what we were doing, he didn't like the way it happened, but I'd heard this conflicting viewpoint before, and thus it bothered me. Then I realized the people I was with had never seen this many people in one place before, except for the County Fair. They still did a really good job.

270 Huffingtonpost.com, Staff Reporter Dana Liebelson reports, 7 January 2016:

Locals Rally Against Militants in Oregon: 'Knock This Crap Off'

Quotes from the news article:

"Burns, Ore. – Hundreds of locals from Harney County, Oregon, packed a fairgrounds building ..."

275 "But even though the attendees disagreed with the occupiers' aggressive tactics, some said they were grateful to them for drawing attention to the community's economic struggles.

280 " 'Let's just knock this crap off and go back to being friends and neighbors,' said lifelong resident Jesse Svejcar. He said he disagreed with the protesters, but added: " 'I will thank them, if nothing else, they gave a lot of good people in this county a voice.' "

285 "... the community seemed to have a complicated relationship with the Bundy brothers. Some shared the protesters' concerns about federal land access, and the imprisonment of the two local ranchers. And ranchers seeking federal grazing permits and leases see the government as blocking their efforts to make a living.

" 'I don't agree with the way that this has all turned out,' said Bill Winn, who said his family had lived in the area since the 1800s. 'I do appreciate this being put before America.... I'm glad those guys did it,' he added.

290 "The protesters have claimed the community is behind them.

" 'We haven't had anyone come out here and tell us that they want us to go home,' said a man at the wildlife refuge on Tuesday, who declined to give his

name. He said the protesters were getting food from locals, including hamburgers and jerky.

295 "On Tuesday evening, Michael Stettler, from Christmas Valley, Oregon, said occupiers received six pizzas from an address in town.

"The sheriff said he was unimpressed by the claims. 'If one person gives them a Snickers bar, they're going on national media and claiming that the community supports them,' Ward told Oregon Public Broadcasting."

300 " 'There is a time to go home, we recognize that,' Ammon Bundy said at a news conference Wednesday morning. 'We don't feel it's quite time yet.' "

During the meeting I was there to watch and listen to try and get a feel for what the public really was feeling. It was truly amazing to me, as I listened to the clapping, mostly as Sheriff Ward got up to conduct the meeting. I didn't know any of the people there. The tone of the meeting was really a springboard for a political platform for the Sheriff to launch his campaign for an election. Over the years I have participated in and conducted many political campaigns. I could see it was pretty orchestrated as to where people sat and who was allowed to speak. I felt the fear of many, and just listened to what they were saying. The people who sat on chairs, especially up front and center, were family and friends of Judge Grasty and Sheriff Ward. Those who stood around the outside were more likely to be supportive of the people at the Resource Center. Then there were those who were caught in the middle who couldn't decide or didn't know. Everyone seemed to say the same thing at the beginning of their speech: "I don't like how the people at the refuge did it, BUT....." and continue.

310 The clapping meter at the end came out that there were 1/3 who were opposed to the people being at the Resource Center, 1/3 in support of the things the people at the Resource Center were doing, and 1/3 of the people who hadn't decided yet.

320 I was discouraged and felt like all these people at the Resource Center, who were risking their lives, their securities, their families, their homes, their jobs to help these citizens of Harney County, were unappreciated. It made me feel like crying and I became angry inside. Why are we here? These people don't deserve this help but then again there were those who really wanted us to stay. How could C4CF desert them?

330 When I got back to the Resource Center I reported my findings at our evening meeting. When I told Ammon that there were only 1/3 who really liked what C4CF was doing, he got encouraged and was happy. He said the education was working and he was very encouraged and happy about it. That took me back from feeling sorry for him. I received a text later that evening from Lyndy pleading, "I don't want them to go", referring to "The Bundy Bunch".

335 **On Thursday January 7th** the next morning, I reported back to Lyndy: "We are
staying. Everything will be okay. We have Faith, God will provide." A young man
of 10 years I believe, named Monte, came with his mother and family to do an
interview with Ammon about the Constitution and what was happening at the
Resource Center. We were so impressed with him! He asked great questions and we
could tell his parents had taught him well. He will make a great rancher and leader in
340 his community one day!

LaVoy's brother, Guy, came to visit with some friends, Todd, John, Steve, Janalee,
and Sharla from Utah. They were coming to see what was happening and talk us into
leaving. We met in the Media Center, as we called it, where David Fry and I had set
345 up his hot spot and laptop. It was great place to meet people, as it was the first
building along the roadway and provided a small conference room for small meetings.
At one point LaVoy and Guy began to argue some. It was awesome how even though
they didn't agree on some things, LaVoy rolled his chair close to Guy's and reached
out and they hugged each other.

350 The person in charge of the trash had called the trash company to come and empty the
trash bins. At 12:54 we gave her \$250 to give to the trash company to pay for it. We
were told we would have to sign up for it and pay a deposit if we wanted them to
come and pick up the trash on a regular basis. We agreed and paid them the \$250, but
355 never saw them again. For this reason we needed to burn as much of the cardboard
and other things as possible. Supplies were still coming in. We had no room for all
the meat. Because it was so cold outside, we could set the meat outside in cardboard
boxes when we ran out of freezer and ice chest room.

360 We heard rumors were that the Sheriff was on his way out to the Resource Center. It
was another psych-op.

I went into town with one of the women to the COS Meeting at the Senior Center,
where Judge Grasty finally let them have a meeting. The building was rather small for
365 all the people who came, but at least they had a place. It was packed and they allowed
everyone to attend and speak, not just residents of Harney County. It was a great
meeting and people got to say the things they wanted without being fearful! There
was lots of media in there also. I felt like there really were people who cared about
their community and they could pull themselves together and maybe be strong enough
370 to make a difference together! I was really encouraged. The COS asked for other
volunteers to be on the various sub-committees. The COS added 25 more people to
their membership that night.

Friday January 8th, 7 am we had breakfast and met with everyone who wasn't on a
375 watch shift. We brought everyone up to date on what's happening. At 8 am we had
our meeting at HQ. We knelt in prayer, taking turns on leading the prayer each day.

Things seemed to be starting out well. Of course we didn't really have much access to things going on in the media.

380 As more people would come, I would reach out to them for help in locating their ranches on the maps and helping me to search for files. I needed help, because I didn't know the names of any of the ranchers. They would know the local ranchers and their history much better than I. They did come and help.

385 C4CF taught many people that day. People were coming from across the nation saying the Lord sent them, or they would say that they felt like they were supposed to come and help. It was amazing! Todd and John from Utah stayed to listen and learn.

I was still busy making copies of files in the Refuge Main Office, where myself and a
390 friend were trying to get all the information on the Hammonds and unwind their story. We were in the basement where we found a large copy machine. It was really a challenge because, as we made copies, the machine would keep having problems and jam a lot. Good thing we knew a little about copy machines. The Refuge must have had a lot of trouble with that machine over time, because on the shelves there were
395 more than 20 of the ink cartridges that were no good either. My friend was able to use some strapping tape to hold one cartridge together for a little while, but there were no new ones and we had to go on line and try to order one. We reached out for help and had one brought in. It cost us \$250 and was the wrong one! So we had to use the little copy machines after that. We had a system going where we would locate a file,
400 copy it and then return it to its location.

At 4:30 pm we received word that Tom Shaffer and his wife from Princeton, Oregon were at the front gate. They were personal representatives of the Hammond Family, and wanted to speak with Ammon. We were all so busy that we hardly had time to eat
405 or sleep.

I looked at my text messages late at night, when I would get to bed about 11:30 pm. That was the time I would try to check my messages and reply. I had received a text at 2:30 from a friend, "Pls leave right now. It's a No Win situation!" I replied, "We are
410 OK, safe and making great headway. Not to worry. God is with us." Friend replies, "I will pray for you and a peaceful solution." I had no idea what is going on out in the world in the media, but obviously every time something bad goes out, I was receiving lots of worried messages.

415 **On Saturday January 9th**, I woke up as usual, about 5 am. I would then report into my husband. He called a little later this morning and let me know that he had just shipped my laptop and camera. Up to this point I couldn't get much done without them. When I had left home in Utah, I didn't know we were going to be doing this and I wasn't prepared with any kind of equipment.

420 Later that evening some state legislators & representatives from four states met with
us and voiced their concerns and listened to our story! Our meeting was interrupted by
a retired Army general all dressed in 18th century clothing. He presented Ammon with
his personal Bronze Star and a signed copy of the Declaration of Independence, as this
gentleman was a great grandson of one of the original signers. Ammon was very
425 humbled and didn't want to accept it, but he did. He was overwhelmed with gratitude.
After a visit with the general in private, Ammon came back to the meeting in the
conference center which ended shortly afterwards. Todd, John, and Wes Kjar left back
to Utah that night.

430 **On Sunday January 10th** we decided to take a day off as it was Sunday and we all
needed a rest. Ammon went home to Idaho. Ryan Bundy was going to go to church
in Crane with a couple of other people. I wanted to go to Burns for Church. Melissa
locked her keys in her car and Ryan was dressed for church, but spent the time it took
to break into her car. So they didn't get to church in Crane, and Ryan decided to go to
435 Burns with me instead. I had brought a wool skirt from home, thinking I might be laid
over on Sunday January 3rd on the way home and would attend church with my
children in Salt Lake, so I at least had a skirt to wear to church. However, I had to
borrow a shirt from one of the other ladies. I also had to borrow a curling iron for my
hair, as I hadn't brought one of those either.

440 We were a little bit late to church, as the roads were very icy and I couldn't drive very
fast. I met a woman there who had been at the meeting at the Senior Center the other
night and had been sitting next to me. She welcomed us in and wanted to chat, but I
told her we really just came to worship today. I said I would answer any questions
445 she would like, if she would come to the Resource Center. There are very good
people in Burns and mixed in them were also a few upset and angry people as well.

I felt it's OK that they just didn't know or understand why C4CF was at the Resource
Center, and that was the reason we knew we had to educate them. All Christians
450 should believe in the Constitution which was inspired by God! Our very Freedom
depends on it! We just have to show them that we love them and that is why we are
here!!

I wished that they only knew how much each individual at the Resource Center was
455 sacrificing for them. These patriotic Americans at the Resource Center are putting
everything (family, jobs, fortunes, their lives and their sacred honor) on the line to
help them!! My heart breaks because I want them to understand how much we love
them and how much God loves them! We are doing no wrong! We are being civilly
disobedient to make the changes that will not and cannot be otherwise accomplished
460 due to the corruption of the federal courts and justice system. We have all tried for
many many years. You cannot compromise with the Devil. We just keep losing
ground.

465 Later in the evening I noticed I had missed a text from my Bishop back home asking me "As a Friend I am asking you to come home." I replied, "Very Busy, I will call you later." At 11:33 pm I texted him again, saying, "I'll Call Later been very busy."

470 **On Monday January 11th**, 7 am breakfast and prayer. I visited with all the people helping and new comers. At 8 am we hold our HQ meeting. We have prayer and updates. Bruce from PPN, who is working on our website and donation button, called me to get some info. I worked with him to get the info he needed. We renamed the Refuge to the Harney County Resource Center.

475 I set up an appointment for Ammon to speak on the "Common Sense Show", a very large radio station in Phoenix, Arizona, with Dave Hodges. The appointment was set up for 7:30 pm and I was standing by to hand Ammon the phone as he was talking to people at the Head Quarters. I counted down the minutes with my fingers – 4–3–2–1 and no call came in. I waited 10 minutes and was very puzzled because they had been holding on the phone. I hung up and received a text from a listener in the Phoenix area, who told me the station had totally gone down and all they could hear was static. I called the station back and the secretary was frantic! "For some reason they (FBI we assume) overloaded the satellite system and not only crashed their station, but crashed their internet and their FaceBook communications as well. Dave was outraged!! They must be afraid of Ammon speaking out!! Dave said he would not advertise so far ahead next time, but he was going to get Ammon on for sure!"

480 **On Tuesday January 12th**, 7 am breakfast, then we had our usual 8 am HQ meeting. We discussed our exit plan and wanted the COS to set up a meeting with the local people so we could explain our "Exit Plan". I contacted the COS Committee member Melody Molt. She said she was going to get back to us on a place to hold the meeting.

Ammon did speak on the "Common Sense Radio" station, out of Phoenix, AZ on this day! It was very powerful!

495 Later in the day I called Melody and asked if they had found a place yet. She said, "Not yet. Grasty won't let us hold a meeting in any public or county building." We decided that maybe we could find a big enough place for the people if we were to clean out the fire station garage. It needed to be cleaned and organized for the meeting. If we could just move the fire trucks out for a short time, we might be able to make that work. We began the clean up the fire station garage. It was so dirty that everyone wore dust masks and gloves.

500 Retired after 14 years of service, Ron Aharnes honors Ammon with his Duty Badge from Reno Police Department. Picture and video were taken by me.

505

Shortly after Ron honored Ammon, a vehicle pulling a trailer full of groceries from Idaho came in. The driver also gave us some money. We were very grateful to these wonderful people who took the time and effort to show their support!

510 I took a photo with Jimi that day. He had been staying for a few days, because I had asked him not to leave. I knew the Lord had sent him and we needed his help, wonderful knowledge and experience.

Wednesday January 13th, 7 am breakfast, prayer and "meet & greet" with everyone.
515 Then we held our 8 am HQ meeting. We held prayer and updates. Local neighbors and communities were coming to throw a bar-b-que for us on the coming Friday.

I started uploading videos with David Fry and it was taking hours to do just one.

520 There were a lot of different media who we allowed in to do documentaries. We had a man by the name of Jesse, who was working with Direct TV. He interviewed many many people. When a 73 year old rancher came to visit, he stayed for dinner. He began to tell us about all the old ranchers and the way things use to be. It was very valuable inside information and he was a gracious, good and kind man. I interviewed
525 him part of the time, but I had to get more photos of the others in the kitchen area, and help get plates made for those who were either at the office or on duty who hadn't eaten yet.

530 A gentleman arrived in the morning to help do the mapping. He brought his own computer and hotspot. LaVoy had found an old 1931 map of the Refuge. It was very fragile, so we had to be very very careful with it. We took photos of it to document it.

At 5:00 pm Melissa returns from Burns with her SUV stuffed full of mail. I received the package from my husband with my camera and laptop. My husband had sent
535 everything in my backpack with my laptop, including the flash drives of my first book and the workings of my second book. This became a problem, because the feds later seized those flash drives with the laptop. I received a text that my job replacement at the Resource Center was still traveling from California. They never did arrive.

540 **Thursday January 14th**, 7 am breakfast, prayer and meet & greet. Then we held our 8 am HQ meeting with prayer and updates.

Melody called back and said she had 12 offers for places to hold the meeting. She tells us that people are "beginning to come out of the wood work."
545

I had reached out to local residents asking for help in searching and identifying the files and ranchers associated with the Refuge. A couple of ladies came and helped me. I took pictures of the door that had been taken off the closet in the hall of the

550 Refuge Main Office building for some reason. No one of C4CF took that door off the hinges, as it had been removed before we arrived. On the interior of the door was a chart. We had found a list of weapons at the Refuge, but we never found any of those weapons. Neither could we find any 2015 records. Then we decided to gather up all the flash drives, because some of their laptops were missing and we couldn't access them anyway. But now, as I had my own laptop, we now finally had a way to check
555 the flash drives for the data we were looking for.

We also had to carry files to the Media Center, where we could scan them, as the Refuge copy machine quit working like I stated earlier. (Line 398 above) We were mostly looking for names of people and contact information for them.

560 **Friday January 15th**, 7 am breakfast, prayer, meet & greet. We had our 8 am HQ meeting, prayer and department head reports. That afternoon we needed help to set up tables if needed for the bar-b-que planned in the afternoon.

565 At 9:09 am I replied to Melody Molt's text and set up the meeting I felt "The sooner the better, we want to go home!" I asked her to contact Buck Taylor for the use of the Fairgrounds.

I received a reply back from Melody, who says the meeting may happen in a week.
570 Jimi had drawn up a request letter to Judge Grasty, Sheriff Ward and the School Board to call up a Grand Jury. I asked Melody if the COS had signed the letter. She said not yet, as the COS was still looking it over. We just needed a 4 signature majority vote from the COS.

575 At 10:02 we received a call informing us that we should listen to Ron Paul. The call suggested the Hammond Property was worth \$2 Trillion.

Someone at the Resource Center received a call to inform us that Kenneth Medenbach from the Resource Center had been arrested for driving a Refuge vehicle into town to the Safeway store. He had been a really good help with clean up and fix up and we
580 didn't know why he had decided to do that.

At 3:03 pm I received a text message: "We just issued a pardon for the two Hammonds from the USO Fam. It will be published sometime today." I replied,
585 "Email me a copy." I never received the copy.

At 4:30 local people bring a wonderful bar-b-que, complete with potato salad. We didn't need to do anything they said. But we still tried to set up tables and did all we could to help. They expressed how grateful they were to us for everything! We
590 totally enjoyed it and their company. This is truly a great community of kind and caring people. We were invited to attend their churches.

595 **On Saturday January 16th**, before breakfast, I found I was having more car problems with my battery. I think it was from being so cold and not running it too much, as I usually just drove it from one end of the Resource Center to the other and make short stops. It doesn't have enough time to recharge in between but now it has finally given out. Ammon is on his way back from Idaho, and I text him asking to pick up a battery for me. He asks for the number on the battery.

600 Saturday 7 am breakfast, prayer, meet & greet and laundry. Then we hold our 8 am HQ meeting.

605 New faces arrive daily and there is one who drives me to town to be at the Santilli call out at the airport or something. We get there late and I stop to talk to a COS member. We never make it to the rally, but we go to town to run errands and he helps me to buy a new battery.

610 At 1:20 I text Melody: "I haven't heard from you. Are You OK?" She replies: "Fine, Thanks to you folks. I've been talking to legislators from other states about our local government oppression. It's getting the attention of Congress!!! I'm awaiting more calls." Me: "Fantastic. Have you a meeting date and time yet? We are here to help you." Melody: "After I talk to Pam. We will get guidance on how to proceed with law behind us."

615 **On Sunday January 17th**, 5:45 am I text my husband: "Everything is good here. Americans are waking up!"

At 9 am LaVoy, Ryan Bundy, Melissa and myself attended church in Crane. I rode with LaVoy, as I was still having some car problems.

620 About 2-3 pm non-denominational church services were held in the Conference Center. There were a couple of different preachers there.

625 **On Monday January 18th**, 7 am breakfast, prayer, meet & greet, then our 8 am HQ meeting with prayer and updates.

I set up an interview for Ammon with Jesse from Direct TV to complete his series. Jesse told me the series won't be out until about October or some time. He said he was leaving that morning right after the interview, as his time was up.

630 At 3:50 I left for the KrisAnne Hall meeting to be held at the Fairgrounds at 5 - 7 p.m. Neil Wampler really wanted to go, as he is a big fan of hers.

I arrived about 4:15 and the place was already 1/3 full. KrisAnne explained the same things that C4CF was teaching about with the Constitution, only she gave a little more

635 in depth for those who already have some understanding of it. I saw a few people
glaze over a bit and a few afterwards, who didn't quite get all that she was saying, but
were still very interested. I sat next to an older lady I had met at church, who must be
very well known in the community. It seemed many people stopped to talk with her
and her husband, who was ill and didn't get out much of the time. I personally loved
640 it!! The place had just over 350 people in attendance that night.

Judge Grasty had never allowed COS the use of any public facilities for their
meetings. Thus, I can only reason that he only allowed a couple of citizens the use of
the Fairgrounds for the KrisAnne Hall events, because Grasty had never heard of Kris
645 Anne Hall.

A lady, who seemed to be lost as she looked like she was living out of her car, had a
dog she'd brought in and wanted to follow us to the Resource Center. We asked Neil
to ride back with her in her car, in case she got lost and couldn't follow us. He was
650 gracious and agreed to do it. I had friends there, who were giving us a large bag of
carrots. I looked for the truck, so we could load the carrots. The lady and Neil
followed us back. We arrived back at the Resource Center about 8 pm.

We held our 8 pm evening HQ meeting. We held prayer and some discussion.

655 **On Tuesday January 19th**, 7 am breakfast, prayer, meet & greet then our 8 am HQ
meeting with prayer and updates

660 At 5:39 pm I text my son: "This is the 2nd American Revolution, We are restoring the
Constitution!"

The second meeting of KrisAnne Hall was held 5 - 7 pm. Ammon and others decided
to attend and quietly came and stood in the back. I rode in with Jon Ritzheimer and
Ryan Bundy. There were over 450 people this night. It was amazing how the people'
665 eyes were beginning to open. On the way in we stopped to pick up some cots and
airbeds. After the meeting there was no time for questions today because Kris Ann
had security with her always. She left the meeting early.

Judge Grasty decided to have another meeting of his own. He kept trying to call his
670 own meetings and create his own "Committee of Safety", trying to override the
citizens of Harney County that had already formed one. Grasty had called his meeting
from 6-8 pm, in conflict with KrisAnne's meeting.

As we left the Fairground meeting, Ammon said he thought we should go and attend
675 the rest of Grasty's townhall meeting and just observe. We did just that. Ammon and
company arrived just ahead of us. Everyone made sure we had no weapons on them
as we headed for the Burns High School gym. There were federal officers and

deputies all around inside and outside the High School. Ammon entered the Gym before we did. He was told that there was no standing in the ends of the Gym because all the media was there and we needed to be seated in the bleachers. Ammon walked into the Gym past all the security and went up in the bleachers to sit like he was told. Judge Grasty was speaking at the time.

We came in the opposite door and were seated in the bleachers just across from Ammon and friends. I videotaped the meeting. Grasty was nervous and instructed the people that they were not to say anything good about Ammon or anyone from the Resource Center. He continued "Except, I do have to say that the only reason we have all this media and national attention is because of the Bundy's! That being said you are not to say anything good about them!" Then he again instructed the people that no one but Harney County Residents could speak.

The bleachers were very sparse to say the least. The basketball floor was yellow taped off to keep people off the newly polished floor, but also was only about 2/3 the length of the room. I would guess there were only about 150 people there before we came.

At the one end of the ball court were special chairs set up with a table for Grasty and Sheriff Ward etc. There were a number of local preachers and others, with Grasty and Ward, who I imagine had been invited by Grasty to attend. A couple of them got up to speak.

The local residents were making some statements you could tell were rehearsed. One teenage girl really cried out how afraid she was to go to school and how her friend had asked her when were they ever going to be able to go back to school again. None of us from the Resource Center had ever done anything to anyone to cause Grasty to keep the schools closed for the children's safety. We were 30 miles away.

Some verbal attacks were directed at Ammon and were very cruel and mean. I wanted to jump to my feet in his defense, but because some of our group had already been ejected from the building, I did not. Pete Santilli had already been ejected from the meeting. I hurt for Ammon as he sat there quietly and just listened, not moving or reacting to the jabs at him and his character being falsely maligned. He still just sat quietly.

A young woman behind us stood up and read her three pages of notes she had prepared previously. She was only allowed one minute to speak, but because she was doing a very good job, the two girls on either side of her spoke out and said that they would give her their minutes so she could finish. At the end of her report she said, "And I have never met or seen a Bundy." After she sat down, Ryan Bundy who was sitting in front of her stood up, turned around, tipped his hat, offered her his hand and

720 said, "Hi, I'm Ryan Bundy, nice to meet you." The three girls stammered, blushed and
smiled.

One of the preachers, who was assigned to speak, got up and said something to the
effect of "Not to compare the two, but there was another who was falsely accused and
725 killed by the masses." As he nodded towards Ammon, he went on to compare the
town to a chocolate chip cookie recipe. He explained how we need all the ingredients
to make a perfect cookie, not just some nuts and chips etc. It was a wonderful speech
in indirect support of Ammon. There were some there who called the Sheriff on the
carpet about all the lies that the people were being told and demanded to know who
730 was lying. The Sheriff did not reply.

As we filed out past all the law enforcement officers, Ammon shook their hands.
There were others there in the parking lot, who had bumper stickers that said
"Clemency for the Hammonds". I asked one of my local friends if they had any more
735 of those as we would love to have some. After sharing some food with us they said
they would check on the stickers.

On Wednesday January 20th, 7 am breakfast, prayer, meet & greet, then our 8 am
HQ meeting with prayer and updates.

740 In the afternoon Jon Ritzheimer and I went to town to pick up more bird seed for the
bird feeders and pick up the mail at the post office. We left some mail we knew to be
junk mail for the postmaster to throw into the dumpster. The truck was so full, we
could hardly get all the mail in between the back seat and the covered bed. We also
745 had to stop and get some groceries that day, but didn't have much room. I bought a
bunch of day old bakery items the store was getting ready to throw out. I knew we
would eat them quickly, so I bought them along with milk, fresh vegetables and fruit.

On Thursday January 21st, 7 am breakfast, prayer, meet & greet, then our 8 am HQ
750 meeting with prayer and updates. I mentioned that we have got to bring everyone,
who had come to help, to the understanding of what we are teaching and what the
latest news was about C4CF. We needed to boost their spirits with TRUTH! We set
the time for a meeting at 4 pm at the Firehouse. It was also mentioned that the C4CF
website is still being worked on.

755 I received a phone call from a business in southern Utah. They emailed me my
contract to sign and return. I still have to try to do some business from here. I hadn't
been able to take care of any business, because I had been gone so long from my home
and business.

760 I called a friend to see if he / she is coming back to the Resource Center to help me
with the scanning.

Starting at 9:03 am the following dialog took place between me and a local woman:

765 9:03 am – A local woman sends a message: “I’m not sure why I get the feeling something’s going down soon, but please be careful and take care of yourself. People frustrate me around here.

10:44 Me – Are you or any local people being threatened by fed agents?

770 Local: No, just lots of heightened rumors. Nothing new really, just drama surrounding the airport and hospital... I think it’s more government fear mongering, but I can’t pinpoint it.

Me – Heard the hospital was setting up by Fed’s for casualties. Have you heard anything? OK. We have no fear. The Lord is with us.

775 Local: My friend is head surgical nurse - Dan Winn (counselor that pulled Ryan) says they were told to increase blood supply at hospital because auditors found they were short and some outdated inventory - it “leaked” and people panic. I’ve also heard the feds took control of some rooms at the hospital but it’s just rumor. I’ll ask Dan if it’s true.

Is everyone Ok?

780 Me – Yes. Absolutely, good here. We pray constantly, and the angels stand with us. But the Lord gave us brains and it’s good to know the directions we are being attacked from.

12:28 Me – The word is they intend to strike us tomorrow. We are not afraid, the Lord is with us. We pray constantly.

Local: Who will strike you?

785 Me – We know things will get worse before they get better. We are getting close to some nerves of people who control this land. They will lose lots of \$.

790 LaVoy took Blaine Cooper into the basement of the Media Center with David Fry and Tom. They were to video where LaVoy had found how some of the native Paiute artifacts were being stored away. They were not being put on display. Nor were they being given back to the Paiutes to whom they rightfully belong. LaVoy lives next door to the Paiute Tribe in Arizona and understood how important their artifacts are to them. He believes that the Paiutes would be upset to see how the federal government has just boxed up their heritage, including skeletons and left them in a dark basement. 795 They were stored in boxes covered in mouse nests, feces and dust. He called out to the Paiutes to come and see for themselves, and would like them to come and claim them or get them out on display where they should be.

800 At 4:00 pm our meeting was held at the Firehouse. The meeting was to give a Constitutional presentation and a news update to C4CF people at the Resource Center.

Cots were set up inside the new room that was being mocked-up with a concrete floor and exposed plumbing, etc. We hung plastic tarps to divide the sleeping quarters from the fire trucks, etc. We held the meeting with as many as could get there. I videotaped it.

805 I finally met the retired military nurse, who had been contacting me for days. It's great to put faces on names and voices.

810 The Beacon newspaper of Roseburg, Oregon, reported there were black helicopters landing there in Roseburg. We watched via Pete Santilli's live stream video, as Ammon went unarmed to the Harney County Airport to meet with the FBI face to face. The FBI in-charge would only talk to Ammon on a cell phone, but refused to come and shake hands with Ammon at the airport. Ammon shook the hands of the officers there and explained that we were occupying the Resource Center, until they
815 release the Hammonds from prison and give back the Refuge and lands to the People of Harney County to whom it belongs.

A couple of men had come to my aide in the Media Center. Together they helped me to get our FaceBook page up and running. We still couldn't get in contact with the person who had control of our donation site. We tried all day and only got an "I'll call you later" reply. The two of them were very tired afterward, and slept sitting up in chairs in the Media Center for a little while.

825 **On Friday Jan. 22nd**, 7:00 am breakfast, prayer, meet & greet and then our 8 am HQ meeting with prayer and updates. Ryan Bundy shows us all the 40+ airline tickets of Ammon's that he used traveling back and forth between Idaho and Arizona in the last few months. Each and every time each ticket had to be punched when they did a strip search on him. That is 6 times each card.

830 Starting at 9:38 I had another dialog with a person from the local community.

9:38 a.m. Local – How is everyone this morning?

Me – It was the FBI. We will meet with them again today. We cannot let them isolate us from the people and public. Everything is good this morning.

Local – Great. Glad it was only hype. Hang in there!

835 Me – Not hype. The Lord is protecting us.

Me – Deputy stated today that the sheriff did call in the fed's to do his job. That means you have NO sheriff! The people better get a sheriff immediately to replace him. If you believe the Constitution was created by the hand of God then it is as important as scripture. Read "The Declaration of Independence" and then read Article 1, Sec. 8, Clause 17 of the Constitution, and Article 4,
840 Sec. 3, Clause 2.

Today will be a wonderful Day. God is still in charge.
We all need to pray for the Sheriff to understand his job and have the strength to do it.

845 Local – OK. Will do. So strange and unbelievable.

Me – God said it would not be easy, but it would be worth it!

Local – God is blessing you all and we’re praying for you too. This is surreal!
I have been praying for help to get the TRUTH out in the public. The media keeps spreading lies and twisting the facts. We need social media desperately.

850 A young father stopped in to check on us. He said the Lord really urged him, telling him he needed to stop in on his way past to work and see how he could help. He was welcomed in and invited to eat etc with us. He saw and mostly felt that we truly needed his help. I was thrilled when the young man decided to come to our HQ
855 meeting and offer his services.

Saturday January 23rd, 7 am breakfast, prayer, meet & greet, then our 8 am HQ meeting with prayer and updates.

860 A meeting was set up for 4 pm for Ranchers to sign Nullification of Contracts with Government Agencies BLM, Forest Service etc. Adrian Sewell from New Mexico had flown in to sign and we would have the Sharp Family here to sing as our entertainment.

865 The young father, who had visited the day before, though very humble, he explained that we needed to have better communication with the world, which was very true. We asked him if he could build a website for us. He humbly replied that he had not done so in about 5 years, at which some said that was too long in the computer world because everything changes so fast.

870 I had been praying for more help, because we only had David Fry for Internet expertise. LaVoy was using David so much, that I could barely get him for very long, even though he was excellent when I could get him. I agreed that I would take this humble young father and vet him. When he started working on the computer I found out he wasn’t just good, he was great!! He downloaded my photos and videos after he
875 spent all day long working on the new website getting hosting etc.

I was to contact all the ranchers with the names and phone numbers I had collected so far. I was to invite them to come to a preliminary meeting to see our presentation at 2 pm, if they could make it.

880 I delegated the phone calls to Jeanette, as I was busy with another person who had arrived the night before and was now setting up our FaceBook page.

I had to leave him working while I went to help with the ranchers Constitution presentation by Ammon. At 2:00 pm we had our preliminary meeting with ranchers to help them understand how important it was to nullify their contracts with the BLM etc. When it was time for the signing and the unveiling of our new Harney County Resource Center big sign we challenged the ranchers to come out and sign. They never did. I believe it was because they were so deathly afraid of the consequences from the federal government's heavy hand.

At 4:00 pm the formal meeting began. There were hundreds of people there. Of course we even had the protesters, who had been making themselves known up at the highway entrance. There were at least 3 protestors I know of with signs. Ryan Bundy took one of their signs and turned its meaning around to support the ranchers and to "Keep Public Land Public". That was exactly what it should have said, only the "Public" is the local "Public", not the public who don't live in the area, not the public that has an outside corporate vested interest in these public lands.

We had a notary public lined up to sign the letters. We were really thrilled with Adrian and his choice to stand up and be counted. In fact he said he was now LaVoy & Jeanette Finicum's new adopted son.

That evening Ammon left to go back home to Idaho for a couple of days.

On Sunday January 24th, LaVoy, Jeanette, Adrian Sewell and I went to town to go to church. I decided to go to the Burns LDS church again, because I had been talking to one of my friends from there and I already told them I was coming. So they dropped me off there and they all went on to the "Calvary Church". They wanted to make new friends and Jeanette didn't bring a dress for the LDS service.

I walked into church and my friend was there with her son. Her husband was one of the speakers that day. It was a really good meeting and fun to meet more of the family. It turned out perfect because as soon as they got finished I was ready to go.

LaVoy texted me later that evening, that I had left my glasses in his truck when we got back from church.

Jeanette had to leave to take Adrian back to the airport in Idaho to fly home. She didn't really want to go, but she also needed to get home because their youngest daughter was playing her last basketball game. Being a senior in high school made it a big deal. Jeanette told me that LaVoy's birthday was on Wednesday and asked if I could give him a gift from her. I told her that I was happy to do that for her!

Monday January 25th, 7 am breakfast, prayer, meet & greet, then our 8 am regular HQ meeting. We made an executive decision to change our name to **People** for

Constitutional Freedom instead of **Citizens**. That way we could have total control of our own website, instead of going through a third party, PPN. It seemed we were never able to contact them and they could not release control of the website to us.

930 In the afternoon Gary Hunt (a writer I didn't know) had returned and this time he brought a professional scanner. Todd introduced himself and his company and said he was here to help get these records scanned in and recorded. He told me that he had been scanning professionally for many years and had done mostly government contracts. I was happy to have him but was a little skeptical at first. I vetted him and
935 decided the Lord must have sent him because we were overwhelmed and had a lot of work still to do. I had him park his truck and trailer in the campground area until morning.

Tuesday January 26th, 7 am breakfast, prayer, meet & greet, then our regular 8 am
940 HQ meeting with prayer and updates. Ammon had returned back to the Resource Center. He was somewhat upset that we had voted to change our name in mid-stream. I explained that we had put out our name before we had secured our domains the first time with PPN, and that created a problem for us to control our own web and donation site. I explained it was already changed and things were working smoothly now. I
945 had paid for it and we were up and running.

Gary Hunt was there again and wanted to get maps copied now that we had a copier, which could do that. I told him he could come over after we got things set up in the Refuge Main Office Building. We kept that building pretty secured, so nobody would
950 mess with anything. I helped Todd set up his big heavy scanners in one of the back offices. I went down stairs and got 11 files to begin scanning first as soon as he got everything all set up. I asked him how much time it would take to set up, and he told me it would be most of the day. I told him I had many other things I had to go and do, but if and when he needed help he should call me. I gave him my phone number.

955 I went back to the Media Center where I was online with our web designer to work out the website he was building for C4CF.

Jeanette called and said she wished she could be here but I assured her that she was in
960 the right place supporting her daughter in her ball game and schooling. I told her to be sure and cheer loudly for her.

I was looking for Ryan when I saw LaVoy come out of his office area with a Reporter. The reporter showed me the picture he had just taken of LaVoy standing outside the
965 office door with his head bowed down.

I hurried into the garage, where the Sharp family was busy running around getting ready to head for John Day to the meeting to sing. As they scampered about I was

970 trying to see what I could do to help them. I went looking for a couple of the Sharp children, who were still trying to get ready. As they jumped into the Sharp family van and were backing out, they suddenly realized they were still missing two people, the youngest and the oldest.

975 One of the guys jumped into the 4-wheeler and went to the Bunkhouse and retrieved the youngest Sharp boy. But the oldest, Victoria, was still in the shower. The COS vehicle left first for John Day. The second vehicle with Wyoming ranchers went 10 minutes later. It was to be followed by the Sharp Family, who were running a couple of minutes late, and Mark McConnell was hollering at them to hurry up. Mrs. Sharp did not appreciate Mark swearing at her and her children, but they finally got on the road.

980 The next in line was LaVoy's truck. I was standing next to Ryan Bundy, when he was loading the projector and speakers into the back of the truck. The truck bed was already full of camping gear and bags. I helped him close the tailgate. Victoria finally showed up and we had her jump into the back seat next to Ryan Bundy.

990 Looking around, LaVoy said he couldn't find David who was supposed to go with them to video the Sharp Family and the meeting. I told him I had a camera and I would go with them. I was waiting to go home that night. But I couldn't go until my replacement arrived around 9 pm. Then I could leave as soon as I got back from John Day and got my replacement up to speed. My car was parked next to LaVoy's truck, so I grabbed my camera, trail mix, jerky and dried mangos and put them in the LaVoy's truck. I locked my car and jumped into the back seat, next to Victoria in LaVoy's truck.

995

Shawna Cox

Shawna Cox

NOTARY

1000 In Utah State, Kane County, on this 5th day of April, 2016, before me, ~~Sylvia Johnson~~ Sylvia Johnson, the undersigned Notary Public, personally appeared Shawna Cox, known to me to be the living woman described herein, who executed the forgoing instrument, and has sworn before me that she executed the same as her free will, act and deed.

1005

(Notary seal)



Sylvia Johnson

Notary

My commission expires: 05/16/16



16-01-07_Refuge Occupation HQ behind_Ryan Bundy (right), Melissa (MD) Laughter (beyond in white cap, long hair) Monte Kingen (left, 11 yrs old, 6th grader at Fields School in Harney County, interviews Ryan Bundy)



16-01-07_Refuge Occupation HQ behind_Ryan Bundy (right), Melissa (MD) Laughter (beyond in white cap, long hair) talking with Monte Kingen, Reata Kingen (7 year old sister of Monte, shakes hands with Ryan)



16-01-07_Refuge Occupation HQ behind_Monte Kingen (left), LaVoy Finicum (center), Nolan Edwards (right)



16-01-07_New Princeton,
Oregon_Ammon Bundy (left), Sheriff
David Ward (right), Ryan Payne
(bearded, in ball cap, middle behind)



16_01-07_New Princeton,
Oregon_Sheriff David Ward (left),
Ryan Payne (right)



16-01-08_Refuge Museum behind,
Refuge HQ to right, outside
photo_LaVoy Finicum & family
members



16-01-22 thru 24_Walking up main Refuge road, toward highway entrance to Refuge_LaVoy Finicum (carrying child on shoulders), Ammon Bundy (in blue & black plaid jacket), Shawna Cox (white shirt & blonde hair), Ryan Bundy (brown leather vest)



14-04-25_Virgin River river bed, just east of state Hwy 170 bridge_Ryan Bundy



15-04-11_Virgin River river bed, just east of state Hwy 170 bridge_Ryan Bundy



15-02-21_Arizona State Capitol_Ammon Bundy (right), Rep. Kelly Townsend (left, AZ 16th District – Apache Junction – suburb east of Phoenix, serving 14 Jan 2013 to 13 Jan 2017)



Rep. Kelly Townsend @KellyTownsend11 · 21 Feb 2015
Gr8 day at #AZLEG for the #2A rally. Glad to see Ammon Bundy & family there!



16-01-04_Malheur Refuge HQ_Jon Ritzheimer showing Constitution (right) and photo of his family on his phone (left)



16-01-20_just outside Occupation Media Center, Occupation HQ behind_Peter Walker (left) (Univ of Oregon geography professor), LaVoy Finicum (right)



16-01-04_looking down main road from highway to Refuge HQ_LaVoy Finicum shakes hands with Refuge occupier



16-01-15_Refuge Occupation HQ to right, Media Center to left, outside photo_LaVoy Finicum stands next to James Stanton



16-01-15_Refuge HQ to right, Media Center to left, outside of photo_James Stanton (left in white T-Shirt) hugs LaVoy Finicum (left)



16-01-05_Refuge Museum doorway_LaVoy Finicum



Unknown date_Unknown location_LaVoy with five of his daughters – Tean Finicum in turquoise on his right, Catrielle Finicum on his left, Thara Tenny on far right (don't recognize the other two)



16-01-08_ Refuge kitchen, gathering area to right_Neil Wampler at far left, at end of counter



16-01-08_ Gathering area with kitchen off the right_ Person vacuuming unknown



16-01-08_ Refuge kitchen_ Unknown lady preparing for cleaning



16-01-21_Burns Airport_FBI official (left), Ammon Bundy (right) meets FBI



16-01-21_Burns Airport_FBI officials (right), Ammon Bundy (right)





Rep. Kelly Townsend @KellyTownsend11 · 21 Feb 2015
Gr8 day at #AZLEG for the #2A rally. Glad to see Ammor Bundy & family there!



3



4

























Malheur





Brandon Curtiss: Life After Malheur And Standing On The Principle Of Truth

We stayed on our true north, and I don't regret a single moment of it.

[petesantillishow](#) 06/24/2016 [News](#)



Brandon Curtiss – Founder of the Idaho III%

GMN©

It's easy to be a critic after the fact, and I suppose in every person's life there are those things printed by the local paper, or on some obscure blog out there on the internet, that can make any one of us look bad. Rumor and opinion, mixed with innuendo that is strategically sprinkled with unflattering facts, can destroy a persons reputation, or in the case of Brandon Curtiss make a person that much more determined.

Brandon Curtiss became a key figure during the Malheur Wildlife Occupation, when he and his Chapter of III% out of Idaho had to choose between joining the occupation or leaving Burns, Oregon where the event took place. Like many who supported Ammon Bundy's message but not the takeover itself, Brandon suddenly found himself faced with the dilemma that no matter what he chose to do, it would effect the way he would be perceived by both the Patriot Community and the Government. This is Brandon's story.

Interview with Brandon Curtiss:

DJ – How did you hear about the Hammond family, and why did their story resonate with you? Why did their story make you want to go to Oregon?

BC – *I went to Burns for the first time – sometime in the last week of October 2015. BJ Soper told me the story about the Hammond's and I wanted to go there to talk to them, you know, so I could find out for myself. I went back a few times and it's still very emotional for me to think about, what they told me was happening to them.*

DJ – And what was happening to them, Brandon?

BC – *They felt abandoned, that's exactly what they said. They were abandoned by Sheriff Ward, they were abandoned by Judge Grasty, but worst of all they felt abandoned by their own community. They*

had given up all hope that anyone cared about what was happening to them. Mr. Hammond was going to prison and it was so sad, and I wanted them to feel like they were cared about and not forgotten, that's why we went, that's why we were there.

DJ- Did you offer to stand with them, protect them, if they would decide not to go to that prison?

BC – I did, and I would have. It was such an injustice what was happening to these good people. They had already been to prison once for what the government said they did and it just wasn't right.

DJ – Leading up to the rally did you ever think that the Hammonds' might change their minds and decide to take a stand?

BC – Absolutely, we never gave up hope that they would change their mind. They wanted to but they were scared to death. We had hope right up until the end that they would decide not to go – we even had a legal team ready to start fighting for them. The Hammonds' knew that.

DJ – Brandon, let's move forward to January 2nd. There was an overwhelming show of support for the Hammond's and by any standard you had to have been thinking the rally was a great success. Hundreds of people showed up from all across the country. When the information first started getting to you that a takeover of a Wildlife refuge was happening, what were you thinking? How did you process it?

BC – I had a serious WTF is happening moment. It was total confusion and chaos in my head; and as it all sunk in I had this overall feeling that something terrible was going to happen if these guys went through with this. That feeling never left me, not one time during the whole process, from beginning of the occupation to the end. Everything I knew about law enforcement told me there was a real probability this was going to end badly.

It wasn't like I was given months , weeks, or even days to think about it. One minute we are having a peaceful rally and the next we are being asked to participate in something much bigger. We were thrown into a situation we knew absolutely nothing about – involving people we knew absolutely nothing about. As a leader I felt there was no way I could ask the people under my command to do that — I needed time to assess the situation. To figure it out. But I knew immediately I was not going to the Malheur Wildlife Refuge that day, in my mind that was just not going to happen.”

DJ – After the occupation started and they were all up there and you realized they were going to go through with this, what was the key factor that caused you to stay?

It was actually an easy decision to make. We had made great strides in that community before the occupation but there was still a great divide there, and we knew immediately that divide was going to grow. It came down not only to an obligation to stand by Ammon Bundy – to watch over him during a situation that was going to get bad when the FBI got there – but we owed it to the community to stay too. We loved those people, we had made good friends there. We just couldn't walk away from that responsibility, we had no choice, we had to stay.

DJ – Why Brandon? What did you think was going to happen to this community?

BC – *I was a law enforcement officer in a small town for eleven years, I had also talked to Ward and Grasty many times. I knew the first thing those two guys were going to do was call in the FBI and ask them to come in force and it was going to rip that community apart. And when they did that it set into motion a train of events that would lead to the death of LaVoy Finicum. I blame Steven Grasty for that – he orchestrated every bad thing that happened in that town during the occupation – including the murder of LaVoy Finicum.*

DJ – Was it just the FBI you feared would be coming?

BC – *We knew there was a strong possibility a fringe faction of the Militia might show up. A very radical faction. It wasn't a matter of if, but when – so we convinced the FBI it was in everyone's best interest to let us stay and monitor that situation. We wanted them to know we weren't leaving. We went out to the airport where they were building up and told them that. It was no secret, we told them we would be there to help facilitate a peaceful resolution. Ammon was aware – everyone was aware – My group was in contact with the FBI and Ammon Bundy – We were very transparent – We had to be – It was a very dangerous situation. [Watch Brandon in this iconic video at the airport with the FBI – Burns Oregon – January – 2016](#)*

DJ- Did you have a point of contact with the FBI?

BC- *I did – they had my number – I gave it to them right there at the airport while the camera was rolling – I promised them if they stayed cool and didn't become aggressive – we would keep the lines of communications open with the occupiers.*

DJ – Brandon, I was present for some of those calls between you and the FBI – so I pretty much know how it went , but can you explain what kind of information you gave the FBI?

BC – *Mostly they would call me whenever they would hear me on live stream talking about a call to action, or a meeting we were planning – They would want to know about those things – They would ask me what it was about.*

DJ- Did you ever give them information about the occupation?

BC – *Just what Ammon wanted them to know. If Ammon wanted me to relay a message, I would do that. If Ammon needed information about what was happening in town with the FBI, I did my best to get it for him. We patrolled the area for any build-ups and kept a general eye on what was happening. I would relay that to Ammon if I had a concern.*

DJ – The FBI pushed a few times for more information didn't they?

BC – *Yes they did, but I never crossed the line, I never did – I made it clear to them we were only there as a buffer to make sure another Waco didn't happen; that was a huge concern and we knew what they were capable of. The discovery will prove that the FBI was often times frustrated with me. I am confident that when the discovery comes out everyone will know I tried my best to do the right thing. People will see the truth.*

DJ – Being in Burns, there was a time when we all felt the attitude of law enforcement change. Can you explain that to everyone?

BC – *It was toward the end and I felt it immediately – Officers who were once friendly, you know the guys that stopped at a table or out in front of The Silver Spur to say hello and just chat, wouldn't even look at us now. They became aggressive over night. They were surveilling us pretty heavy. Where they once wouldn't even pull into a parking lot we were in, they were now waiting for us when we came and went and would follow us everywhere. They started scanning license plates too. They brought in the lighted signs they use for construction zones and we knew they were getting ready to shut down roads. The town was going into lock down — it was inevitable and very apparent at that point.*

DJ – Did you make Ammon aware of what was happening?

BC – *Yes. It was one of the two times I went to the refuge to personally give him a message – I didn't want to give it to him over the phone. I told him they were getting ready to shut him down. I told him it was over and it was time to leave. I offered to escort him and the other people out of the refuge. I told him the FBI and local law enforcement were building up for something big, and that they were becoming more and more aggressive toward us. I also made him aware that FBI presence had tripled in a day. The airport and every hotel parking lot was filled with FBI vehicles. From m-raps to helicopters and drones, they were ready to lock that place down like it was Filjah. I also told him the hospital had activated it's emergency triage unit, and begged him to let us get him and the people out of there. I told him our plan was solid. The FBI was still saying at the time that they could leave, we wanted him to take advantage of that.*

DJ- What was his answer? How did he react?

BC – *He said he would have to think about that, because so far law enforcement had left him alone and pretty much let him come and go as he pleased. I tried to explain to him that this was all a psychological maneuver very common in a situation like this. They let you get comfortable enough to put your guard down and that's when it gets dangerous. I asked him if he really thought they were just going to let him stay there forever, and then said to him, "because they aren't". "Ammon, they are going to come after you", I said. I expressed to him once again that the window of time was closing for a safe escape and that we could get him out of there, but again he said, he wanted more time to think about it. I left that day with a heavy heart.*

DJ – There are some people who say you didn't do enough, that you and the Idaho III% didn't do enough to help Ammon Bundy.

BC – *I tried to get him out – I tried to reason with him. Ammon called the shots on that one. If he had left with me that day, I would have done whatever it took to get him and those people to safety. We still had a small window to get out before the FBI could react. But he said no, and what am I suppose to do after that? I told him the situation he was in and he turned me down. Same with the final 4, they dug their heels in and refused to budge, there was nothing I could do.*

DJ – Brandon, where were you when you got the call about the ambush, and that LaVoy had been killed?

BC – *I was home with my kids. I would leave Burns on a Sunday or Monday and come back on Wednesday or Thursday. That was a pattern we had established early on. We had to take care of our kids and what was left of our business. We got the call late on the night of the 26th and we were back on the road headed toward Burns before the sun came up.*

DJ – Did you think that because law enforcement had ambushed occupation leaders, what you had warned the FBI about would happen if they hurt someone, was actually becoming a possibility ?

BC – *Oh yeah, it was a very strong possibility. It was extremely emotional for everyone. Just like everything that happened during the occupation the situation was fluid, meaning it changed so rapidly we hardly had time to assess what was happening. I began making calls immediately to try and gauge what was happening out there. By the time I got to Burns many of the people who were up there at the refuge had packed up and left. The FBI had set up a perimeter that nobody was getting through. Had we tried it would have been a bloodbath. Had we done that we would have done nothing but get more people killed. We had to use common sense and it wasn't easy. We began negotiating with the FBI and the people who wanted out for safe passage. Between us and a woman named Barbara Berg, who was stationed at the campground 6 miles from the refuge, we were able to get some of them to safety. Barbara was key to getting them out. She had a vehicle and was the only person on the inside who had any influence with those left up there. She stayed calm and did a great job.*

Given the fact leadership had been taken out and one man was dead, given the fact most everyone had left the refuge, and Ammon had put out a stand-down order – I knew it was over – it was time to stand down – not amp it up.

DJ – Brandon, what do you think of Ammon Bundy today?

BC – *Ammon Bundy is a good man. His heart was in the right place and I honestly believe he never meant for anyone to get hurt. He had a vision of a better life for the people of Harney County and the western states in general. He felt the Hammond's deserved to live free and in peace just like we all do. None of us could have truly predicted what would happen. I believe what Ammon did was nothing more than an act of civil disobedience and defiance in the face of tyranny. I respect him for what he did. What he did brought much awareness and he did it because he honestly cared about what's happening in Harney County and this country as a whole. How can we as a people judge him for that? He paid the ultimate price and he did it because he cared enough to stand for what he believed in. If we could all muster up that kind of courage we could change things. I can't honestly walk away from this and not feel guilty that I maybe didn't do enough, but I did the best I could at the time. We have all been changed by it – it has changed me forever. Ammon accomplished that much. He is a true American Patriot – Nobody will ever be able to take that from him – He has earned it.*

DJ – So how are you now Brandon, how is life after Malheur?

BC – *It's hard sometimes. I have many sleepless nights. I think anyone who lived through what we did left that place with some form of PTSD. It wasn't easy – it just wasn't alright. I didn't get arrested but I am losing many things both personally and financially. I put everything I had into this movement and the government is seeing to it that I pay for my part in it, they are getting their pound of flesh from me. They have seen to it my name was smeared all over the local paper. I am financially bankrupt. I lost*

what was left of my business. I can't even pass a security check at the airport to meet my daughter at the gate when she flies home from seeing her mother.

But still I'm proud of what we did, the Idaho III%. We did it for the right reasons. Because of ours and Ammon's efforts the people of Burns who never had one before have made great strides in finding their voice and we hear them loud and clear.

We exposed a lot of corruption in Burns and Harney County. We were changing the way people looked at their government there. Between Us, Pete Santilli, and the work Ammon Bundy did, to bring it all to light, I know that place will be changed forever. The people who found their voice will be changed forever. The government will not find it so easy to run all over them anymore. We gave them a black eye and they didn't like it. They never do. I hear lots of good things coming out of that community, but still there is a lot of hard work that needs to be done. It is now up to them to carry it forward, but we are just a phone call away if they need us. I wouldn't hesitate, none of us would.

As hard as it is to sleep at night, I put my head on my pillow knowing I did the right thing. We all did. We all stood on the principle of truth, and when you do that – everything falls into place in the end. We stayed on our true north, and I don't regret a single moment of it.

End Interview

<http://thepetesantillishow.com/brandon-curtiss-life-after-malheur-and-standing-on-the-principle-of-truth/>

TRANSCRIPT: Of The Oregonian Les Zaitz, February 18, 2016, Grant County Sheriff Viewed as “Security Leak” as State Seeks Investigation.



5 Grant County Sheriff Glenn Palmer at a police roadblock in Seneca, Oregon, about 27 miles north on U.S. 395 from where authorities stopped Ammon Bundy and others; and Robert “LaVoy” Finicum was shot and killed. U.S. 395 was blocked at Seneca between John Day and Burns by Oregon State police officers the evening of Tuesday, January 26, 2016.

Showdown in Burns

10 The dispatcher at the John Day 911 center hesitated when Grant County Sheriff Glenn Palmer radioed in for information about a roadblock after state police shot and killed Robert “LaVoy” Finicum.

Palmer was on his way south from John Day on January 26, 2016 after hearing reports of the traffic stop and shooting, triggered when authorities moved in to arrest leaders of the Malheur National Wildlife Refuge takeover.

15 The veteran sheriff had been left out of the planning for the stop on U.S. 395 about 20 miles north of Burns in Harney County; and, now he wanted his dispatchers to fill him in. The dispatcher later told her supervisor:

20 *“I felt uncomfortable, knowing that I had to relay vital and confidential information to someone who may not be trustworthy.”*

The extraordinary scene of a police dispatcher distrusting the top law enforcement officer in the jurisdiction is part of a litany of allegations against Palmer that may now subject him to a state investigation.

25 The Oregon Department of Public Safety Standards and Training on Thursday released eight (8) separate complaints, including ones from a 911 manager and the John Day police chief, alleging misconduct by Palmer. The complaints, filed the past two weeks, all raise alarm about Palmer’s association with leaders of the refuge occupation.

The state agency, which licenses police officers, has asked the state Department of Justice to investigate. The licensing agency notified Palmer by letter dated February 11,

30 2016 about its intentions; warning that if violations of police standards are found, he could face revocation of his police certification.

Letter Requesting State Investigation

Oregon

Department of Public Safety Standards and Training

Kate Brown, Governor

4190 Aumsville Hwy SE
Salem, OR 97317-8981
(503) 378-378-2100

<http://www.pregpm-gpv/DPSST>

February 11, 2016

Chief Richard Gray
John Day Police Department
450 East Main
John Day, OR 97845

Dear Chief Gray:

The Department of Public Safety Standards and Training (DPSST) has received your complaint, dated February 5, 2016, alleging misconduct by Glenn Palmer, DPSST-certified officer currently serving as Sheriff of Grant County, Oregon.

As you may know, the DPSST, in conjunction with the Board of Public Safety Standards and Training, is responsible for training and certifying Oregon's public safety providers to include private security, private investigators and polygraph examiners. DPSST's jurisdiction is limited to the certification standards found in Oregon law and rule (available for review on DPSST's website: Oregon.gov/DPSST).

The allegations made in your complaint have been reviewed; and, it has been determined that, if founded, these issues may violate the Board's certification standards. Your allegations have been shared with Sheriff Palmer; and, a copy of your complaint forwarded to the Department of Justice (DOJ). DPSST has recommended that the DOJ conduct an investigation into these allegations; and, the results of that investigation forwarded to DPSST for further review.

Sincerely,

Linsay Hale, Director
Professional Standards Division
Tel: (503) 378-6702
E-mail: linsay.hale@state.or.us
Cc: file

35 Palmer, sheriff since 2000; and, now seeking re-election; didn't respond to requests for comment left in telephone and email messages.

The licensing agency can take a range of actions against Palmer's police certification, up to revocation. The agency, however, has no authority to remove Palmer from office since he is an elected official. A recall election could remove him. State law also requires sheriffs to have police officer certification.

40 Palmer has drawn criticism for his association with the armed militants who took over the wildlife refuge on January 2, 2016. Ammon Bundy, the Idaho businessman who led the takeover, invited Palmer to visit the occupied refuge headquarters. Palmer declined; but, subsequently met with some of the occupation leaders. John Day Police Chief Richard Gray in his complaint said:

45 *"I have a great public safety concern when the Grant County sheriff is allowed to openly meet with and be part of this group of lawbreakers"*

Police Chief Richard Gray's Complaint

HALE Linsay

From: GABLIKS Eriks
Sent: Tuesday, February 9, 2016 10:59pm
To: HALE Linsay
Cc: ANDERSON Todd
Subject: Forward: FW
Attachments: doc00323320160209113719.pdf: ATT00001.htm

Sent from m iPhone

Begin forwarded message:

From: "Richard Gray" grayr@grantcounty-or.gov
To: "GABLIKS Eriks" egabliks@dpsst.state.or.us
Cc: "Peggy Gray" grayp@grantcounty-or.gov
Subject: FW

Eriks,

Attached is a letter of complaint against Glenn Palmer, the Grant County Sheriff. Attached in this letter are other documents that support my claim. I have also mailed a hard copy along with additional documents.

This information is to be attached to Valerie's complaint she sent to you on January 29, 2016.

Thank you,

Richard Gray
Chief of Police
450 East Main Street
John Day, OR 97845
(541) 575-0030
Fax: (541) 575-1721

Website: <http://www.cityofjohnday.com/>

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*****Original Message*****

From:
Sent: Tuesday, February 9, 2016 11:38AM
To: Richard Gray grayr@grantcounty-or.gov
Subject:

FYI from City of John Day, Oregon

JOHN DAY POLICE DEPARTMENT

Chief Richard Gray
450 East Main
John Day, Oregon 97845

24 Hour Dispatch
Phone: (541) 575-0030
Fax: (541) 575-1721

February 5, 2016

To: DPSST Director Eriks Gabliks
DPSST Ethics Review Board

I am writing this letter in regards to Sheriff Glenn E. Palmer.

This letter will serve as my formal complaint against Glenn Palmer including incidents that go back several years.

This most recent incident causing great concern in the involvement with the Militia's occupation of the Malheur Wildlife Refuge and Glenn Palmer's close involvement with them. His actions, as well as social media posts show Glenn Palmer's involvement and support for the Militia. These copied social media posts are included for your review.

On January 12, 2016, Glenn Palmer was reportedly having a lunch meeting with locals and members of the Militia group at the Outpost Restaurant in John Day. After lunch, Glenn Palmer and his friends, along with Militia members, were also observed going into the Oregon Telephone Company where they are believed to have continued the meeting. The 911 CAD radio log reads at 12:06 hours 400, Glenn Palmer going out for a meeting at the Outpost Restaurant. At 15:33 hours, 400 cleared and goes 12-1. As Glenn Palmer told the local news, "*He had no idea he was meeting with the Militia.*" And, as the 911 radio log shows, he was there on duty in this meeting/ lunch for about 3-1/2 hours. See: enclosed CAD logs. This same day, I was informed Brandon Curtiss, who is a proclaimed member of the Idaho III%ers, was one of the persons in this meeting. Other people mentioned in this meeting were, Tad Houpt, Dave Traylor, Jim Sproul, and other unnamed locals. I was in the patrol vehicle in

the area as the meeting ended. I observed Glenn Palmer walking to his patrol vehicle from across the rear parking lot.

On Friday, January 15th at about 12:07 hours, I was advised by a member of the community that there were three people who got out of a four-door pickup that was parked in the parking lot of the Sheriff's Office, two males and a blond female believed to be Shawna Cox. The vehicle was a Dodge power wagon; and, it displayed an Idaho III%er sticker on the rear window. The pickup had Idaho plate #01800S. At about 12:39 hours 400, Glenn Palmer went 12-1 from his office; and, at 12:44 hours he went code 7 for lunch at the Outpost restaurant. At about 13:15 hours, I was advised the same pickup was parked across the street in front of the Outpost Restaurant. The radio call log never shows him going 12-1, clearing from the restaurant or going off duty.

On Monday, January 25, 2016, at about 9:34 hours, I was invited to a confidential closed meeting with the DA, OSP, USS, GCSO and 911 Dispatch. In this meeting, we discussed the Militia coming to John Day for a community meeting. The meeting was being planned for Tuesday at 6PM at the Senior Center in John Day. I was told the meeting was being set up by Tad Houpt, a local business owner. Tad is a business partner of Sam Palmer, Glenn Palmer's brother and a known friend of Glenn.

In the meeting we all went around the table and discussed our concerns of the Militia being invited to Grant County. Glenn Palmer denied any involvement; and, he said he does not understand how the Militia works. Later in the meeting he stated as a follow-up to a question regarding the Committee of Safety that the members could be pre-selected. Glenn Palmer also stated he was not going to be attending the meeting on the 26th. The local radio station had also announced several times during the day that Glenn Palmer would not be attending this meeting.

On January 26th, when I was asked to call Glenn Palmer to advise him of the roadblock, I called his home number first. I was advised by his wife that he was not home; and, that he could be reached on his cell phone. When I called his cell phone, I advised him of the roadblock on US 395 south. This was after the shooting of LaVoy Finicum. A community member told me later this same night that Glenn was at the meeting in full uniform and was planning on speaking at the meeting.

I have a great public safety concern when the Grant County Sheriff is allowed to openly meet with and be part of this group of lawbreakers.

The following events show that Glenn Palmer deleted a public document from the Departments Records Management System, Justice. In 2012, I ran for Office of Sheriff; and, during this election campaign, Glenn Palmer lied on several occasions accusing me of doing many dishonest things. Please refer to Case Number S2012-1349 that Glenn Palmer submitted to OSP and the mayor of the City of John Day, Ron Lumdbom. This was a formal complaint against me. In substance, the report claims I was in his office looking for reports that he had stashed in his office closet. He was told to take his complaint to the local OSP office. As a result it was forwarded to Captain Calvin Curths, Director of the OSP Criminal Investigation Division. Captain Curths reviewed the complaint with the Department of Justice; and, both agencies concluded that no criminal investigation would be conducted as there was no evidence that I did as he claimed. OSP and DOJ had no further comment on this matter. As you will find in the letters and notes enclosed, this response was sent on October 22, 2012. I also have enclosed a response letter from the then Police Chief, Rich Tirico.

We share a records management system with the Sheriff's Office. It is called Justice. When I later looked for Report Number S2012-0-349, I found the written report had been deleted. The then Police Chief spoke to Val Luttrell, Dispatch Manager; and, she called to have an audit trail performed. Ron Taylor, the administrator of the system did an audit. Val was given a copy of the audit trail, also submitted to you, revealed the report was deleted on November 1, 2012 at 14:13:11 hours by User ID 18276, this is Glenn Palmer's DPSST number and his assigned ID in Justice; and, the activity window reads "Delete". In

searching the system for this report, I find it still remains deleted.

Directly following this, Glenn Palmer gave a letter to the Chief banning me from the jail and the Sheriff's Office. This disrupted my duties; and, the public, that I arrest, thought it was funny I was kicked out of the jail; and, questioned my authority in making the arrest. Glenn Palmer placed me at risk while dealing with the public because of his lies to my supervisors and the public about me.

As you will find another letter addressed to me from Sheriff Richard Mack, dated October 17, 2012, claiming that during an election debate, I called the CSPOA and Oath Keepers racist. This did not happen; but, Glenn Palmer reached out to Sheriff Mack to have this letter sent to me. As you will find Glenn Palmer's name, is listed on the footer of the CPA letterhead dated October 17, 2012.

Included for you to review is a Facebook response from Glenn Palmer. This post is in response to Les Zaitz' article in the Oregonian News. Glenn said Les lied about reporting him as being or still being a CSPOA Board Member. Glenn claims on social media that he was not on the Board of Directors and never been to a board meeting. On the footer of the CSPOA letter dated October 7, 2012, Glenn Palmer's name is listed under the title of CSPOA Council of Sheriff's and Peace Officers.

In the material I have sent you, please review the Letters to the Editor sections, Facebook posts, letters and other articles; and, you will see my concerns for our public's and officer's safety.

I would like to ask the Review Board to consider this information as a "Tampering with public records" case as well as an ethics issue with an elected official.

Thank you for your support in this matter.

/s/

Chief Richard Gray

Grant County Sheriff's Office
Glenn E. Palmer, Sheriff
205 South Humbolt
Canyon City, Oregon 9782
Phone: (541) 575-1131
Fax: (541) 575-2580
Jail: (541) 575-1134

October 15, 2012

TO: Grant County Sheriff's Office Staff
FROM: Glenn E. Palmer, Sheriff
SUBJECT: Policy/ Directive

Staff,

Due to recent events that have come to light, I am making the following policy and directive to take effect immediately.

Sgt. Richard Gray of the John Day Police Department is prohibited from entering the Sheriff's Office

or Jail in his capacity as a police officer for the City of John Day.

All other officers for the City of John Day Police Department are limited access to the jail only. Access will be permitted or allowed from the sallyport, to intake to the booking counter and out the same exact way. There shall be no entry into the main officer or control room.

If employees of the John Day Police Department are citizens, live or reside outside the City of John Day; and, they seek the services we provide, I expect them to come to the counter just like anyone else would from the public. They will be afforded the same services as anyone else, if they ask.

There shall be no one from the City of John Day Police Department in any other portion of this facility until further notice, unless I personally authorize it.

I have asked for the return of their keys for this facility which we will need to rely on our own staff (and possibly OSP) to provide backup in the event an incident arises in the jail. If they do respond in an emergency, I expect them to use the sallyport and intake access.

/s/

Glenn E. Palmer
Sheriff

Incident Report: S20120349

Continuation Report

Summary

Received information from Deputy Abbie Mobley of an incident(s) involving Deputy Scott Moore and Sgt. Richard Gray of the John Day Police Department.

Narrative

On October 10, 2012, at 11:11^{AM}, Deputy Abbie Mobley came into the Sheriff's Office in an off-duty capacity with her young child, xxx Mobley advised me that the morale in the office has taken a dive and issues between her husband Zach Mobley and Scott Moore are not good.

Deputy Abbie Mobley is married to Deputy Zach Mobley, who is one of my four-patrol staff. Deputy Zach Mobley had been hired on a patrol contract for the Town of Prairie City, Oregon to patrol a forty-hour work week. A position came up through a grant to give this agency a ten-hour position to work through the Grant County District Attorney's Victim's Assistance Domestic Violence and Sexual Assault program.

Due to Deputy Mobley being geographically limited on his patrols, I offered the position to Deputy Mobley to work the SART/ VERT grant. I further assigned the remainder of my patrol staff as well as myself to pick up the remaining ten hours of patrol for the Prairie City contract.

According to Deputy Zach Mobley and Deputy Abbie Mobley, Deputy Moore became irate and angry over Deputy Zach Mobley getting the DA's investigator position. Being that Deputy Zach Mobley and Deputy Abbie Mobley are married and live together, I presume that they share information and talk amongst themselves on what they hear here at work.

One another issue that I have dealt with is that Deputy Abbie Mobley has told me that Deputy Moore sent Zach Mobley a text on his phone. The conversation was that Deputy Moore dared me to confront him regarding the civil papers needing served. Due to Undersheriff McKinley taking time off and Deputy James Burgett taking time off, Deputy Moore was advised via a written memo to serve some

civil papers or make service attempts. I wrote the memo on the Sunday I worked the shift in Prairie City and there were no attempts at service for quite some time. When I arrived back in on the next Monday, again, there were no attempts to serve the papers. Checking the activity log, Deputy Moore had a suspicious vehicle in Dayville and a Restraining order issue elsewhere in the County. One of those papers had a Dayville address; and, an attempt should have been made.

The following week Deputy Burgett had court as did Undersheriff McKinley, Furthermore, Deputy Burgett put on firearms training that pretty much consumed his work week that left the rest of the duties and responsibilities to Deputy Scott Moore and I. Undersheriff McKinley took time off for family matters.

During some of the conversation with Deputy Mobley and Undersheriff Todd McKinley, I made a memo regarding the patrols and ten hours a week needed to complete the contract. During the first week, I checked the patrol log and discovered that no one had worked the Prairie City contract. I ended up working an eight-hour shift on a Sunday to complete the contract requirement. I then put out a second memo asking the patrol staff to do their patrols in Prairie City.

During my conversation with Deputy Abbie Mobley, she advised me that Deputy Moore had been in the back while on duty and in uniform telling or asking jail staff to vote for Sgt. Richard Gray in the upcoming Sheriff's election. I am wanting to state that this might have been back during the primary election; but, I am not sure. Mobley told me that Deputy Charles Baker and Deputy Mike Alley have heard this as well. On October 16, 2012, I spoke to Sally DeFord who told me that she had multiple other staff members mention to her that Deputy Scott Moore is campaigning for Sgt. Richard Gray while on duty and within the Sheriff's Office.

Deputy Abbie Mobley advised me further that Deputy Moore has been rude over the police radio. Since trying to track time for the Prairie City patrol contract, I set up a zone so that the patrolling deputy could call into dispatch and say Zone 1 and we would know that patrols are being done in Prairie City. One night when Deputy Zach Mobley called in a Zone 1 patrol, Deputy Moore came over the radio and made a comment about Zone; and, used an alpha Character. This was done while Angia Hannibal was on dispatch.

Despite staff meetings, I have gave directives for my patrol staff to stay out of dispatch; and, get out on patrol in the County. I have received complaints from Deputy Mobley and Deputy Moore is constantly spending time on his shift in the dispatch center. I receive calls regularly that my patrol cars are often seen at the John Day Police Department; but, they cannot get a patrol to their areas in the outlying areas of our County.

I was also advised that Sgt. Gray sends a lot of his time while on duty and in uniform in the Grant County Sheriff's Office. Deputy Mobley advised me that the jail staff can see Sgt. Gray and Deputy Scott Moore via a video camera in the main office area of the Sheriff's Office. At no time has any of my staff told me that Sgt. Gray has been or has come to the office in plainclothes or in an off-duty status. In fact, I questioned my clerical staff, my Undersheriff and my part-time clerical who have all told me that there has been no records requests made from Sgt. Gray. Most if not all records requests are received in writing; and, the request is maintained in the file that the records request come from for tracking purposes. There is a recording of the front office; but, without a specific date and time to look, it would be very time consuming for a staff member to watch video.

I was informed by Deputy Zach and Abbie Mobley that if I get re-elected, that Deputy Moore told him that Deputy Moore plans on quitting the Sheriff's Office.

On October 11 2012, I had a candidates' night debate with Sgt. Richard Gray which was sponsored by several local businesses; and, put on by the Grant County Chamber of Commerce.

During the debate and while I was speaking about the 8-9 incidents back in 2010 when the US Forest Service Law Enforcement personnel were stopping local citizens for violations which ended in excessive use of force as the USFS LEO's were pointing guns as locals during each and every car stop.

When Sgt. Gray spoke, he rebutted my allegations of the excessive use of force. Gray commented that he has looked for those records in my office; and, was unable to locate them. The records I believe he was being specific about were and are in the closet in my personal office. The records, if correct, were from 2010; and, those case files are in a locked closet in the main office; and, in a file cabinet labeled 2010.

On October 15, 2012, during the early morning hours. Lt. Gordon Larson of the Oregon State Police came to my office where I advised him of what has taken place. Lt. Larson asked for me to put it into a report format and forward a copy to him.

On October 15, 2012, in the morning hours, I met with John Day Police Chief Richard Tirico, Mayor Ron Lundbom, Councilman Donn Willey and the Acting City Manager, David Holland, in Chief Tirico's Office.

I advised them why I was there. Mayor Lundbom, who was in attendance at the candidates forum, interrupted me; and, said that he remembered hearing Sgt. Gray make the statement of being or looking through our file or records. Mayor Lundbom also said that right after Sgt. Gray said that, Mayor Lundbom looked over at me; and, said the look on my face wasn't good.

Richard Tirico

From: "Larson, Gordon" gordon.larson@state.or.us
To: "Rich"
Sent: Monday, October 22, 2012 16:30
Subject: Forward Statement Regarding Possible Investigation

From: Hastings, Gregg
Sent: Monday, October 22, 2012 4:17PM
To: editor@bluemountaineagle.com
Subject: Statement Regarding Possible Investigation

"Oregon State Police (OSP) was contacted last week regarding a complaint levied by the Grant County Sheriff against a sworn employee of the John Day Police Department. The contact with OSP was initially brought to the attention at the local OSP level; and, was forwarded to Captain Calvin Curths, Director of the OSP Criminal Investigation Division, Captain Curths reviewed the complaint with the Department of Justice; and, both agencies concluded that no criminal investigation would be conducted. OSP and DOJ has no further comment on the matter."

Lieutenant Gregg Hastings
Public Information Officer
Oregon State Police
Office: (503) 731-3020 ext. 247

50

State won't investigate Grant County Candidate Gray

Blue Mountain Eagle Posted: Monday, October 22, 2012 4:38PM

SALEM - The state won't investigate Grant County Sheriff Glenn Palmer's complaint against his political opponent, John Day Police Sgt. Richard Gray.

Lt. Gregg Hastings, Oregon State Police spokesman, said Palmer's complaint had been referred to the local OSP office to Capt. Calvin Curths, director of the agency's criminal investigations division.

"Capt. Curths reviewed the complaint with the Department of Justice; and, both agencies concluded that no criminal investigation would be conducted," Hastings said in a statement issued Monday afternoon.

The OSP and DOJ declined to comment further comment.

Palmer is running for re-election as sheriff and Gray is challenging him to in the November 6 balloting.

Palmer went to John Day City Hall on Monday, October 5, to complain that Gray had been going through files illegally in the sheriff's office. At the base of his complaint was his contention that Gray admitted the activity in remarks at an October 11 candidate debate held by the Grant Count Chamber of Commerce.

The Blue Mountain Eagle's audiotape of that event doesn't reveal any such admission; and, Gray has denied the allegation. He said he has only been in the department on business.

John Day Police Chief Rich Tirico said late Monday he was glad that the agency had responded so quickly; and, that the allegation about his staff member appeared to be unfounded.

JOHN DAY POLICE DEPARTMENT

Chief Richard Tirico
450 East Main
John Day, Oregon 97845

24 Hour Dispatch
Phone: (541) 575-0030
Fax: (541) 575-1721

October 23 202

Regarding the ruling from Oregon State Police and the Department of Justice regarding allegations from Glenn Palmer against Sgt. Richard Gray.

First, I would like to thank the DOJ and OSP for their quick response with this investigation. Their findings confirmed what I already knew; and, that was that there was no evidence to support the allegations against Richard Gray made by Glenn Palmer. I would like to say that Sgt. Richard Gray is one of the most honest and professional men that I know with strong character; and, I am glad to see that his name and reputation have been cleared.

Chief Richard A. Tirico

John Day Police Department

Oregon

Department of Public Safety Standards and Training

Kate Brown, Governor

4190 Aumsville Hwy SE
Salem, OR 97317-8981
(503) 378-378-2100

<http://www.pregpm-gpv/DPSST>

February 11, 2016

Chief Richard Gray
John Day Police Department
450 East Main
John Day, OR 97845

Dear Chief Gray:

The Department of Public Safety Standards and Training (DPSST) has received your complaint, dated February 5, 2016, alleging misconduct by Glenn Palmer, DPSST-certified officer currently serving as Sheriff of Grant County, Oregon.

As you may know, the DPSST, in conjunction with the Board of Public Safety Standards and Training, is responsible for training and certifying Oregon's public safety providers, to include private security, private investigators and polygraph examiners. DPSST's jurisdiction is limited to the certification standards found in Oregon law and rule (available for review on DPSST's website: Oregon.gov/DPSST).

The allegations made in your complaint have been reviewed and it has been determined that, if founded, these issues may violate the Board's certification standards. Your allegations have been shared with Sheriff Palmer; and, a copy of your complaint forwarded to the Department of Justice (DOJ). DPSST has recommended that the DOJ conduct an investigation into these allegations and the results of that investigation forwarded to DPST for further review.

Sincerely,

Linsay Hale, Director
Professional Standards Division
Tel: (503) 378-6702
E-mail: linsay.hale@state.or.us
Cc: file

Gray submitted radio dispatch logs to show that on January 12, 2016, Palmer spent 3-½ hours with militia leaders in John Day. Three days later, Gray said, Palmer met at his office in Canyon City with two men believed to be involved in the occupation and a

55 woman Gray identified as Shawna Cox. She now is facing a federal charge for her role in the occupation.

Gray's new information added to what The Oregonian/OregonLive previously has reported about Palmer's visits with occupation leaders, who traveled roughly 100 miles north from the refuge to reach Palmer.

60 Ryan Payne, a Montana militiaman who was the tactical leader of the refuge takeover, said in an interview that Palmer shared the militants' views. Payne is now in jail facing federal charges for both the Oregon takeover and his role in the 2014 armed standoff in Nevada involving rancher Cliven Bundy.

65 One of the other militants who met with Palmer, Jon Ritzheimer of Arizona, said he and Payne autographed Palmer's pocket copy of the Constitution at the sheriff's request. Ritzheimer also is facing a federal charge for his role in the occupation.

70 On the day of the traffic stop, Ammon Bundy and other occupation leaders were heading for a town hall meeting in John Day. Bundy and the others were to address the community meeting, as was Palmer. It was organized by local residents who sympathized with Bundy's anti-government stand. Palmer was unaware that the FBI and state police planned to act against Bundy and others that day, according to law enforcement sources and Palmer's Facebook posts.

75 LaVoy Finicum, 54, of Utah, tried to elude police after that stop, repeatedly telling officers that he had a meeting with Palmer. Cox, who was in Finicum's truck that afternoon, said the occupiers believed Palmer could protect them.

LaVoy was shot after he encountered a roadblock, left his truck and reached for a loaded handgun, according to the FBI.

80 Gray, the John Day police chief, said in his complaint that Palmer assured local police officials in a meeting the day before the shooting that he didn't plan to attend the community meeting. Gray said when he learned of the shooting the next day, he called Palmer at home, learning he wasn't there.

In fact, Palmer was in uniform attending the community meeting and preparing to speak.

85 Valerie Luttrell, emergency communications manager for John Day 911, described in her own complaint the circumstances in the dispatch center leading up to the shooting. Luttrell wrote:

“The John Day 911 Dispatch Center staff are constantly taking calls for Glenn Palmer giving praise to his support of the armed occupation at the Malheur refuge. Sheriff Palmer's blatant disregard for the potential consequences of pushing his personal agenda over the safety of the general

90 *public that he is sworn to protect is at the very least an ethical transgression.”*

She described how dispatchers were concerned when they learned Palmer was heading for the roadblock set up by Oregon State Police near Seneca in Grant County to stop traffic from getting to the shooting scene farther south. Luttrell said:

95 *“Glenn Palmer is viewed as a security leak, not only by local law enforcement staff but by the Oregon State Police and FBI.”*

Luttrell said that when Palmer advised he was heading to the roadblock with a passenger, dispatchers assumed he was taking a militiaman with him. Luttrell said dispatchers warned state troopers at the roadblock of that possibility. In fact, the
100 passenger was Grant County District Attorney Jim Carpenter.

Valerie Luttrell’s Complaint

Oregon

Department of Public Safety Standards and Training

Kate Brown, Governor

4190 Aumsville Hwy SE
Salem, OR 97317-8981
(503) 378-2100

<http://www.oregon.gov/DPSST>

105
February 11, 2016
Valerie Luttrell, Manager
John Day Police Department
Emergency Communications Center
110 450 East Main Street
John Day, OR 97845

Dear Manager Luttrell:

115 On February 11, 2016, the Department of Public Safety Standards and Training forwarded to you several complaints received by colleagues and private citizens alleging misconduct by Glenn Palmer, a DPSST-certified officer currently holding the position of Sheriff of Grant County, Oregon. Enclosed are additional complaints DPSST has received since the initial mailing.

120 As you know, the DPSST, in conjunction with the Board on Public Safety Standards and Training, is responsible for training and certifying Oregon’s public safety providers, to include private security, private investigators and polygraph examiners. DPSST’s jurisdiction is limited to the certification standards found in Oregon law and rule (available for review on DPSST’s website: Oregon.gov/DPSST).

125 The allegations made in these complaints have been reviewed; and, it has been determined that, if founded, these issues may violate the Board’s certification standards. DPSST is forwarding these complaints to the Department of Justice recommending that an investigation into these allegations be conducted; and, the results of that investigation forwarded to DPSST for further review. If it is determined that any Board-established standards have been violated, revocation proceedings against Sheriff Palmer’s certifications may be initiated.

Any questions or concerns can be directed to Professional Standards Unit.

Sincerely,

Linsay Hale, Director
Professional Standards Division
Tel: (503) 378-2427
Email: linsay.hale@state.or.us
Cc: File
Enclosures: Complaints 1948 and 1949

GABLIKS Eriks

From: Valerie Luttrell luttrellv@grantcounty-or.gov
Sent: Friday, January 29, 2016 2 :00PM
To: GABLIKS Eriks
Cc: Peggy Gray
Subject: Complaint
Attachment: DPSST Attachments.pdf; DPSST Complaint Letter.pdf

Eriks,

Attached is a letter of complaint against Glenn Palmer the Grant County Sheriff along with documents that are enclosed with the letter. Police Chief Richard Gray is also working on a complaint letter to send to DPSST. When he has completed the letter and gathered documents of support he will be forwarding that to you as well.

Valerie Luttrell, Dispatch Manager
John Day 9-1-1
450 East Main Street
John Day, Oregon 97845
Phone: (541) 575-0330
Fax: (541) 575-1721
Website: <http://www.cityofjohnday.com/>

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911

John Day
Communications
Center John Day
Emergency

450 East Main Street
John Day, Oregon 97845
Telephone: (541) 575-0030
Fax: (541) 575-1721

January 28, 2016

DPSST Director
Eriks Gabliks

Please know that this is not written without considerable consideration over the matter.

Complaint against Grant County Sheriff Glenn Palmer:

I have deep concern for the position that our 911 Dispatch Center is being placed in regarding our working relationship with the Grant County Sheriff.

Our most recent concern is the support that the Grant County Sheriff is showing for the Militia occupying the Malheur Refuge in Harney County. He openly shows his support for their group and their cause on social media.

The John Day 911 Dispatch Center staff are constantly taking calls for Glenn Palmer giving praise to his support of the armed occupation at the Malheur Refuge. Sheriff Palmer's blatant disregard for the potential consequences of pushing his personal agenda over the welfare and safety of the general public that he is sworn to protect is at the very least an ethical transgression. The people he was/ is consorting with are under investigation for numerous felonious crimes.

Glenn Palmer is viewed as a security leak, not only by local law enforcement, including his own staff, but by the Oregon State Police and FBI. This became very evident to us after last night's incident in which we were not given any information on the events that were occurring in our county. Even after the Chief of Police for John Day made calls attempting to get information on what was unfolding, we could not obtain information. This became a serious safety issue for our Center and local Law enforcement during the events on January 26th, which were happening in Harney and Grant County.

There was a community meeting scheduled in John Day on January 26, 2016 at 6:00_{PM} with the group of Militia from the Malheur Refuge occupation scheduled to attend and speak. They were invited and welcomed by our Sheriff whom he had met with prior to this in John Day on two occasions. The circumstances of his meeting with the Militia were beyond coincidental to support his claims of no prior knowledge of who would be at these private meetings.

Although he has claimed that he did not invite them here; and, that he was not going to attend the meeting, he in fact did attend the meeting in full uniform. However, he did not notify Dispatch that he was even on duty or at the meeting until which time when we were made aware of the shooting that took place involving the Militia. He then went 12-1 with one rider. We in Dispatch thought his rider to be one of the Militia members. In fact, we were so concerned that we sent a message to OSP troops notifying them that he was en route to their location with what we thought might be a Militia member. The dispatcher was asked via radio by Sheriff Palmer for an update of the situation. At this time she did not want to give him any sensitive information due to concerns for the other officers' safety. Her words were:

"I felt uncomfortable knowing that I had to relay vital and confidential information to someone who may not be trustworthy."

The incident along Hwy 395 in Harney County cut off one portion of the Militia group from the other portion of the group that was in John Day waiting for them. This created a concern that the group in

John Day may react to what just occurred.

The bottom line here is that encouraging the Militia spokespeople to travel to Grant County put lives in danger; cost one of the Militia members his life; and, perpetuated unnecessary use of resources and personnel. Had Sheriff Palmer attended to his designated duties; and, allowed Harney County, along with State and Federal employees, to deal with the situation without his uninvited meddling, there could have been a much more positive and peaceful outcome.

One other area of concern is the process in which he deputizes the Special Deputies for the Grant County Sheriff's Office. I sent a copy of a memo Sheriff Palmer on October 15, 2015, regarding who is authorized to have access to LDS through our Dispatch Center, clarifying that only personnel on our list would be authorized. Sheriff Palmer sent a scribbled fax note back to me on October 19, 2015, that said:

"Anyone that I deputize" should be given access to LEDS information."

I called the Sheriff and told him that he must provide a list of these deputized people to us or we still would not allow them access. To this date he still has not provided a current list of these deputies.

140 Only one of the six (6) citizens who filed separate complaints against Palmer allowed the state to disclose their identity. Palmer was being provided copies of all the complaints, state officials said.

The citizen complaints echoed a common theme: Palmer's association with militants put the community at risk. One complainant asked:

145 *"If our sheriff is supporting illegal actions or militants and inviting them into our community, how can we as citizens of Grant County feel safe?"*

Another wrote:

"I am concerned that Mr. Palmer has abandoned all neutrality; and, is actively making Grant County a safe haven for government dissenters."

150 One complainant chastised Palmer for referring to the armed protesters as "patriots" when they had committed *"acts of vandalism, misuse of public property, and harassment against the people of Harney County."*

155 Palmer later referred to the police operation as an *"ambush"* a description that drew a sharp rebuke from the Oregon State Sheriffs' Association, which represents all 36 elected sheriffs.

The appearance of the militants in Grant County and Palmer's association with them stirred concerns that the protesters intended to stake a second camp in the John Day area.

160 People opposed to the militia presence have asked county officials to declare their own opposition. A resolution to do so has been hotly debated by residents at recent weekly meetings of the Grant County Court, which functions as the board of commissioners. The court has scheduled yet a third session on the resolution for next Wednesday, February 17, 2016.



KATE BROWN
Governor

January 20, 2016

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Mr. President:

On January 19, 2016, I spoke with Deputy Assistant to the President and Director of Intergovernmental Affairs Jerry Abramson to share my concerns with the handling of the occupation of the Malheur National Wildlife Refuge by armed radicals. Today I spoke with James Comey, Director of the Federal Bureau of Investigation. I followed up on these conversations by sending the enclosed letter.

During my conversations, I conveyed the harm that is being done to the citizens of Harney County by the occupation, and the necessity that this unlawful occupation end peacefully and without further delay from federal law enforcement.

On behalf of all Oregonians, I appreciate your consideration of our desire to see this situation come to a close, and I thank you for your timely attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Kate Brown".

Governor Kate Brown

EB/HM:sb

KATE BROWN
GOVERNOR

January 20, 2016

The Honorable Loretta E. Lynch
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable James B. Comey
FBI Headquarters
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

Madam Attorney General and Director Comey:

Earlier today I spoke with Mr. Comey to share my issues with the handling of the occupation of the Malheur National Wildlife Refuge by armed radicals.

The citizens of Harney County are resilient and diverse and include members of the Burns-Paiute Tribe. Like most Oregonians, those from Harney County have a history of resolving difficult issues through a collaborative approach. They have worked hard through the years to develop the Malheur Refuge Comprehensive Conservation Plan, the Harney County Wetlands Initiative, the Harney County Restoration Collaborative, the Harney County Wildfire Collaborative, and SageCon. It is for this work that they should be recognized, and yet the national focus has instead been fixed on outsiders seeking to exploit and manipulate a local matter for their own agenda.

As you are both aware, for more than two weeks now, these radicals have been allowed to stay unlawfully in the refuge approximately 30 miles to the south of Burns, Oregon, in Harney County. While it is easy to assume that an occupation in such a remote location does not threaten public safety and does not harm any victims, that perception is far from accurate.

Even before the events of January 2, 2016, the local community was put under strain by the presence of outsiders who made unrealistic demands and began harassing law enforcement and their family members. While all were prepared for a tense but lawful protest on January 2 in the town, few were prepared for what would follow.

The unlawful seizure of the refuge by criminals seeking to advance a misguided agenda is in and of itself a strain. What adds to the tensions felt by the community is the reality that multiple "supporters" of these individuals have joined, staying in local motels in the City of Burns, and the criminals on the refuge are allowed to travel on and off the premises with little fear of law.



The Honorable Loretta E. Lynch
The Honorable James B. Comey
January 20, 2016
Page 2

enforcement contact or interaction. The residents of Harney County are being intimidated in their own hometown by armed criminals who appear to be seeking occasions for confrontation. The harm being done to the innocent men, women and children in Harney County is real and manifest. With each passing day, tensions increase exponentially.

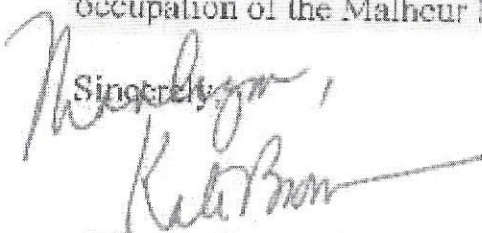
In addition to the federal agents deployed in town, the Oregon State Police and counties and cities from around the state are continuing to deploy additional officers to enhance local patrol and community safety. The reality is that this is not a sustainable law enforcement model for any extended period of time.

Because this occupation has occurred on federal land, it is appropriate that the FBI and other federal law enforcement entities are the leaders on any response to it, and we appreciate the recognition of their responsibility in this situation. They asked state officials, including me, to limit our public comments, which I have done, with considerable difficulty.

However, for the citizens of Harney County and indeed all Oregonians, I must insist on a swift resolution to this matter. Efforts to negotiate have not been successful, and now it is unclear what steps, if any, federal authorities might take to bring this untenable situation to an end and restore normalcy to this community.

I request on behalf of my fellow Oregonians that you instruct your agencies to end the unlawful occupation of the Malheur National Wildlife Refuge as safely and quickly as possible.

Sincerely,



Governor Kate Brown

KB/LLM/sb

TRANSCRIPT: Article on “*Courtwatcher Blog*” by Stephanie Noonan, April 8, 2016, “*FBI Agents Torture Political Prisoner*”.

Cliven Bundy’s Son Forced to Sit in His Own Waste While in the Custody of the FBI

5 During an interview with John B. Wells, Mel Bundy’s wife tells of the horrific conditions her husband was forced to endure after he was arrested.

“Forty (40) fully-armed men came to his job site that day dressed as construction workers who never identified themselves as FBI, even while they were beating him.



For almost two (2) full days Mel Bundy was forced to sit in a room with no bathroom, covered in his own urine, feces and vomit. During that time Mel Bundy was offered a slice of stale bread to sustain him. When they finally did bring him a meal on the third (3rd) day, he was forced to eat it on the floor ‘like a dog’.”

20 Is this what we have become? What does this say about us as a people; about our culture? Where is the outrage? This is an election year with one of the worst miscarriages of justice in our history and not one candidate, not one, has come to the defense of these men and women and demand that at the very least, they be treated humanely!!

Let this sink in:

- They beat him;
- Locked him in a room;
- Where he sat covered in his own urine, feces and vomit;
- For two full days;
- He was not allowed a shower;
- He was not allowed clean clothing;
- He was offered a slice of stale bread to eat; and,
- When they finally did allow him food, he was forced to eat on the floor!

30

TRANSCRIPT: Facebook Post of Ammon's wife, Lisa Sundloff Bundy, April 16, 2016, Nevada Detention Center Abuse of Ammon Bundy by Deborah Sue Venetucci.

Ammon wants everyone to know that God is still mindful of each one of them and is there watching over them. He shared with us an experience he had.

5 Upon being transferred to Nevada, he was chained to a bench for twenty-four (24) hours. They didn't feed him all that day. He was cold and tired. They didn't put him into his cell until the early hours of the next day. The cell was beyond dirty. They left him chained to the bed all day without checking on him or feeding him.

10 By night time, he was so extremely hungry that the pain in his stomach was unbearable. He knelt in his cell and cried as he prayed that God please hear him and show even a small tender mercy. He was there for several hours. This was the night before court.

15 He decided to start banging his shackles together trying to get someone's attention to help him. For a long time he kept banging his shackles together until finally the guy in the cell next to him asked him what was going on. Ammon told him he was starving; that they hadn't fed him for two (2) days. The guy said he would try to get a guard's attention, which he did. The guard finally came over and Ammon told him that he was starving; that he hadn't received any food for two (2) days. The guard told Ammon that the kitchen was closed for the night.

20 Ammon kept praying. A little while later in the late night hours a guard came to his door and said, "*You're coming with me.*"

25 The guard took him to his brother's cell. The guard took Ammon to Mel's cell! They were able to be cellmates for that night. Ammon said that he had been praying for just a small tender mercy; but, God gave him a huge miracle. The authorities have restricted all contact with his brothers. But, that night they were able to hug and spend the whole night together. They cried together and talked together for hours. Mel gave Ammon his entire commissary and any extra food he had so that finally after two (2) days Ammon could be fed.

The next day Ammon had court. When he left the cell Ammon was hoping Mel would still be there on his return, but knew that would probably not happen. Court was long. Ammon got back late. Again he was forced to go another whole day without eating.

30 Ammon got back after dinner, facing another day and night hungry. When he got to his cell, Mel was gone. Mel had been transferred; but, left Ammon his entire dinner. He had placed it under some things so it wasn't in direct view. Ammon cried.

35 Ammon wanted everyone to know that even though he got to share only one night with his brother, he knows that night was a miracle sent directly from God. Ammon knows that God is hearing all of our prayers; and, this knowing was confirmed one hundred (100) fold during this time.

AFFIDAVIT OF AMMON BUNDY

I, James Magee, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading: I am functioning in the capacity as a next friend under Rule 17, 28 USCA for Ammon Bundy who was arrested and in prison.

Next Friend: *“A next friend is a person who represents someone who is unable to tend to his or her own interest.”* Federal Rules of Civil Procedures, Rule 17, 28 USCA; Haines v. Kerner, 404 U.S. 519 (1972)

The following is a true and accurate transcript from a video posted on Youtube¹ by Ammon Bundy who is incarcerated in the Multnomah County Jail, Portland Oregon who made the recording before he was incarcerated.

Transcript [video] 15-12-05 Feds Burning Cows, Homes, Imprisoning Rancher

Ammon Bundy here. Trying to keep a smile on my face. This Hammond case really digs deep into the soul; and, makes you wonder what’s going on. 5 I do need to give you a more thorough update; and, I’ll prepare that showing how the due process was not due process at all; how there was a tremendous amount of corruption in its origin; a tremendous amount of corruption on in the Indictment, in the trial, in the sentencing; and, then of course, in the resentencing; and, then even now. 10 A couple things that I talked to you about before: about the Sheriff feeding information to the FBI. That has been confirmed again. Also, the threats that were given to Hammonds if they continued to communicate with me. They were confirmed that they [the threats] came from the US Attorney’s Office; and, that his words were that the Hammonds, if they did not cease communications with Ammon Bundy, that the Hammonds would be detained early and put in a less-desirable prison.

You have to understand, the Hammonds the preparing to be gone from their families for five (5) years; and Frank Papagni is threatening to shorten that period of time so that they can’t prepare their wives to take care of the ranch when they’re gone. Also, it means to Dwight, who’s seventy-four (74) years old, if he gets thrown into a less desirable prison he’ll probably be abused to the point where he won’t live. And, so, these threats are very real; and, they’re very intimidating to the Hammonds.

Now I want to show you a video of a rancher that ranches just a few miles from the Hammonds. It shows how the BLM cares about the ranchers; and, cares about the community. This was done in July; and, the BLM started some fires in July. 25 Prescribed fires are not done in July because they [the ranchers] have all summer that they need to feed their animals; and, so, basically, the BLM was burning the ranchers’ grass; and, as the video will show, many other things. But, I want you to understand also that this video was filmed less than two (2) weeks from the day the Hammonds were sentenced for starting a fire. 30 Days after the Hammonds were sentenced as “Arsonal Terrorists”, the

¹ <https://www.youtube.com/watch?v=Aeeclad8G3E>

BLM started multiple fires that killed and injured cattle; and, burned homes and destroyed other property. BLM agents are destroying ranches by fire.

The BLM went in and lit fire along the hillside here by the dump; but, there's nobody here. It would be easy for a couple of 35 guys with shovels right now to put this out; and, we'd have a good firebreak. But, when the wind hits it, it's going to carry it right on along the hill and down to Frenchglen which is right there. So, if it creeps away from the hill, obviously in the foreground there's a lot of fuel. So, it looks like it's set to burn Frenchglen; and, that's what they said they would do. So, here we go.

Prescribed burns in the area are done in late fall. BLM started this fire in early July, 2015. It burned most of the summer feed needed for the cattle. Frenchglen is a small town to the south.

So, as you can see, they brought the fire right to us. It was way west last night. When the sun went down, it was dying down. Somehow, overnight, it ended up right here. It's pretty obvious that this is man-lit. Well, I'm at Gary's corrals here; and, last night while nobody's around they lit the fire right here close to everybody's houses; and, we're going to have a hell of a lot of fire come evening.

A BLM agent with a torch is standing along the roadside.

They're not putting it out. They're lighting it. This is a bunch of bullshit, let me tell you. We're standing at the corrals; and, them Sons-of-Bitches started at the corner of the road where it [the fire] leaves the pavement; and, they're lighting that Son-of-a-Bitch on fire all the way around us. They're going right down the... I'm standing here... me and John Whistle... We've got a water truck and stuff; and, the grater is building a fire wall; and, they're [the BLM] building a fire all the way around us.

And, man, it's a flaming. We're up wind of it. Yeah. Well, that smoke's coming right at us. John's a taking pictures right no; and, he said that they [the BLM] told him they're going to torch her all the way around to the "C" Bar "C" Road and Bruce Wilder's cows are cornered up down there right now. Gary's lost eleven (11) already. They're just about to burn that outfit up. Nobody's there [at the family home on the hill]. They [the BLM] lit the fire and moved right on.

A Rancher is making a fire break with equipment and water trucks while BLM agents build a fire around them. Cattle are cornered by the BLM fire. There are already eleven (11) head of cattle dead. It's burning a family home on the hill.

This is what they've got upwind of us right now. They're putting in a whole line of fire right along that juniper post fence. They're burning the fence. Somebody ought to get his head rubbed in the ground out there. They're going to continue right on to the west, sounds like, clear past Leon's cows so his cows are going to be wrapped in it here pretty quick. And, they're still lighting; burning fences, power poles, you name it. This is the fire that would endanger Frenchglen. There's still nobody around. This guy down the road told us he didn't have any resources to put it out. But, down the road about two (2) miles beyond the turn, out of sight, is at least a dozen (12) pumpers sitting there; eating snacks and what not. By God, they're determined they're going to burn everybody out. They're lighting it up here again.

This is about control. They [the BLM] terrorize the ranchers to get them get them off the land so politicians can use it for profit.

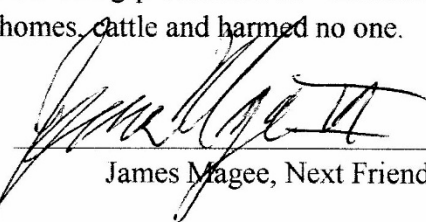
We've got Jimmy and Gary and those guys right downwind of where these guys are lighting fire again. We're heading... trying to go around to save the corral system; and, getting to bail Jimmy out of trouble.

BLM Agents are threatening to arrest the ranchers. *The guy [BLM agent] said: "I will arrest you." I said: "Well, I have to get on the other end of the fire." He said: "You ain't going." I said: "Well, we have to get over there because you burned me out over here."*

Yeah. This is what we have. Those guys that we just went by upwind; they're lighting it; have it coming right to us here. We're going to try to spray this down. There's no place to go with the cows except in the corral. A lot of them are already burnt really bad from them guys lighting them and trapping these cattle in the fire. They trapped a bunch of them last night. And, then they went upwind from us here and lit it up. So, we're at Gary's corrals. There's a cow that's been burnt really bad. We got... These guys are going to light fire upwind from us again. They don't care where we are or what's going on; but... So, here's what we got.

BLM agents are starting fires within 100 feet of the corral. BLM fires have injured several cattle and reportedly killed over 80 head of cattle. *Well, there goes the house up in smoke that they surrounded with fire earlier; that house is going up; totally caused by BLM.*

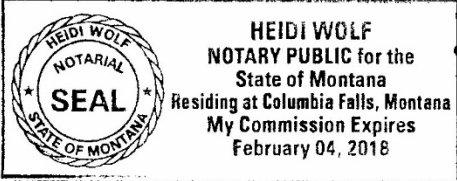
All the structures on the property were destroyed. This BLM fire reportedly killed more than 80 head of cattle; put ranchers trying to save their cattle in extreme danger, injured other cattle, burnt homes and structures, burnt fences and power poles and threatened the town of Frenchglen. Even though all the fires were started by the BLM and most of the fires were left unattended, the BLM refused to pay for the loss of cattle, homes, fences and corrals. While the federal government is burning up homes, cattle and terrorizing entire communities, the Hammond's are being prosecuted as "Terrorists" by the federal government for starting a backfire that saved land, homes, cattle and harmed no one.

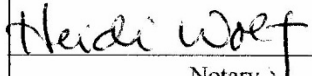

James Magee, Next Friend

NOTARY

In Montana State, Flathead County, on this 19th day of August, 2016, before me, Heidi Wolf, the undersigned Notary Public, personally appeared James Magee, to me known to be the living man described herein, who executed the forgoing instrument, and has sworn before me that he/she executed the same as his free-will act and deed.

(Notary seal)




Notary

My commission expires: Feb. 04, 2018

AFFIDAVIT OF AMMON BUNDY

I, James Magee, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading: I am functioning in the capacity as a next friend under Rule 17, 28 USCA for Ammon Bundy who was arrested and in prison.

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The following is a true and accurate transcript from a video posted on Youtube¹ by Ammon Bundy who is incarcerated in the Multnomah County Jail, Portland Oregon who made the recording before he was incarcerated.

TRANSCRIPT: Of Video Recording, April 25, 2015, Nevada Water Rights. Good morning, I’m Ammon Bundy. I want to talk to you a little bit about what’s happening in Nevada; a little bit about AB-408 which was killed on the Assembly Floor two days ago. I wanted to ask a question; and, then try to emphasize a certain point about that question.

“Do Nevada legislators support the Federal takeover of Nevada’s Water Rights; or, are they just ignorant to the fact that the waters are being stolen from the Nevada people?”

Two days ago in a late assembly floor session, Assemblyman Jim Wheeler stood in testimony against AB-408. AB-408 would have made it illegal for the Federal Government to own Water Rights in Nevada. Jim Wheeler testified that AB-408 was messing with Nevada water laws; and, that the water was too sacred in Nevada to be doing this. So this question is in order.

“If Legislators such as Jim Wheeler, Robin Titus and Chris Edwards, who are supposed to be Conservative, are concerned about Nevada water, then why do they assist the Federal Government in stealing thousands of Water Rights away from the people of Nevada?”

To help bring some light to this bloody massacre of individual Water Rights in the West, 20 let me explain. The Nevada Division of Water Resources maintains a Water Registry where of all of the deeds to Nevada Water Rights are listed. You can view the actual deed on-line; see who originally established them; and, see who owns them now.

Most Water Rights were created by our pioneer forefathers who established these rights by being the first to beneficially use the water. In 1880, the state of Nevada created the Water 25 Rights Registry; and, made it possible for our pioneers to file the rights with the state. Nevada’s laws, and most other states for that matter, specify that in order to retain Water Rights, you have to prove that you are putting the water to beneficial use; that you’re using it. If you fail to use them, someone else may

¹ <https://www.youtube.com/watch?v=JfZTdBq-Xc&feature=youtu.be>

prove beneficial use and the right can become theirs. - Use it or Lose it! This good law keeps an individual or a corporation from hoarding water and not allowing people to benefit from it.

So, this is where our federal government in sheep's clothing comes in. Knowing that water is a limited resource; and, one that will warrant wealth and power, especially in the future; and, desiring that power for them-selves, our Federal Government began a campaign against the citizens of the western states to steal away their Water Rights; and, other resources, for that matter.

But, when it comes to water, all they have to do to accomplish this is to get that owner of the Water Rights to stop using them. Once the owner stops using them, then they can file 40 up on the right and make it theirs. You may be asking yourself: *"Has this ever happened?"*

Well, in Nevada alone the BLM has done this two thousand, seven hundred and fifteen (2,715) times. The US Forest Service has done it two thousand, three hundred and thirteen 45 (2,313) times. The Department of Interior has done it twenty-six (26) times and the National Park Service has done it fourteen (14) times.

Those four (4) federal entities in total have stolen five thousand, sixty-eight (5,068) Water Rights from individuals in Nevada alone. With self-appointed power to regular people off the lands, these federal agencies restrict ranchers, miners, loggers and other land users 50 from using the land and subsequently the water.

Grazing Fees - Mining Fees - Water Fees - Park Fees

In some cases the federal agencies have later leased or rented the water and other rights back to the very families from whom they stole them from making the family pay a fee to 55 use what these federal agencies claim as their own, their right. In other cases, the agencies have forced the Water Rights owners to give up claim of the water in order to continue to use the land.

There are several other adverse ways in which these agencies have manipulated the resources away from the families; these families that established these rights through hard 60 work and much suffering many, many years ago. Time will not allow me to explain all of them. Needless to say, our Federal Government is in business for themselves and not for the people.

You may recall a year ago I was tasered three times. Around thirty-four (34) overaggressive federal agents in thirteen (13) armed vehicles were escorting a BLM dump truck pulling a backhoe. They had just come off the mountain range on the Bundy Ranch. These federal agents were trying to keep the protestors from seeing what was inside the dump truck. Coming from behind I sacrificed my ATV by driving in front of the dump truck.

After the initial crunch I calmly stepped off; and, inquired about what they were doing in our mountains with that backhoe. My answer came in the form of an attack dog and a fifty thousand-volt, double-barbed shock of my life; three times in a row. Since the answer did not give me much clarification, I crawled upon the dump truck to see for myself. What I saw was even more shocking to me than the taser. I saw pipes, concrete and cut up water tanks that had been ripped out of the

mountain. These were part of a water infrastructure that my family and other ranchers had established in those lands over 100 years ago.

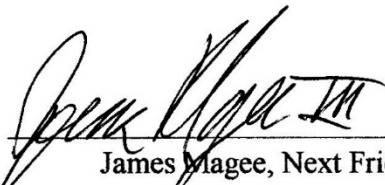
As you may have put together, the Feds are after my father's Water Rights. He owns eleven (11) of them. They are deeded to him and filed in the State Registry. If the Feds could remove the cattle, which they tried, killing around sixty (60) head, then destroy any 80 way to use the waters, this would make it impossible for my dad to claim Beneficial Use. After that, all the Feds would need to do is claim those waters for themselves; the same way they stole the other five thousand, sixty-eight (5,068) Water Rights from the Nevada people.

You may also find it interesting that the Grazing Rights in Nevada are deeded with the stock Water Rights. So, destroying my father's water was killing two birds with one stone in the eyes of our so-called Federal Government.

Now we have come full circle, AB-408 was drafted to restore the Resource Rights back to the people; and, prevent these grievous actions from happening again. So, why would Jim Wheeler, Robin Titus and our very own representative Chris Edwards, District 19, fight against this? I hope it is out of ignorance. I hope it is simply because they are disconnected with what is really happening in the state of Nevada; and, in the West. I hope they just simply don't realize how the people of this state are suffering.

After being up in Carson City, our state capital, for much longer than I wanted; and, after experiencing what I did, I am left to wonder. I would like to personally thank the over fourteen thousand, three hundred (14,300) acting supporters of this bill; and, all those who came up by bus or in their own vehicles to come to the Hearing in support. I also want to thank the hundreds of thousands of people that have been keeping an eye on my family. We are extremely grateful; and, we know and appreciate your sacrifice.

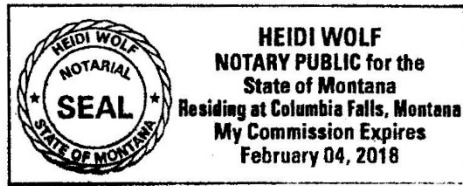
Thank you, Ammon Bundy

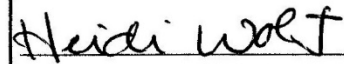

James Magee, Next Friend

NOTARY

In Montana State, Flathead County, on this 19th day of August, 2016, before me, Heidi Wolf, the undersigned Notary Public, personally appeared James Magee, to me known to be the living man described herein, who executed the forgoing instrument, and has sworn before me that he/she executed the same as his free-will act and deed.

(Notary seal)




Notary

My commission expires: Feb. 04, 2018

Unified United States¹ Common Law Grand Jury:²

• P.O. Box 59; Valhalla New York 10595; • Fax: (888) 891-8977; • E-Mail: United States@uclgj.org

"Justice and Judgment are the inhabitation of thy throne: mercy and truth shall go before thy face." - Psa 89:14³

AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WY, WI, WY;

August 19, 2016

Mary L. Moran, Clerk of Court
Mark O. Hatfield US Courthouse
1000 SW 3rd Avenue, Room 740
Portland, OR 97204

RE: Formal Inquiry: Case NO. 3:16-cr-00051-BR

Mary L. Moran;

On April 20th 2016 the Grand Jury filed a Habeas Corpus under the above Case No. Our records show that you received this document on April 25th 2016 certified mail number 7015-1520-0000-1155-5909 and said Habeas Corpus did not show up on the docket, see attached Docker dated April 25 - May 11 2016.

¹ **The UUSCLGJ** is comprised of fifty Grand Jurys each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of 1000's of People in the name of We the People to suppress through our Courts of Justice subverts both foreign and domestic acting under color of law within our governments.; States were unified by re-constituting all 3133 United States counties

² *"The grand jury is an institution separate from the courts over whose functioning the courts do not preside... the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three (3) Articles. It is a constitutional fixture in its own right. In fact, the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people... The grand jury's functional independence from the judicial branch is evident, both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. 'Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury 'can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.'" United States v. John H. Williams; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352; 1992.*

³ *"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed." Declaration of Independence; "We the people... ordained and establish this Constitution for the United States of America." U.S. Constitution:*

On April 27th 2016 the Grand Jury filed a Default Judgment under the above Case No. Our records show that you received this document on May 2nd 2016 certified mail number 7015-1520-0000-1155-5954 and said Default Judgment again did not show up on the docket, see attached Docker dated April 25 - May 11 2016.

On May 6th 2016 the Grand Jury filed a Contempt of Court under the above Case No. Our records show that you received this document on May 9th 2016 certified mail number 7015-3010-0001-8051-4426 and said Contempt of Court again did not show up on the docket, see attached Docker dated April 25 - May 11 2016.

Being the Clerk you must file or it is a crime punishable by a fine and one year in prison.

18 USC § 2076 - CLERK IS TO FILE. *Whoever, being a clerk of a district court of the United States, willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both.*

Please be advised that being the Clerk of Court you have taken or should have taken an oath and thereby have a duty to speak to us.

“Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. . .” U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932

Therefore, we will accept answers by counsel as a “non-answer” and/or if you do not answer within 48 hours by BOTH fax and mail after receiving this inquiry you will be charged with Concealment by Scheme⁴ under 18 USC §1001(a), Obstruction⁵ under 18 USC §1512(b) and Refusal by Clerk⁶ under 18 USC §2076.

⁴ **CONCEALMENT BY SCHEME:** 18 U.S. Code § 1001 (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; shall be fined under this title, imprisoned not more than 5 years...

⁵ **OBSTRUCTION** 18 USC §1512(b); Whoever obstructs or impedes any official proceeding shall be fined under this title or imprisoned not more than 20 years, or both.

⁶ **REFUSAL BY CLERK** 18 USC §2076 Whoever, being a clerk, willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both...


If you have been coerced by someone else to conceal these three documents, you are required by duty and oath to report the crime immediately. If you refuse to answer within three (3) days by fax and mail after receiving this inquiry and we discover that you conspired with another you will be charged with Conspiracy against rights⁷ under 18, USC §241, Concealment by Scheme under 18 USC §1001(a) and Obstruction under 18 USC §1512(b). If a prisoners life is lost because these papers were not filed, we will seek the maximum penalty under 18, USC §241.

If you were coerced by others⁸, and you respond by a sworn statement (affidavit) by fax and mail, you will not be charged.

If this was a clerical error you are commanded to file the three (3) documents [*attached*] and send proof [*time-stamped front pages and copy of the docket*] by mail and fax immediately.

Date: August 22, 2016

SEAL



Grand Jury Foreman

⁷ **CONSPIRACY AGAINST RIGHTS:** 18, USC §241 If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured – They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

⁸ **CONCEALMENT BY OTHERS** 18 U.S. Code §1519 - Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

04/22/2016	454 R	Declaration by Lissa Casey regarding Emergency Motion for Extension of Time <i>for Motion to Dismiss for Lack of Jurisdiction</i> 453 R filed by Defendant Ammon Bundy (Casey, Lissa) (Entered: 04/22/2016)
04/25/2016	455	ORDER: The Court DENIES Defendant Ammon Bundy's "Emergency" Motion (#453) for Extension of Time. Bundy has been aware of the basis of his anticipated motion to dismiss for lack of subject-matter jurisdiction since these proceedings began and has not made any showing that he has been unable to prepare sufficiently despite due diligence. Moreover, the compressed timeline on which this case is proceeding (in large part at Ammon Bundy's insistence) does not allow for flexibility as to the timing of this first round of legal motions. Accordingly, the Court directs Ammon Bundy to file his anticipated motion to dismiss for lack of subject-matter jurisdiction no later than April 27, 2016. In addition, the Court notes it appears Ammon Bundy's anticipated motion relies on the type of historical and legal facts that do not ordinarily necessitate an evidentiary hearing or the examination of live witnesses. Accordingly, the Court directs Ammon Bundy to file any necessary supporting material in the form of declaration(s) together with his anticipated motion. After reviewing Ammon Bundy's submissions, the Court will determine whether an evidentiary hearing is necessary. Ordered by Judge Anna J. Brown. (dls) (Entered: 04/25/2016)
04/25/2016	456	Motion for Discovery <i>for Preservation Order</i> Oral Argument requested. filed by Jon Ritzheimer as to Defendant Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan. (Attachments: # 1 R Proposed Order) (Wood, Terri) (Entered: 04/25/2016)
04/25/2016	457	Unopposed Motion for Leave to File <i>Memorandum Over 10 Pages In Support Of Motion To Dismiss Count 1 As Unconstitutionally Vague On Its Face And As Applied</i> by Defendant Joseph O'Shaughnessy. (Baggio, Amy) (Entered: 04/25/2016)
04/25/2016	459	CJA 20 as to Travis Cox appointing Paul Hood as counsel for defendant signed on 4/25/16 by Judge Michael H. Simon for Judge Anna J. Brown. (schm) (Entered: 04/26/2016)
04/26/2016	458	Waiver of Speedy Trial by Sandra Lynn Anderson (Bakker, Tyl) (Entered: 04/26/2016)
04/26/2016	460	ORDER as to Joseph O'Shaughnessy (3): The Court GRANTS Defendant's Unopposed Motion (#457) for Leave to File Memorandum over 10 pages in Support of Motion to Dismiss Count 1 as Unconstitutionally Vague on Its Face and as Applied. Defendant's Memorandum is not to exceed 20 pages. Ordered by Judge Anna J. Brown. (dls) (Entered: 04/26/2016)
04/26/2016	461	Minutes of Proceedings: First Appearance, Arraignment, and Detention Hearing before Magistrate Judge Paul Papak as to Defendant Travis Cox held on 4/26/2016. Arraignment held for Defendant Travis Cox (24) Count 1,2. Defendant waived

		reading of the Indictment. Defendant proceeds as named. Defendant advised of rights. Not guilty plea(s) entered. Order that Discovery is due in 14 days. Detention Hearing held for Travis Cox (24). Defendants Location-Custody status is: Detained as Flight Risk/Danger. 4-week Jury Trial set for 6/28/2016 at 9:00AM in Portland Courtroom 14A before Judge Anna J. Brown. Counsel Present for Plaintiff: Ethan Knight. Counsel Present for Defendant: Paul Hood. (Court Reporter Jill Jessup.) (gm) (Entered: 04/26/2016)
04/26/2016	462	Order of Detention as to Defendant Travis Cox (24). Signed on 4/26/16 by Magistrate Judge Paul Papak. (gm) (Entered: 04/26/2016)
04/26/2016	463 R	Unopposed Motion for Leave to File <i>Memorandum over 10 pages in Support of Motion to Dismiss for Lack of Jurisdiction</i> by Defendant Ammon Bundy. (Arnold, C.) (Entered: 04/26/2016)
04/27/2016	464	ORDER as to Ammon Bundy (1). The Court GRANTS Defendant Ammon Bundy's Motion for Leave to File Memorandum Over 10 Pages in Support of Motion to Dismiss for Lack of Jurisdiction. Defendant's Memorandum is not to exceed 15 pages. Ordered by Judge Anna J. Brown. (dls) (Entered: 04/27/2016)
04/27/2016	465	Motion to Dismiss <i>Count 3 of the Superseding Indictment</i> filed by David Lee Fry as to Defendant Ammon Bundy, Jon Ritzheimer, Ryan Payne, Ryan Bundy, Brian Cavalier, Jason Patrick, Sean Anderson, David Lee Fry, Corey Lequieu. (Olson, Per) (Entered: 04/27/2016)
04/27/2016	466	Memorandum in Support of Motion by David Lee Fry as to Ammon Bundy, Jon Ritzheimer, Ryan Payne, Ryan Bundy, Brian Cavalier, Jason Patrick, Sean Anderson, David Lee Fry, Corey Lequieu regarding Motion to Dismiss <i>Count 3 of the Superseding Indictment</i> 465 filed by Defendant David Lee Fry (Olson, Per) (Entered: 04/27/2016)
04/27/2016	467 R	Joint Status Report filed by USA as to Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan (Barrow, Geoffrey) (Entered: 04/27/2016)
04/27/2016	468	Minutes of Proceedings: Denying 396 R Motion to Revoke Detention Order as to Darryl William Thorn (22); Motion Hearing before Judge Robert E. Jones as to Darryl William Thorn held on 4/27/2016. Ethan D. Knight and Geoffrey A. Barrow present as counsel for plaintiff(s). Laurie Shertz present as counsel for defendant(s). (Court Reporter Bonita Shumway.) (bp) Modified on 4/28/2016, to add text (schm). (Entered: 04/27/2016)
04/27/2016	469	Motion for Bill of Particulars Oral Argument requested. filed by Joseph O'Shaughnessy as to Defendant Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine

		Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan. (Attachments: # 1 Memorandum In Support) (Baggio, Amy) (Entered: 04/27/2016)
04/27/2016	470	Motion to Continue / Reset <i>the April 27, 2016 Deadline, or Alternatively to Sever and Set an Immediate Trial Date</i> by Defendant Ammon Bundy. (Arnold, C.) (Entered: 04/27/2016)
04/27/2016	471	Motion to Dismiss <i>Count One</i> Oral Argument requested. filed by Joseph O'Shaughnessy as to Defendant Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan. (Attachments: # 1 Memorandum In Support) (Baggio, Amy) (Entered: 04/27/2016)
04/27/2016	472	Motion for Discovery <i>Identification Of Defendants Statements To Be Offered In A Joint Trial, And For Production Of Redacted Versions Of Those Statements</i> Oral Argument requested. filed by Wesley Kjar as to Defendant Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan. (Halley, James) (Entered: 04/27/2016)
04/27/2016	473	ORDER issued by Magistrate Judge Paul Papak: At the request of defense counsel, a Detention Hearing as to Defendant Sean Anderson (12) (USM #79570-065) is set for 5/2/2016 at 1:30PM in Portland before the duty magistrate. (gm) (Entered: 04/27/2016)
04/27/2016	474	Motion to Dismiss <i>Count One</i> filed by Shawna Cox, Jake Ryan as to Defendant Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan. (Attachments: # 1 Appendix) (Merrithew, Jesse) (Entered: 04/27/2016)
04/27/2016	475	Order by Judge Anna J. Brown as to Ammon Bundy. The Court has reviewed Defendant Ammon Bundy's Motion 470 to Continue, and, in light of Bundy's recent absence from the District of Oregon, the Court finds good cause has now been shown warranting an extension of the 4/27/2016 filing deadline roughly equal to the length of Defendant's absence for Defendant to file his motion to dismiss for lack of subject-matter jurisdiction. Accordingly, the Court GRANTS in part Defendant's Motion 470 and extends the deadline for the filing of this Motion to Noon on 5/9/2016. In turn, the government's response is due at Noon on 5/16/2016. The Court will hear argument on the Motion within the time currently set aside for oral

		arguments beginning 5/23/2016.. (sm) (Entered: 04/27/2016)
04/27/2016	476	Motion for Discovery <i>For Order to Preserve Evidence</i> by Defendant Peter Santilli. (Coan, Thomas) (Entered: 04/27/2016)
04/27/2016	477	Motion to Dismiss <i>Count One - Vague As-Applied to Santilli</i> oral Argument requested. by Defendant Peter Santilli. (Coan, Thomas) (Entered: 04/27/2016)
04/27/2016	478 R	Memorandum in Support of Motion by Peter Santilli regarding Motion to Dismiss <i>Count One - Vague As-Applied to Santilli</i> 477 filed by Defendant Peter Santilli (Coan, Thomas) (Entered: 04/27/2016)
04/27/2016	479	Motion to Dismiss <i>Count One - Constitutionally Protected Conduct</i> Oral Argument requested. by Defendant Peter Santilli. (Coan, Thomas) (Entered: 04/27/2016)
04/27/2016	480	Motion to Dismiss filed by Ryan Payne as to Defendant Ammon Bundy, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Peter Santilli, Blaine Cooper. (Attachments: # 1 Exhibit 1) (Federico, Richard) (Entered: 04/27/2016)
04/27/2016	481	Motion to Inspect <i>Grand Jury Records</i> by Defendant Ryan Bundy. (Ludwig, Lisa) (Entered: 04/27/2016)
04/27/2016	482	Motion to Dismiss <i>Count Two</i> Oral Argument requested. filed by Geoffrey Stanek as to Defendant Ammon Bundy, Jon Ritzheimer, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Jason Patrick, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Wesley Kjar, Corey Lequieu, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan. (Andersen, Benjamin) (Entered: 04/27/2016)
04/27/2016	483	Memorandum in Support of Motion by Geoffrey Stanek as to Ammon Bundy, Jon Ritzheimer, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Jason Patrick, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Wesley Kjar, Corey Lequieu, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan regarding Motion to Dismiss <i>Count Two</i> 482 filed by Defendant Geoffrey Stanek (Andersen, Benjamin) (Entered: 04/27/2016)
04/27/2016	487	Arrest Warrant Returned Executed on 4/12/16 in Salt Lake City, Utah as to Travis Cox. (schm) (Entered: 04/28/2016)
04/28/2016	484	Unopposed Motion for Leave to File <i>Exhibits Under Seal</i> by Defendant Sean Anderson. (McHenry, Matthew) (Entered: 04/28/2016)
04/28/2016	485	Proposed Form of Order Submitted for Defendant Sean Anderson <i>To File Exhibits Under Seal</i> (McHenry, Matthew) (Entered: 04/28/2016)
04/28/2016	486	ORDER by Judge Robert E. Jones Granting 484 Motion for Leave to File Exhibits Under Seal as to Sean Anderson (12) (bp) Modified on 4/29/2016, to add text (schm). (Entered: 04/28/2016)
04/28/2016	488 R	Joint Status Report filed by Ryan Payne as to Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson,

		David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan (Federico, Richard) (Entered: 04/28/2016)
04/28/2016	489	Motion for Release from Custody by Defendant Sean Anderson. (McHenry, Matthew) (Entered: 04/28/2016)
04/29/2016	490 R	Supplemental Memorandum in Support of Motion by Sean Anderson regarding Motion for Release from Custody 489 filed by Defendant Sean Anderson (McHenry, Matthew) (Entered: 04/29/2016)
04/29/2016	491	Scheduling Order by Judge Robert E. Jones as to Darryl William Thorn. At the request of counsel a Detention Hearing is set for 5/2/2016 at 11:30AM before Judge Robert E. Jones in Portland Courtroom 10A. (bp) (Entered: 04/29/2016)
04/29/2016	492 R	Response to Motion by USA as to Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan regarding Motion for Discovery,, 456 filed by Defendant Jon Ritzheimer (Barrow, Geoffrey) (Entered: 04/29/2016)
04/29/2016	493	Motion to Compel <i>Discovery</i> by Defendant David Lee Fry. (Olson, Per) (Entered: 04/29/2016)
05/02/2016	494	SCHEDULING ORDER by Judge Acosta as to Sean Anderson - STRIKING the 5/2/16, Detention Hearing before the duty magistrate. Detention hearings in this case are to be held before Judge Robert E. Jones. A detention hearing as to Sean Anderson will be reset before Judge Jones at a time and date mutually agreeable to counsel for the parties. (peg) (Entered: 05/02/2016)
05/02/2016	495	SCHEDULING ORDER by Judge Acosta as to Sean Anderson (79570-065) - The full Review of Detention hearing will be held as originally scheduled on Monday, May 2, 2016, before the duty magistrate. (peg) (Entered: 05/02/2016)
05/02/2016	496 R	Order to Transport Defendant Peter Santilli to Observe 5/4/2016 Status Hearing in District Court of Oregon Case 3:16-cr-00051-BR-08. Signed on 05/02/2016 by Judge Anna J. Brown. (bb) (Entered: 05/02/2016)
05/02/2016	497	Minutes of Proceedings: Detention Hearing before Judge Robert E. Jones as to Darryl William Thorn. Defendant released with pretrial conditions. See Order. Defendant remanded to the custody of the U.S. Marshal.Counsel Present for Plaintiff: Ethan D. Knight.Counsel Present for Defendant: Laurie Shertz.(Court Reporter Bonita Shumway) (bp) (Entered: 05/02/2016)
05/02/2016	498	Waiver of Appearance at the 5/4/2016 Status Conference by Darryl William Thorn (sss) (Entered: 05/02/2016)

05/02/2016	499	Minutes of Proceedings: Detention Hearing held before Magistrate Judge John V. Acosta as to Sean Anderson (USM #79570-065). ORDER: Defendant is released on conditions; see separately filed release order: HOWEVER, plaintiff's counsel REQUESTS and the court GRANTS plaintiff's oral request to STAY the release at least through 12:00PM (noon) on Wednesday, May 4, 2016. Plaintiff will contemplate and decide whether or not to contest the release of Mr. Anderson by appealing that release to Judge Jones. If plaintiff does contest the release, the hearing before Judge Jones is to either by held by noon on 5/4/16, or an order is to be entered by Judge Jones extended the stay, until the contested release can be scheduled and heard in his court. Counsel Present for Plaintiff: Geoff Barrow. Counsel Present for Defendant: Matthew McHenry. (Court Reporter Jill Jessup) (peg) (Entered: 05/02/2016)
05/02/2016	500 R	Order Setting Conditions of Release as to Defendant Darryl William Thorn (<i>Defendant to remain in a custody location until the Notice of Compliance with Pre-Release Conditions and Order of Release is filed</i>). Signed on 5/2/2016 by Judge Robert E. Jones.Signed on 5/2/2016 by Judge Robert E. Jones (sm) (Entered: 05/02/2016)
05/02/2016	502 R	Order Modifying Conditions of Pretrial Release as to Defendant Jon Ritzheimer. See formal order Signed on 5/2/16 by Magistrate Judge John V. Acosta (schm) (Entered: 05/03/2016)
05/03/2016	503	Notice by Pretrial of Compliance with Pre-Release Conditions by Darryl William Thorn as set forth in 500 R Order Setting Conditions of Release,. (nini). (Entered: 05/03/2016)
05/03/2016	504	Scheduling Order by Judge Robert E. Jones as to Sean Anderson. Oral Argument is set for 5/4/2016 at 12:00PM (immediately following the status conference in Judge Brown's courtroom) before Judge Robert E. Jones in Portland Courtroom 10A. (bp) (Entered: 05/03/2016)
05/03/2016	505 R	Motion to Dismiss Oral Argument requested. by Defendant Kenneth Medenbach. (Schindler, Matthew) (Entered: 05/03/2016)
05/03/2016	506	Order by Judge Anna J. Brown as to Kenneth Medenbach. Defendant Medenbach, appearing pro se, filed a Motion 505 R to Dismiss after the deadline of 4/27/16. Because Defendant Medenbach was out of the District of Oregon to appear in Nevada, the Court excuses the lateness and deems the Motion filed timely.The government's response to this Motion is now due 5/16/16 (the same date the government's response to Defendant Ammon Bundy's Motion(s) are due). (bb) (Entered: 05/03/2016)
05/03/2016	507 R	Response to Motion by USA as to Sean Anderson regarding Motion for Release from Custody 489 filed by Defendant Sean Anderson (Barrow, Geoffrey) (Entered: 05/03/2016)
05/03/2016	508 R	Memorandum in Support of Motion by Sean Anderson regarding Response to Motion 507 R filed by Plaintiff USA (<i>Defendant's Response to Government's Opposition to Defendant's Motion for Pretrial Release</i>) (McHenry, Matthew) (Entered: 05/03/2016)

05/04/2016	509	Minutes of Proceedings: Granting 489 Motion for Release from Custody as to Sean Anderson (12); Detention Hearing before Judge Robert E. Jones as to Sean Anderson. See Formal Order. Geoffrey Barrow present as counsel for plaintiff(s). Matthew McHenry present as counsel for defendant(s). (Court Reporter Jill Jessup.) (bp) (Entered: 05/04/2016)
05/04/2016	510 R	Amended Order Setting Conditions of Release as to Defendant Sandra Lynn Anderson. Signed on 05/04/2016 by Magistrate Judge John V. Acosta. (emcu). (Entered: 05/04/2016)
05/04/2016	511 R	Order Setting Conditions of Release as to Defendant Sean Anderson (<i>Defendant to remain in a custody location until the Notice of Compliance with Pre-Release Conditions and Order of Release is filed</i>). Signed on 05/04/2016 by Judge Robert E. Jones. (emcu). (Entered: 05/04/2016)
05/04/2016	512	Motion <i>Ex Parte Motion for Order Allowing Paralegal Contact Visits</i> filed by Ryan Bundy as to Defendant Ryan Bundy. (Ludwig, Lisa) (Entered: 05/04/2016)
05/04/2016	513 R	Notice by Jason Charles Blomgren as to Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan (Rainwater, Robert) (Entered: 05/04/2016)
05/04/2016	528	Minutes of Proceedings: Status Conference before Judge Anna J. Brown as to all defendants. Next regular Status Conference is SET for 6/15/2016 at 09:30 AM in Portland Courtroom 13A before Judge Anna J. Brown. Joint Status Report is due by 6/8/2016. Signed waivers of appearance due no later than 6/1/2016. Counsel Present for Plaintiff: Ethan Knight, Geoffrey Barrow. Counsel Present for Defendant: Michael Arnold, Lissa Casey, Amy Baggio, Richard Federico, Lisa Ludwig (standby counsel), Todd Bofferding, Thomas Coan, Andrew Kohlmetz, David Audet, Samuel Kauffman, Tyl Bakker, Per Olson, Robert Salisbury, Matthew Schindler, Krista Shipsey, James Halley, Paul Hood, Lisa Maxfield, Robert Rainwater, Laurie Shertz, Benjamin Andersen, Nedu Nweze for Ernest Warren, Jr., Jesse Merrithew. (Court Reporter Amanda LeGore) (bb) (Entered: 05/09/2016)
05/05/2016	514 R	Motion to Withdraw as Attorney by Andrew M. Kohlmetz <i>and to Allow Self Representation</i> Oral Argument requested. by Defendant Jason Patrick. (Kohlmetz, Andrew) (Entered: 05/05/2016)
05/05/2016	515	Notice by Pretrial of Compliance with Pre-Release Conditions by Sean Anderson as set forth in 511 R Order Setting Conditions of Release. (emcu). (Entered: 05/05/2016)
05/05/2016	516 R	Declaration by Andrew M. Kohlmetz regarding Motion to Withdraw as Attorney by Andrew M. Kohlmetz <i>and to Allow Self Representation</i> 514 R filed by Defendant Jason Patrick (Kohlmetz, Andrew) (Entered: 05/05/2016)

05/05/2016	517	Memorandum in Support of Motion by Jason Patrick regarding Motion to Withdraw as Attorney by Andrew M. Kohlmetz <i>and to Allow Self Representation</i> 514 R filed by Defendant Jason Patrick (Attachments: # 1 Exhibit A: ABA Formal Opiniton 07-448) (Kohlmetz, Andrew) (Entered: 05/05/2016)
05/05/2016	518	Order by Judge Anna J. Brown as to Ryan Bundy. Signed on 05/05/2016. (bb) (Entered: 05/05/2016)
05/05/2016	519 R	Amended Motion to Continue / Reset by Defendant Eric Lee Flores. (Warren, Ernest) (Entered: 05/05/2016)
05/05/2016	520 R	Memorandum in Support of Motion by Eric Lee Flores regarding Amended Motion to Continue / Reset 519 R filed by Defendant Eric Lee Flores (Warren, Ernest) (Entered: 05/05/2016)
05/05/2016	521	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Excerpt of Oral Argument as to Defendant Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan for date of May 4, 2016 before Judge Anna J. Brown, Court Reporter Amanda LeGore, telephone number 503-326-8184. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 5/16/2016. Redaction Request due 5/31/2016. Redacted Transcript Deadline set for 6/9/2016. Release of Transcript Restriction set for 8/8/2016. (LeGore, Amanda) (Entered: 05/05/2016)
05/06/2016	522 R	Supplemental Declaration by Andrew M. Kohlmetz regarding Motion to Withdraw as Attorney by Andrew M. Kohlmetz <i>and to Allow Self Representation</i> 514 R filed by Defendant Jason Patrick (Kohlmetz, Andrew) (Entered: 05/06/2016)
05/06/2016	523 R	Order: Next regular Status Conference is set for 6/15/2016 at 09:30AM in Portland Courtroom 13A before Judge Anna J. Brown. Joint Status Report is due by 6/8/2016. Signed waivers of appearance due no later than 6/1/2016. (See Order for other scheduling dates and directives.) Signed on 5/6/2016 by Judge Anna J. Brown. (sm) (Entered: 05/06/2016)
05/09/2016	524	Amended Motion For Indigent Defense Funding Change of Venue Media Analysis filed by Jason Patrick as to Defendant Jason Patrick. (Kohlmetz, Andrew) (Entered: 05/09/2016)
05/09/2016	525	Declaration by Andrew M. Kohlmetz regarding Amended Motion For Indigent Defense Funding Change of Venue Media Analysis 524 filed by Jason Patrick (Attachments: # 1 Attachment Jonathan Lytle, CV) (Kohlmetz, Andrew) (Entered: 05/09/2016)

05/09/2016	526	Memorandum in Support of Motion by Jason Patrick as to Jason Patrick regarding Amended Motion For Indigent Defense Funding Change of Venue Media Analysis 524 filed by Jason Patrick (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E) (Kohlmetz, Andrew) (Entered: 05/09/2016)
05/09/2016	527	Motion to Dismiss <i>for Lack of Subject Matter Jurisdiction</i> Oral Argument requested. by Defendant Ammon Bundy. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2) (Arnold, C.) (Entered: 05/09/2016)
05/09/2016	529	Scheduling Order by Judge Anna J. Brown as to Jason Patrick. Hearing on Motion to Withdraw as Attorney by Andrew M. Kohlmetz and to Allow Self Representation 514 R is SET for 5/11/2016 at 11:00 AM in Portland Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 05/09/2016)
05/09/2016	530	ORDER by Judge Anna J. Brown as to Ammon Bundy (1). The Court STRIKES the Motion 527 to Dismiss for Lack of Subject Matter Jurisdiction filed by Defendant Ammon Bundy. Bundy's Motion and attached Memorandum total 33 pages in length, the vast majority of which contains detailed factual background and legal argument that is only appropriately included in a memorandum in support. Accordingly, Bundy's Motion and Memorandum does not comply with the Court's Order 464 in which the Court granted Bundy's Motion 463 R for Leave to File Memorandum Over 10 Pages, and permitted Bundy to file a memorandum in support of his motion that did not exceed 15 pages. The Court grants Bundy leave to re-file his motion no later than Noon on May 10, 2016. Defendant Bundy's re-filed motion may not exceed 3 pages (including the case caption and signature block). Bundy's re-filed memorandum in support may not exceed 15 pages (including the case caption and signature block) or 4,500 words of text (including footnotes), whichever is less. All pleadings must conform to the formatting requirements of Local Rule of Civil Procedure 10. If Defendant Bundy's re-filed motion does not comply with the Court's orders, the motion will be considered waived and may not be renewed. In the alternative, after real-time conferral with counsel for the government, Bundy may file no later than Noon on May 10, 2016, a second motion for leave to file an overlength brief together with a showing as to the necessity of a memorandum of greater than 15 pages. (bb) (Entered: 05/09/2016)
05/09/2016	531 R	Motion for Leave to File <i>Overlength Brief</i> Oral Argument requested. by Defendant Ammon Bundy. (Attachments: # 1 Exhibit, # 2 Exhibit) (Casey, Lissa) (Entered: 05/09/2016)
05/10/2016	532 R	Order of USCA-9th Circuit as to Ammon Bundy, Ryan Payne, Ryan Bundy, Brian Cavalier regarding Notice of Appeal - Interlocutory 348 R USCA # 16-30080. Appellant's unopposed motion to expedite this appeal is granted. The Clerk shall calendar this case during the month of June, 2016. See 9th Cir. Gen. Ord. 3.3.g. Briefing is complete. (jtj) (Entered: 05/10/2016)
05/10/2016	533	Waiver of Appearance by Eric Lee Flores (Warren, Ernest) (Entered: 05/10/2016)
05/10/2016	534	ORDER by Judge Anna J. Brown. The government has reported it does not seek to respond to Defendant Ammon Bundy's Motion 531 R for Leave to File Overlength Brief. The Court now GRANTS the Motion and directs the Clerk to reinstate

		Bundy's Motion 527 to Dismiss for Lack of Subject Matter Jurisdiction. (bb) (Entered: 05/10/2016)
05/10/2016	535 R	Motion to Withdraw as Attorney by David Audet by Defendant Duane Leo Ehmer. (Audet, David) (Entered: 05/10/2016)
05/10/2016	536	Declaration by David Audet (Attachments: # 1 Attachment) (Audet, David) (Entered: 05/10/2016)
05/11/2016	537	Scheduling Order by Judge Anna J. Brown as to Duane Leo Ehmer. Hearing on Motion to Withdraw as Attorney by David Audet 535 R is SET for 5/16/2016 at 02:00 PM in Portland Courtroom 14A before Judge Anna J. Brown. (bb) (Entered: 05/11/2016)
05/11/2016	538 R	Declaration by Teresa Glover, Jury Administrator. (Attachments: # 1 Attachment Juror Management Plan, # 2 Attachment Order) (bb) Modified on 5/12/2016, to correct a typo. (schm). (Entered: 05/11/2016)
05/11/2016	539 R	Joint Status Report filed by USA as to Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan (Barrow, Geoffrey) (Entered: 05/11/2016)
05/11/2016	540 R	Joint Status Report filed by Ryan Payne as to Ammon Bundy, Jon Ritzheimer, Joseph O'Shaughnessy, Ryan Payne, Ryan Bundy, Brian Cavalier, Shawna Cox, Peter Santilli, Jason Patrick, Duane Leo Ehmer, Dylan Anderson, Sean Anderson, David Lee Fry, Jeff Wayne Banta, Sandra Lynn Anderson, Kenneth Medenbach, Blaine Cooper, Wesley Kjar, Corey Lequieu, Neil Wampler, Jason Charles Blomgren, Darryl William Thorn, Geoffrey Stanek, Travis Cox, Eric Lee Flores, Jake Ryan <i>Entitled: Joint Proposal for Round One Motions Agenda & Calendar for Round Two Motions</i> (Federico, Richard) (Entered: 05/11/2016)
05/11/2016	541	Order by Judge Anna J. Brown as to all defendants. Based on the unopposed request of Ms. Amy Baggio, counsel for Defendant O'Shaughnessy, the Court grants leave for the filing today (two days after the 5/9/16 deadline to do so) of a Motion and Memorandum as to issues identified in Items 5 and 6 of the parties' Joint Status Report 488 R . The Court also grants the unopposed request for leave to file an over-length memorandum of approximately 16 pages. The government's opposition to this Motion is due no later than 5/25/16 and no reply is permitted as the Court will hear oral argument during the course of the June Status Hearing on 6/15/16. To the extent that the Court requires disclosures or other relief under this Motion, the parties may seek leave to file additional motions related thereto. (bb) (Entered: 05/11/2016)
05/11/2016	542 R	Motion to Continue / Reset <i>Trial</i> by Defendant Dylan Anderson. (Kauffman, Samuel) (Entered: 05/11/2016)

TRANSCRIPT: Of Audio recording, October 29, 2013, Committee on Natural Resources Subcommittee on Public Lands & Environmental Regulation; Karen Budd-Falen on Threat, Intimidation & Bullying by Federal Land Managing Agencies.

5 Honorable Committee Chairman Hastings, Subcommittee Bishop and members of the Committee, my name is Karen Budd-Falen. I am an attorney and a 5th generation rancher from a family-owned ranch west of Big Piney, Wyoming. I grew up in the same house as my father; and, we still own the ranch; surviving generations of bad winters, drought, tough cattle markets, devastating wildfires and now wolves. My father, like everyone
10 testifying today, is tough, independent, smart and the proud owner of a small business that is fueling the economy in our town and feeding the Nation.

And, while my father, as well as the other ranchers and private property owners, can survive droughts, fires, and low market prices, we cannot survive the heavy hand of the federal bureaucracy; particularly those within the bureaucracy who use the power of the
15 federal government to violate our Constitutionally-guaranteed rights. While some may claim that we are here to ask Congress to eliminate the federal bureaucracy or the federal agencies, we are not. What we are asking for you to do is open the court house door to individuals who believe that their civil and Constitutional rights are being violated by individual federal employees using the power of their offices. While I would absolutely
20 agree that most federal employees are hard-working individuals dedicated to trying to do their jobs to the best of their abilities that is not always the case. But, unlike the case with state and local governmental employees who can be sued under the Civil Rights Act when they use the power of their governmental offices to deprive an individual of his Constitutionally guaranteed rights, there is not a similar option against federally employed
25 individuals. All we want is the chance to go to court to present our facts. Articles I, II, and III of the U.S. Constitution set forth three (3) branches of government and every American citizen should be allowed to access all three (3) branches to redress their grievances; particularly those grievances alleging an abuse of power.

I. Background of Bivens as Applied to the Protection of Private Property

30 In 2007, the United States Supreme Court reversed decisions by the Wyoming Federal District Court and Tenth Circuit Court of Appeals by holding that a private property owner could not avail himself of a Bivens common law cause of action to protect his private property rights from being “taken” by intimidation and harassment from federal officials. Neither the Justices voting to affirm nor reverse the lower courts’ decisions seemed to
35 question that there had been a degree of harassment and intimidation against private property owner Frank Robbins because Mr. Robbins would not surrender an easement across his private property to the federal government without due process and just compensation. However, the Justices writing for the Court’s majority, as well as the two

40 (2) concurring Justices, did not believe that the Court should expand its 40-plus year old
precedent in Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), to
the Fifth Amendment property protections. However, the Justices for the Supreme Court
suggested that the U.S. Congress could create a Bivens “*cause of action*” to protect private
property and property rights from actions outside the mandates of the Fifth Amendment.
45 This testimony urges Congress’ consideration for adopting that type of protection for
America’s property owners; and, treating the Fifth Amendment private property
protections with the “*comparative importance of [other Constitutionally guaranteed]
classes of legally protected interests.*” Wilkie v. Robbins, 551 U.S. 537, 577 (2007).

At its simplest, the Supreme Court in Bivens allowed a type of Civil Rights Act “*Section
1983*” claim to lie against federal officials. The Civil Rights Act of 1871 prohibits
50 governmental employees, “*acting under the color of state law*”, from proximately causing
the deprivation of certain Constitutionally-guaranteed rights. The Civil Rights Act,
however, only applies to state officials. In Bivens, a private individual (Petitioner)
complained that agents of the Federal Bureau of Narcotics, acting under claim of federal
authority, entered his apartment and arrested him for alleged narcotics violations. The
55 agents manacled Petitioner in front of his wife and children, threatened to arrest the entire
family and searched the apartment. Petitioner also alleged that the arrest was conducted
with unreasonable force and without probable cause. Petitioner sought monetary damages
against the federal officials. The issue before the Supreme Court was whether “*a federal
agent acting under color of his authority*” gives rise to a “*common law*” cause of action
60 for damages based upon his unconstitutional conduct. In Bivens, the Supreme Court
agreed that it would recognize this type of common law cause of action for this
unreasonable action in violation of the U.S. Constitution’s Fourth Amendment protection
of an individual from an unreasonable search and seizure. As stated by the Court, it was
damages or nothing against the federal officials causing this harassment. After Bivens, the
65 Supreme Court recognized this same cause of action to protect against harassment and
intimidation when dealing with Fourteenth Amendment protection of the “*due process*” of
law and the Eighth Amendment’s protection against cruel and unusual punishment.

In its opinion, the Supreme Court held that Robbins had to pass a two-part test for his case
to continue. First, the Justices considered whether they believed that Robbins had any
70 alternative remedies for his harassment. Although the Court seemed to recognize that
Robbins was suffering “*death by a thousand cuts*” because of the six-year span and
dozens of administrative charges filed against him, false criminal complaints against which
Robbins had to defend, trespass on his private land by federal officials and other forms of
harassment, the Court’s majority opinion believed that Robbins should have
75 administratively challenged or otherwise fought these dozens of actions individually.
While the majority opinion seemed to recognize that Congress had never created a “*step*

by step” remedial scheme to remedy this array of harm, the majority believed that each alleged form of harassment had to be considered individually, despite the recognition that:

80 It is one thing to be threatened with the loss of grazing rights, or to be prosecuted, or to have one’s lodge broken into, but something else to be subjected to this in combination over a period of six (6) years by a series of public officials bent on making life difficult. Agency appeals, lawsuits and criminal defense take money; and, endless battling depleted the spirit along with the purse. The whole here is greater than the sum of its parts.

85 551 U.S. at 555.

The next step, which the Court’s majority also found against Robbins, was whether there were “*special circumstances counseling hesitation*” against allowing Robbins to enforce a Bivens cause of action. With regard to this element, the majority was concerned that allowing a common law cause of action to protect private property owners from federal
90 officials’ harassment and intimidation would “*open the floodgates of ligation*” against federal officials. The majority also determined that “*legitimate zeal of [federal officials] on the public’s behalf in situations where hard bargaining is to be expected*”, was not harassment.

95 Despite these findings, the Court’s Justices recognized that Congress could correct this deficiency. In this regard, the majority opinion, written by Justice Souter, with Justice Roberts and Justice Kennedy, stated:

100 We think, accordingly, that any damages remedy for actions by Government employees who push too hard for the Government’s benefit may come better, if at all, through legislation. “*Congress is in a far better position than a court to evaluate the impact of a new species of litigation*” against those who act on the public’s behalf. And, Congress can tailor the remedy to the problem perceived, thus lessening the risk of a rising tide of suits threatening legitimate initiative on the part of Government’s employees.

551 U.S. at 562. Citations omitted.

105 The concurring opinion of Justices Thomas and Scalia opined that a Bivens common law cause of action should not be extended in any circumstances “*by the Court*”. 551 U.S. at 568.

110 Finally, the dissenting opinion, written by Justice Ginsberg with Justice Stevens would have extended a Bivens common law cause of action to Robbins. They perceived the question in the Robbins case to be:

Does the Fifth Amendment provide an effective check on federal officers who abuse their regulatory powers by harassing and punishing property owners who refuse to surrender their property to the United States without fair compensation? The answer should be a resounding ‘Yes.’

115 551 U.S. at 569.

In addition to placing the creation of a cause of action in the hands of Congress, the Court’s dissenting opinion also suggested a similar statute containing enough checks to bar every complaint of wrong from reaching the courts. As stated by Justice Ginsberg:

120 Sexual harassment jurisprudence is a helpful guide. Title VII, the Court has held, does not provide a remedy for every epithet or offensive remark.

After citing several cases limiting the situations in which a suit for sexual harassment could be brought, she concluded:

125 Adopting a similar standard to Fifth Amendment retaliation claims would “*lesse[n] the risk of raising a tide of suits threatening initiative on the part of the Government’s employees.*” Discrete episodes of hard bargaining that might be viewed as oppressive would not entitle a litigant to relief. But, where a plaintiff could prove a pattern of severe and pervasive harassment in duration and degree well beyond the ordinary rough-and-tumble one expects in strenuous negotiations, a Bivens suits would provide a remedy. Robbins
130 would have no trouble meeting that standard.

551 U.S. at 582. Internal citations omitted.

Based upon this Supreme Court opinion, other private property owners who believe that they are being harassed and intimidated because they refuse to turn over their private property outside the mandates of the Fifth Amendment have no forum in which they can
135 vindicate their claims. The Robbins case now acts as a complete bar to the judicial branch of the government, regardless of the extreme nature of the federal officials’ actions. That is not to say that every action or decision by a federal employee should give rise to a judicial cause of action, but there are cases where the harassment and intimidation is so severe that, in the words of the U.S. Supreme Court, “*it is damages, or nothing*”. However, without
140 the intervention of Congress, now it is “*nothing*”.

II. Title VII of the Civil Rights

As stated above, one of the stark inequities in current statutes is that while state and local governmental employees can be held personally liable for the violation of an individual’s Constitutional or civil rights, federal employees acting with the same intention and animus
145 cannot. This contrast is based upon Congress’ adoption of the Civil Rights Act, which does

not extend its protections to individuals dealing with the federal government. At its core, the Civil Rights Act of 1964 “*outlawed discrimination based on race, color, religion, sex or national origin.*” Although originally the Act focused on protection of the rights of black males, the bill was amended to protect the civil rights of all individuals in the United States from abuses of those state and local governmental employees “*acting under color of law.*”

Title VII of the Civil Rights Act states:

It is unlawful to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of an individual’s race, color, religion, sex or national origin.

42 U.S.C. §2000(e)-2(a)(1).

The regulations implementing this statute provide:

Harassment on the basis of sex is a violation of Section 703 of Title VII. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or, (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

29 C.F.R. §1604.11 (a).

“*For sexual harassment to be actionable, it must be sufficiently severe or persuasive to alter the conditions of the victim’s employment; and, create an abusive working environment.*” Meritor Savings Bank v. Vinson, 477 U.S. 57, 67 (1986), citation and quotation omitted. “*A hostile work environment claim is composed of a series of separate acts that collectively constitute one unlawful employment practice.*” National Railroad Passenger Corporation v. Morgan, 536 U.S. 101, 115-117 (2002); 42 U. S. C. § 2000e-5(e)(1), quotations omitted. “*In determining whether an actionable hostile work environment claim exists, we look to all the circumstances, including ‘the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.’*” 536 U.S. at 115-117 (2002). Citations and quotations omitted.

Using this type of analysis, I believe that a statute could be enacted to protect private property owners from intimidation and harassment from federal employees acting under color of law. Such statutory language could include the following:

185 The attempted taking of private property or private property rights by means
of governmental employee harassment or intimidation, under color of law, is
hereby declared to be a violation of the Civil Rights Act. Harassment or
intimidation against the owners of private property or private property rights
constitutes such violation when: (1) a property owner's relinquishment of his
property or property rights is made explicitly or implicitly a term or condition
of receipt of a permit or license from a governmental agency; (2) submission
to or rejection of such conduct by a property owner is used as the basis for the
190 grant of or conditions included in a permit or license; or, (3) the conduct of
the governmental employee has the purpose or effect of unreasonably
interfering with an individual's private property or private property rights. An
attempted taking of private property or property rights under this section can
be composed of a series of separate acts that collectively constitutes a
195 significant deprivation of the ownership or use of private property or property
rights. In determining whether the activities of a governmental employee are
actionable under this section, consideration can be given to the frequency of
the discriminatory conduct, harassment or intimidation, its severity and
whether such governmental action interferes with the ownership, use or
200 legitimate investment-backed expectations of the property owner.

III. The Witnesses Today Are Not the End of the Story

205 Today, you are going to hear compelling and heartfelt stories of individual families and
businesses who are only asking to be able to walk in the doors of the federal courts to
plead their cases. But, these are not the only stories in existence. To prepare for this
hearing, my office talked to over a dozen other individuals and their representatives who
are also willing to tell you their stories; and, ask your help in getting to the courts for
justice. The Constitution created three (3) equal branches of government to provide a
system of checks and balances over the actions of each other. Yet today, there is no
adequate check over the actions of the federal governmental individuals who abuse their
210 power against the American property owner. We are not asking to win every case; but,
simply to be able to make our case. We respectfully request that Congress make the same
avenue available to us as it does to other Americans.

Committee on Natural Resources
Subcommittee on Public Lands and Environmental Regulation
Threat, Intimidation and Bullying by Federal Land Managing Agencies

Karen Budd-Falen
BUDD-FALEN LAW OFFICES, LLC
300 East 18th Street
Post Office Box 346
Cheyenne, WY 82003

October 29, 2013

To: Honorable Committee Chairman Hastings, Subcommittee Bishop, and members of the Committee

My name is Karen Budd Falen. I am attorney and a fifth generation rancher from a family owned ranch, west of Big Piney, Wyoming. I grew up in the same house as my father and we still own the ranch, surviving generations of bad winters, drought, tough cattle markets, devastating wildfires and now wolves. My father, like everyone testifying today, is tough, independent, smart and the proud owner of a small business that is fueling the economy in our town and feeding the Nation.

And while my father, as well as the other ranchers and private property owners, can survive droughts, fires, and low market prices, **we cannot survive the heavy hand of the federal bureaucracy – particularly those within the bureaucracy who use the power of the federal government to violate our Constitutionally guaranteed rights.** While some may claim that we are here to ask Congress to eliminate the federal bureaucracy or the federal agencies, we are not. **What we are asking for you to do is open the court house door to individuals who believe that their civil and Constitutional rights are being violated by individual federal employees, using the power of their offices.** While I would absolutely agree that most federal employees are hard working individuals dedicated to trying to do their jobs to the best of their abilities, that is not always the case. **But unlike the case with state and local governmental employees who can be sued under the Civil Rights Act when they use the power of their governmental offices to deprive an individual of his Constitutionally guaranteed rights, there is not a similar option against federally employed individuals.** **All we want is the chance to go to court to present our facts; Articles I, II, and III of the U.S. Constitution set forth three branches of government and every American citizen should be allowed to access all three branches to redress their grievances, particularly those grievances alleging an abuse of power.**

I. BACKGROUND OF BIVENS AS APPLIED TO THE PROTECTION OF PRIVATE PROPERTY

In 2007, the United States Supreme Court reversed decisions by **the Wyoming Federal District Court and Tenth Circuit Court of Appeals by holding that a private**

property owner could not avail himself of a Bivens common law cause of action to protect his private property rights from “taking” by intimidation and harassment from federal officials. Neither the Justices voting to affirm nor reverse the lower courts’ decisions seemed to question that there had been a degree of harassment and intimidation against private property owner Frank Robbins because Mr. Robbins would not surrender an easement across his private property to the federal government, without due process and just compensation. However, the Justices writing for the Court’s majority, as well as the two concurring Justices, did not believe that the Court should expand its 40-plus year old precedent in Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), to the Fifth Amendment property protections. However, the Justices for the Supreme Court suggested that the U.S. Congress could create a Bivens “cause of action” to protect private property and property rights from actions outside the mandates of the Fifth Amendment. This testimony urges Congress’ consideration for adopting that type of protection for America’s property owners, and treating the Fifth Amendment private property protections with the “comparative importance of [other Constitutionally guaranteed] classes of legally protected interests.” Wilkie v. Robbins, 551 U.S. 537, 577 (2007).

At its simplest, the Supreme Court in Bivens allowed a type of Civil Rights Act “Section 1983” claim to lie against federal officials. The Civil Rights Act of 1871 prohibits governmental employees, “acting under the color of state law,” from proximately causing the deprivation of certain Constitutionally guaranteed rights. The Civil Rights Act however only applies to state officials. In Bivens, a private individual (Petitioner) complained that agents of the Federal Bureau of Narcotics, acting under claim of federal authority, entered his apartment and arrested him for alleged narcotics violations. The agents manacled Petitioner in front of his wife and children, threatened to arrest the entire family, and searched the apartment. Petitioner also alleged that the arrest was conducted with unreasonable force and without probable cause. Petitioner sought monetary damages against the federal officials. The issue before the Supreme Court was whether “a federal agent acting under color of his authority” gives rise to a “common law” cause of action for damages based upon his unconstitutional conduct. In Bivens, the Supreme Court agreed that it would recognize this type of common law cause of action for this unreasonable action in violation of the U.S. Constitution’s Fourth Amendment protection of an individual from an unreasonable search and seizure. As stated by the Court, it was damages or nothing against the federal officials causing this harassment. After Bivens, the Supreme Court recognized this same cause of action to protect against harassment and intimidation when dealing with Fourteenth Amendment protection of the “due process” of law and the Eighth Amendment’s protection against cruel and unusual punishment.

In its opinion, the Supreme Court held that Robbins had to pass a two part test for his case to continue. First, the Justices considered whether they believed that Robbins had any alternative remedies for his harassment. Although the Court seemed to recognize that Robbins was suffering “death by a thousand cuts” because of the six-year span and dozens of administrative charges filed against him, false criminal complaints against which Robbins had to defend, trespass on his private land by federal

officials and other forms of harassment, the Court's majority opinion believed that Robbins should have administratively challenged or otherwise fought these dozens of actions individually. While the majority opinion seemed to recognize that Congress had never created a "step by step" remedial scheme to remedy this array of harm, the majority believe that each alleged form of harassment had to be considered individually, despite the recognition that:

It is one thing to be threatened with the loss of grazing rights, or to be prosecuted, or to have one's lodge broken into, but something else to be subjected to this in combination over a period of six years by a series of public officials bent on making life difficult. Agency appeals, lawsuits and criminal defense take money, and endless battling depleted the spirit along with the purse. The whole here is greater than the sum of its parts.

551 U.S. at 555.

The next step, which the Court's majority also found against Robbins, was whether there "special circumstances counseling hesitation" against allowing Robbins to enforce a Bivens cause of action. With regard to this element, the majority was concerned that allowing a common law cause of action to protect private property owners from federal officials' harassment and intimidation would "open the floodgates of ligation" against federal officials. The majority also determined that "legitimate zeal of [federal officials] on the public's behalf in situations where hard bargaining is to be expected," was not harassment.

Despite these findings, the Court's Justices recognized that Congress could correct this deficiency. In this regard, the majority opinion, written by Justice Souter, with Justice Roberts and Justice Kennedy, stated:

We think accordingly that any damages remedy for actions by Government employees who push too hard for the Government's benefit may come better, if at all, through legislation. "Congress is in a far better position than a court to evaluate the impact of a new species of litigation" against those who act on the public's behalf. And Congress can tailor the remedy to the problem perceived, thus lessening the risk of a rising tide of suits threatening legitimate initiative on the part of Government's employees.

551 U.S. at 562. Citations omitted.

The concurring opinion of Justices Thomas and Scalia opined that a Bivens common law cause of action should not be extended in any circumstances "by the Court." 551 U.S. at 568.

Finally, the dissenting opinion, written by Justice Ginsberg with Justice Stevens would have extended a Bivens common law cause of action to Robbins. They perceived the question in the Robbins case to be "Does the Fifth Amendment provide an effective

check on federal officers who abuse their regulatory powers by harassing and punishing property owners who refuse to surrender their property to the United States without fair compensation? The answer should be a resounding ‘Yes.’” 551 U.S. at 569.

In addition to placing the creation of a cause of action in the hands of Congress, the Court’s dissenting opinion also suggested a similar statute containing enough checks to bar every complaint of wrong from reaching the courts. As stated by Justice Ginsberg, “Sexual harassment jurisprudence is a helpful guide. Title VII, the Court has held, does not provide a remedy for every epithet or offensive remark.” After citing several cases limiting the situations in which a suit for sexual harassment could be brought, she concluded:

Adopting a similar standard to Fifth Amendment retaliation claims would “lesse[n] the risk of raising a tide of suits threatening initiative on the part of Government’s employees.” Discrete episodes of hard bargaining that might be viewed as oppressive would not entitle a litigant to relief. But where a plaintiff could prove a pattern of severe and pervasive harassment in duration and degree well beyond the ordinary rough-and-tumble one expects in strenuous negotiations, a Bivens suits would provide a remedy. Robbins would have no trouble meeting that standard.

551 U.S. at 582. Internal citations omitted.

Based upon this Supreme Court opinion, other private property owners who believe that they are being harassed and intimidated because they refuse to turn over their private property outside the mandates of the Fifth Amendment have no forum in which they can vindicate their claims. The Robbins case now acts as a complete bar to the judicial branch of the government, regardless of the extreme nature of the federal officials’ actions. That is not to say that every action or decision by a federal employee should give rise to a judicial cause of action, but there are cases where the harassment and intimidation is so severe that, in the words of the U.S. Supreme Court, “it is damages, or nothing.” However, without the intervention of Congress, now it is “nothing.”

II. TITLE VII OF THE CIVIL RIGHTS ACT

As stated above, one of the stark inequities in current statutes is that while state and local governmental employees can be held personally liable for the violation of an individual’s Constitutional or civil rights, federal employees acting with the same intention and animus cannot. This contrast is based upon Congress’ adoption of the Civil Rights Act, which does not extend its protections to individuals dealing with the federal government. At its core, the Civil Rights Act of 1964 “outlawed discrimination based on race, color, religion, sex, or national origin.” Although originally the Act focused on protection of the rights of black males, the bill was amended to protect the civil rights of all individuals in the United States from abuses of those state and local governmental employees “acting under color of law.”

Title VII of the Civil Rights Act states:

It is unlawful to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of an individual's race, color, religion, sex, or national origin.

42 U.S.C. §2000(e)-2(a)(1). The regulations implementing this statute provide:

Harassment on the basis of sex is a violation of section 703 of title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

29 C.F.R. §1604.11 (a).

“For sexual harassment to be actionable, it must be sufficiently severe or persuasive to alter the conditions of the victim’s employment and create an abusive working environment.” Meritor Savings Bank v. Vinson, 477 U.S. 57, 67 (1986), citation and quotation omitted. “A hostile work environment claim is composed of a series of separate acts that collectively constitute one unlawful employment practice.” National Railroad Passenger Corporation v. Morgan, 536 U.S. 101, 115-117 (2002); 42 U.S.C. § 2000e-5(e)(1), quotations omitted. “In determining whether an actionable hostile work environment claim exists, we look to all the circumstances, including ‘the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.’” 536 U.S. at 115-117 (2002). Citations and quotations omitted.

Using this type of analysis, I believe that a statute could be enacted to protect private property owners from intimidation and harassment from federal employees acting under color of law. Such statutory language could include the following:

The attempted taking of private property or private property rights by means of governmental employee harassment or intimidation, under color of law, is hereby declared to be a violation of Civil Rights Act. Harassment or intimidation against the owners of private property or private property rights constitutes such violation when (1) a property owner’s relinquishment of his property or property rights is made explicitly or implicitly a term or condition of receipt of a permit or license

from a governmental agency, (2) submission to or rejection of such conduct by a property owner is used as the basis for the grant of or conditions included in a permit or license, or (3) the conduct of the governmental employee has the purpose or effect of unreasonably interfering with an individual's private property or private property rights. An attempted taking of private property or property rights under this section can be composed of a series of separate acts that collectively constitutes a significant deprivation of the ownership or use of private property or property rights. In determining whether the activities of a governmental employee are actionable under this section, consideration can be given to the frequency of the discriminatory conduct, harassment or intimidation, its severity, and whether such governmental action interferes with the ownership, use or legitimate investment backed expectations of the property owner.

III. THE WITNESSES TODAY ARE NOT THE END OF THE STORY

Today, you are going to hear compelling and heartfelt stories of individual families and businesses who are only asking to be able to walk in the doors of the federal courts to plead their cases. But these are not the only stories in existence. To prepare for this hearing, my office talked to over a dozen other individuals and their representatives who are also willing to tell you their stories and ask your help in getting to the courts for justice. The Constitution created three equal branches of government to provide a system of checks and balances over the actions of each other. Yet today, there is no adequate check over the actions of the federal governmental individuals who abuse their power against the American property owner. We are not asking to win every case, but simply to be able to make our case. We respectfully request that Congress make the same avenue available to us as it does to other Americans.

TRANSCRIPT: Of Video Recording, April 11, 2014, This is Why the BLM Wants Cliven Bundy's Ranch Gone.

When Injustice Becomes Law, Rebellion Becomes Duty

5

We Lost Our Land Rights During the Civil War. There were a variety of issues that led to the Civil War; but, they all pretty much centered on this theme: The Southern States always maintained the position that a strong federal government was a threat to local norms and traditions. This came from the colonial days; and, the debates that took place with the debate over the United States Constitution. Ultimately, the Southern States, being less populated, were concerned that the more highly-populated Northern States would use their influence to force their will on the South through federal influences.

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The issue of slavery became one of the key issues; not because the northern population in general wanted to do something about it; but, because it was the most divisive issue of the time. The federal government began a series of policy changes that the South did not agree with regarding taxation and trade. The Southern States, being threatened by this, began to withdraw from the union on the grounds that they had the right to do so under the Constitution and Declaration of Independence.

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25

The slavery issue came to the forefront later; and, many in the South were discussing the possibility of freeing the slaves on their own. Basically, the South believed that the States should have more control over their own destiny while Northern States believed the federal government should have more power to deal with state-level issues.

Remaking the US Landscape: Do Green Energy Plans Take Aim at Suburbs?

30

Stanley Kurtz is Senior Fellow at the Ethics & Public Policy Center, Contributing Editor to the *"National Review Online"* and author of *"Spreading the Wealth"*.

Kurtz: It looks like President Obama's plans to fight global warming are going to hurt America's suburbs; and, that's because the Obama administration believes in something called *"Smart Growth"*. Now the idea of Smart Growth policies is that you should get out of your car. Don't move to the suburbs. You should live in a tiny, densely-packed

35 apartment building in the city where you would walk and take public transportation. Don't
drive. That's Smart Growth; and, the Obama administration is gearing up to impose these
Smart Growth policies on the country; and, that would be bad for America's suburbs.

Megyn Kelly: How would they do it? How would they make us move from the suburbs to
the city because most of the folks who live in the suburbs like the suburbs. They don't
40 want to live in the city. How would they make us do it?

Kurtz: There are several plans; and, part of the idea is just to stop people from moving out
to the suburbs in the first place. But, in the end, it might even get some people who are
living in suburbs to head to the cities.

Last week the Energy Department released a series of reports that touted a new strategy for
45 cutting back on carbon dioxide emissions. The idea is to make all federal funding
conditional on adherence to these Smart Growth principles.

So, let's say the federal government is thinking of funding a new school or a new highway,
if this idea goes through, the government would say:

50 *"Let's look at the population density. If you've got a high population density,
we'll give you the federal money. If you don't, you're not going to get the
money."*

That would start channeling new development away from the suburbs and into the cities.
If you think about it, it's actually a way of redistributing the wealth of the suburbs into the
cities.

55 **Kelly:** This is an actual proposal that was put forward?

Kurtz: A report came out called *"Transportation Energy Futures"*. And, one of these
reports floated this proposal. At this stage it's a trial balloon, I think you could say.

But, there's another similar proposal that according to a news report the Obama
administration has already decided on. And, that is that the Obama administration, for the
60 first time, is going to tell every agency of the federal government to consider carbon
dioxide emissions before they give environmental approval to big projects. That could
mean big delays, big challenges, maybe even the elimination of some highway
construction projects out into the suburbs. So, if you want to have the traffic congestion
relieved on your suburban commute; or, maybe opening up a new area for suburban
65 development with a highway; that could be delayed and possibly even blocked by these
new regulations; and, that again, would tend to channel development away from the
suburbs and back to the cities.

Domestic Energy Policy

- Since January 2009: Obama Investments in “*Clean Energy*” and “*Green Jobs*” have cost taxpayers nearly \$100 billion.
- 2009 Stimulus Accounted for approximately ninety percent (90%) of Obama’s investments in Green Energy.
- United States relied on net imports for about forty-five percent (45%) of petroleum consumed in 2011.
- Federal offshore crude oil production declined twenty-four percent (24%) from fiscal year 2010 to fiscal year 2012.
- January 2012: President Obama rejected an Application for Permit to Build Keystone Pipeline.

70 **Kelly:** Now you talk in your piece which was posted on “*National Review Online*” about how yes, this focuses in part; this initiative that has been proposed; focuses in part on greenhouse gas emissions, making the environment more green; and, you know, your carbon footprint when you live in a little 800 sq. ft. apartment in Manhattan is much, much smaller than if you live in a 3,000 sq. ft. home in the Burbs. So, that’s clear. That could be one of the goals. But, you also say that this is about wealth redistribution on a grand scale.
75 How is that a redistribution of wealth?

Kurtz: That’s what I talk about in the book. If you go back to Obama’s whole political history, people don’t realize it; but, he’s been a big backer of a movement called “*Regionalism*”. The whole idea of Regionalism is that there’s something fundamentally unfair about the very existence of suburbs because when people move out to suburbs they
80 take their tax money with them.

President Obama and some of the people he used to work with in his political career believe that was somehow unfair to the cities. So if you put in these Smart Growth policies: and, you say it’s all about carbon dioxide and global warming, you still are channeling all that federal money, which comes from all of our taxes after all, into the cities and away from the suburbs; and, that’s a way of redistributing wealth from the
85 suburbs to the cities. And, in the minds of these advocates of Regionalism that Obama has always worked with, this is a way of redistributing money back away from the suburbs and into the cities.

90 **Kelly:** So you still have the same crop of people. So, if you’re forcing folks who live in the suburbs to eventually move back into the city; or, people who live in the city not to move

out to the suburbs, it's still the same people. You're not going to change their political world view. You're not going to change their voting habits necessarily.

95 **Kurtz:** Some people think it might change voting habits: It's unclear whether that will really happen. But, the point for these Regionalists is that you're stopping tax money from being taken away from the cities and put into the suburbs. These Regionalists think that there's something fundamentally unfair about that. So, what they first want to do is get tax payers back to the cities so that their money can go into the coffers of those city governments; and, not the suburban governments. And, maybe the politics will take care of itself after that.

100 **Kelly:** You call it an effort to "*Manhattanize America*". And, a lot of our viewers won't like the thought of that since there's a reason they've chosen not to live in Manhattan; and, it's not just, you know, the lock-jam traffic at rush hour; and, the taxi cabs; and, the pollution; and, all that. Sorry, Mayor Bloomberg; but, you know what I'm talking about. And, they don't necessarily want Iowa to look like Manhattan. But, in any event, Stanley,
105 very interesting hearing your perspective. Thank you.

The Ultimate Goal of the Wildlands Project

The Wildlands Project is a very well-funded effort to lock up as much as fifty percent (50%) of the United States into wilderness. It is heavily promoted by most environmental, non-governmental organizations. The "*International Union for the Conservation of Nature*", the IUCN, helped create it in the mid 1980s to be the foundation of the "*United Nations Convention on Biological Diversity*" which the IUCN wrote in 1982. The IUCN is
110 an international group of over 1,000 NGO and government members.

Harmful Agenda of Environmental NGOs

115 Environmental groups have effectively created a public image as organizations caring for helpless species and protecting environments. This has allowed them to implement an agenda in America that if fully exposed, would be opposed by the majority of the people.

In fact, most people supporting these organizations are not aware of their long-term objective, even though it is no secret. Take a look at the Wildlands Map. It defines where environmentalists want to take America in the very near future. The areas in red will be off limits to humans. The areas in yellow represent buffer zones where limited use is allowed
120 primarily to travel to and from populated areas. The areas in green are where normal use by humans will be allowed. However, by the environmentalists' own admission, these normal-use areas would be restricted.

125 When this plan was first published in 1992, the author, Reed Gness, explained how their agenda would affect the human population. He stated:

“Eventually a wilderness network would dominate a region; and, thus would itself constitute the matrix with human habitations being the islands.”

130 No one, not even the long-time opponents of the environmental movement, believed such a transforming agenda was possible. However, it is being implemented quickly through innocent-sounding programs that most Americans support. “Wilderness Areas”, “Critical Habitat for Endangered Species”, “Wetlands”, “Roadless Areas”, “National Heritage Areas” and other restrictive programs are sold to the public as “necessary to protect nature”; or, as assurance that Americans will always have a place to escape from the heavily populated cities. More invented tools and programs such as “Conservation Easements”, “Smart Growth”, “Open Space” and “Greenlining” are being promoted as a way to control growth.

Landowners are Losing their Property Rights

140 What all these programs have in common is extinguishing the private property rights of American citizens; and, transferring the control of the property to elite “Land Trusts” or directly to the government.

NGO-Government Cooperation



Federal Government

145 The environmental movement would not be able to implement their agenda without the cooperation of our government at all levels, including state and federal officials: and, even county commissioners.

Gap Analysis Program

To help facilitate the environmental goals, the Clinton Administration quietly created the “Gap Analysis Program”; or, “Gap” for short. Gap divides the land into “Eco-System Regions”; and, identifies the properties not yet under the control of state and federal governments; in other words, private property. These private holdings are then targeted for preservation by Government Agencies and Land Trusts through Conservation Easements, Purchase and Condemnation. Although the Gap program has not been completed in all states, the data from this project is already being strategically used to target land owners.

Not surprisingly, the areas of protection defined by Gap follow closely along the same boundaries as those shown on the Wildlands Map. It is frightening to see how much of America’s land has recently been consumed as a result of this agenda.

For instance, the State of Florida utilized the data from Gap to implement an aggressive preservation plan called “Florida Forever”. Since the early 1990s, over two million (2,000,000) acres in the state of Florida have been locked up through this program. The private property owners within the target area were forced to give up their land under the pressure of extreme “Environmental Regulations”, “Purchase” and outright “Condemnation”; and, the Florida Forever campaign is not complete.

At the current rate that environmentalists are implementing their agenda in every state, in every county and soon in every town, private property is quickly being eliminated. It will not take the eighty (80) to one hundred (100) years they originally projected to complete their task. They are much closer to achieving their goal than anyone realizes.

Environmentalists have scared Americans into thinking that if we continue to live as we are today, the Earth will self-destruct; species will die; and, the globe will be covered with development. However, government data shows that only six percent (6%) of America’s land mass is currently developed. Only three percent (3%) of America is classified as urban; yet, seventy-seven percent (77%) of all Americans live in these urban areas. The rest is still largely untouched by humans. The problem is not that our nation is being overdeveloped. The problem is as old as time.

It is about who will own the land. Large amounts of the nation’s natural resources are still owned by private citizens. America’s founders vehemently opposed the concept of government or elitists owning the land in America, which would result in the citizens being leaseholders and serfs. One of the most well-known property rights advocates of our time, Wayne Hage, said it best:

“Either you have the right to own property; or, you are property.”

Make no mistake, this battle is not about whether the land will be used, resources extracted and wealth created; but, by whom. Carl Marx wrote in the “Communist Manifesto”:

“The theory of the Communist may be summed up in the single sentence:

'Abolition of private property.'

185 America's founding father, John Adams, stated:

"Property must be secured; or, liberty cannot exist."

190 Which course will America take? Hear directly from Dr. Michael Coffman, the man who first uncovered the Wildlands Map; and, presented it to the U.S. Senate. Coffman will reveal the details of the *"Environmental Agenda"*; and, how the government is helping to transfer land ownership in America. He explores each region; and, explains the tactics they are using in the different areas. You will learn what might be used to target your land. Environmentalists are counting on their Agenda never being fully revealed. *"Taking Liberty"* is committed to seeing that it is. Their plan must be stopped before all of our liberty is taken.

195 **$\Sigma\text{CO}_2 \rightarrow \text{Temperature Increase} \rightarrow \text{Negative Effects}$**

Bill Gates: We need a new constraint; and, that constraint has to do with CO₂. CO₂ is warming the planet; and, the equation on CO₂ is actually a very straightforward one. If you sum up the CO₂ that gets emitted, that leads to a temperature increase; and, that temperature increase leads to some very negative effects. The effects on the weather, perhaps worse, the indirect effect in that the natural eco-systems can't adjust to these rapid changes; and, so, you get eco-system collapses.

200 Now the exact amount of how you map from a certain increase in CO₂ to what temperature will be; and, where the positive feedbacks are; there's some uncertainty there; but, not very much. And, there's certainly uncertainty about how bad those effects will be. But, they will be extremely bad. I asked the top scientists about this several times:

"Do we really have to get down to near zero? Can't we just cut it in half (1/2); or, a quarter (1/4)?"

210 The answer is that until we get near to zero, the temperature will continue to rise. So that's a big challenge. It's very different than saying we're a 12-foot-high truck trying to get under a 10-foot bridge when we can just sort of squeeze under. This is something that has to get to zero.

Innovating to Zero

"We emit CO₂ naturally; and, plants absorb CO₂; particularly when it rains; and, emit O₂. Bill Gates is wrong. Plant a tree.. Clearly, Gates is a tool for the

elitists. Stop Chemtrails. Global corporations are the cause for destroying Earth's biosphere!"

215 **Gates:** Now we put out a lot of CO₂ every year; over twenty-six (26) billion tons. For each American it's about twenty (20) tons. For people in poor countries it's less than one (1) ton. It's an average of about five (5) tons for everyone on the planet; and, somehow we have to make changes that will bring that down to zero. It's been constantly going up, it's only various economic changes that have even flattened if at all. So we have to go from rapidly rising to falling and falling; all the way to zero.

$$\text{CO}_2 = \text{P} \times \text{S} \times \text{E} \times \text{C}$$

people services per person energy per service CO₂ per unit energy

220 This equation has four (4) factors; a little bit of multiplication. So, you've got a thing on the left: "CO₂", that you want to get to "zero"; and, that's going to be based on the number of "**People**", the "**Services**" each person is using on average, the "**Energy**" on average for each service and the "CO₂" being put out per unit of energy.

225 So, let's look at each one of these; and, see how we can get this down to zero. Probably one of these numbers is going to have to get pretty near to zero. That's back from high school algebra. Let's take a look.

FIRST: We've got "**Population**". The world today has got 6.8 billion people. That's headed up to about 9 billion. Now, if we do a really great job on new vaccines, health care and reproductive health services, we could lower that by perhaps ten to fifteen percent (10 to 15%). But, there we see an increase of about 1.3.

They want you dead

230 **SECOND:** We've got the "**Services**" we use.

2nd Amendment - My Gun Permit - Don't Tread On Me

5 House Hearing, 113th Congress
From the U.S. Government Printing Office

**THREATS, INTIMIDATION AND
BULLYING BY FEDERAL LAND
MANAGING AGENCIES**

10 **OVERSIGHT HEARING**

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS
AND ENVIRONMENT REGULATION

15 OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

20 _____
Tuesday, October 29, 2013

_____ **Serial No. 113-50** _____

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Prepared Statement of Ms. Budd-Falen, Cheyenne, Wyoming

My name is Karen Budd-Falen. I am an attorney and a fifth generation rancher from a family-owned ranch west of Big Piney, Wyoming. I grew up in the same house as my father; and, we still own the ranch; surviving generations of bad winters, drought, tough cattle markets, devastating wildfires and now wolves. My father, like everyone testifying today, is tough, independent, smart and the proud owner of a small business that is fueling the economy in our town and feeding the Nation.

And, while my father, as well as the other ranchers and private property owners, can survive droughts, fires, and low market prices, we cannot survive the heavy hand of the federal bureaucracy; particularly those within the bureaucracy who use the power of the federal government to violate our Constitutionally-guaranteed rights. While some may claim that we are here to ask Congress to eliminate the federal bureaucracy or the federal agencies, we are not. What we are asking for you to do is open the court house door to individuals who believe that their civil and Constitutional rights are being violated by individual federal employees using the power of their offices. While I would absolutely agree that most federal employees are hard-working individuals dedicated to trying to do their jobs to the best of their abilities that is not always the case. But, unlike the case with State and local governmental employees who can be sued under the Civil Rights Act when they use the power of their governmental offices to deprive an individual of his Constitutionally guaranteed rights, there is not a similar option against federally employed individuals. All we want is the chance to go to court to present our facts. Articles I, II, and III of the U.S. Constitution set forth three (3) branches of government and every American citizen should be allowed to access all three (3) branches to redress their grievances; particularly those grievances alleging an abuse of power.

I. Background of Bivens as Applied to the Protection of Private Property

In 2007, the United States Supreme Court reversed decisions by the Wyoming Federal District Court and Tenth Circuit Court of Appeals by holding that a private property owner could not avail himself of a Bivens common law cause of action to protect his private property rights from “taking” by intimidation and harassment from federal officials. Neither the Justices voting to affirm nor reverse the lower courts’ decisions seemed to question that there had been a degree of harassment and intimidation against private property owner Frank Robbins because Mr. Robbins would not surrender an easement across his private property to the federal government without due process and just compensation. However, the Justices writing for the Court’s majority, as well as the two (2) concurring Justices, did not believe that the Court should expand its 40-plus year old precedent in Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), to the Fifth Amendment property protections. However, the Justices for the Supreme Court suggested that the U.S. Congress could create a Bivens “cause of action” to protect private property and property rights from actions outside the mandates of the Fifth Amendment. This testimony urges Congress’ consideration for adopting that type of protection for America’s property owners; and, treating the Fifth Amendment private property protections with the “comparative importance of [other Constitutionally guaranteed] classes of legally protected interests.” Wilkie v. Robbins, 551 U.S. 537, 577 (2007).

At its simplest, the Supreme Court in Bivens allowed a type of Civil Rights Act “Section 1983” claim to lie against federal officials. The Civil Rights Act of 1871 prohibits governmental employees, “acting under the color of state law”, from proximately causing the deprivation of certain Constitutionally-guaranteed rights. The Civil Rights Act, however, only applies to State officials. In Bivens, a private individual (Petitioner) complained that agents of the Federal Bureau of Narcotics, acting under claim of federal authority, entered his apartment and arrested him for alleged narcotics violations. The agents manacled Petitioner in front of his wife and children, threatened to arrest the entire family and searched

80 the apartment. Petitioner also alleged that the arrest was conducted with unreasonable force and without
probable cause. Petitioner sought monetary damages against the federal officials. The issue before the
Supreme Court was whether “*a federal agent acting under color of his authority*” gives rise to a
“*common law*” cause of action for damages based upon his unconstitutional conduct. In Bivens, the
85 Supreme Court agreed that it would recognize this type of common law cause of action for this
unreasonable action in violation of the U.S. Constitution’s Fourth Amendment protection of an individual
from an unreasonable search and seizure. As stated by the Court, it was damages or nothing against the
federal officials causing this harassment. After Bivens, the Supreme Court recognized this same cause of
action to protect against harassment and intimidation when dealing with Fourteenth Amendment
90 protection of the “*due process*” of law and the Eighth Amendment’s protection against cruel and unusual
punishment.

In its opinion, the Supreme Court held that Robbins had to pass a two-part test for his case to continue.
First, the Justices considered whether they believed that Robbins had any alternative remedies for his
harassment. Although the Court seemed to recognize that Robbins was suffering “*death by a thousand*
cuts” because of the six-year span and dozens of administrative charges filed against him, false criminal
95 complaints against which Robbins had to defend, trespass on his private land by federal officials and
other forms of harassment, the Court’s majority opinion believed that Robbins should have
administratively challenged or otherwise fought these dozens of actions individually. While the majority
opinion seemed to recognize that Congress had never created a “*step by step*” remedial scheme to remedy
this array of harm, the majority believed that each alleged form of harassment had to be considered
100 individually, despite the recognition that:

It is one thing to be threatened with the loss of grazing rights, or to be prosecuted, or to
have one’s lodge broken into; but, something else to be subjected to this in combination
over a period of six (6) years by a series of public officials bent on making life difficult.
Agency appeals, lawsuits and criminal defense take money; and, endless battling depleted
105 the spirit along with the purse. The whole here is greater than the sum of its parts.

551 U.S. at 555.

The next step, which the Court’s majority also found against Robbins, was whether there were “*special*
circumstances counseling hesitation” against allowing Robbins to enforce a Bivens cause of action. With
regard to this element, the majority was concerned that allowing a common law cause of action to protect
110 private property owners from federal officials’ harassment and intimidation would “*open the floodgates*
of litigation” against federal officials. The majority also determined that “*legitimate zeal of [federal*
officials] on the public’s behalf in situations where hard bargaining is to be expected”, was not
harassment.

115 Despite these findings, the Court’s Justices recognized that Congress could correct this deficiency. In this
regard, the majority opinion, written by Justice Souter, with Justice Roberts and Justice Kennedy, stated:

We think, accordingly, that any damages remedy for actions by Government employees
who push too hard for the Government’s benefit may come better, if at all, through
legislation. “*Congress is in a far better position than a court to evaluate the impact of a*
new species of litigation” against those who act on the public’s behalf. And, Congress can
120 tailor the remedy to the problem perceived, thus lessening the risk of a rising tide of suits
threatening legitimate initiative on the part of Government’s employees.

551 U.S. at 562. Citations omitted.

The concurring opinion of Justices Thomas and Scalia opined that a Bivens common law cause of action should not be extended in any circumstances “*by the Court*”.

125 551 U.S. at 568.

Finally, the dissenting opinion, written by Justice Ginsberg with Justice Stevens would have extended a Bivens common law cause of action to Robbins. They perceived the question in the Robbins case to be:

130 Does the Fifth Amendment provide an effective check on federal officers who abuse their regulatory powers by harassing and punishing property owners who refuse to surrender their property to the United States without fair compensation? The answer should be a resounding “*Yes.*”

551 U.S. at 569.

135 In addition to placing the creation of a cause of action in the hands of Congress, the Court’s dissenting opinion also suggested a similar statute containing enough checks to bar every complaint of wrong from reaching the courts. As stated by Justice Ginsberg:

Sexual harassment jurisprudence is a helpful guide. Title VII, the Court has held, does not provide a remedy for every epithet or offensive remark.

After citing several cases limiting the situations in which a suit for sexual harassment could be brought, she concluded:

140 Adopting a similar standard to Fifth Amendment retaliation claims would “*lesse[n] the risk of raising a tide of suits threatening initiative on the part of the Government’s employees.*” Discrete episodes of hard bargaining that might be viewed as oppressive would not entitle a litigant to relief. But, where a plaintiff could prove a pattern of severe and pervasive harassment in duration and degree well beyond the ordinary rough-and-tumble one expects in strenuous negotiations, a Bivens suit would provide a remedy.
145 Robbins would have no trouble meeting that standard.

551 U.S. at 582. Internal citations omitted.

150 Based upon this Supreme Court opinion, other private property owners who believe that they are being harassed and intimidated because they refuse to turn over their private property outside the mandates of the Fifth Amendment have no forum in which they can vindicate their claims. The Robbins case now acts as a complete bar to the judicial branch of the government, regardless of the extreme nature of the federal officials’ actions. That is not to say that every action or decision by a federal employee should give rise to a judicial cause of action, but there are cases where the harassment and intimidation is so severe that, in the words of the U.S. Supreme Court, “*it is damages, or nothing*”. However, without the intervention of
155 Congress, now it is “*nothing*”.

II. Title VII of the Civil Rights Act

160 As stated above, one of the stark inequities in current statutes is that while State and local governmental employees can be held personally liable for the violation of an individual’s Constitutional or civil rights, federal employees acting with the same intention and animus cannot. This contrast is based upon Congress’ adoption of the Civil Rights Act, which does not extend its protections to individuals dealing with the federal government. At its core, the Civil Rights Act of 1964 “*outlawed discrimination based on race, color, religion, sex or national origin.*” Although originally the Act focused on protection of the

rights of black males, the bill was amended to protect the civil rights of all individuals in the United States from abuses of those State and local governmental employees “*acting under color of law.*”

165 Title VII of the Civil Rights Act states:

It is unlawful to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of an individual’s race, color, religion, sex or national origin.

42 U.S.C. §2000(e)-2(a)(1).

170 The regulations implementing this statute provide:

Harassment on the basis of sex is a violation of Section 703 of Title VII. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or, (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

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29 C.F.R. §1604.11 (a).

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“For sexual harassment to be actionable, it must be sufficiently severe or persuasive to alter the conditions of the victim’s employment; and, create an abusive working environment.” Meritor Savings Bank v. Vinson, 477 U.S. 57, 67 (1986), citation and quotation omitted. “A hostile work environment claim is composed of a series of separate acts that collectively constitute one unlawful employment practice.” National Railroad Passenger Corporation v. Morgan, 536 U.S. 101, 115-117 (2002); 42 USC §2000e-5(e)(1), quotations omitted. “In determining whether an actionable hostile work environment claim exists, we look to all the circumstances, including ‘the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and, whether it unreasonably interferes with an employee’s work performance.’” 536 U.S. at 115-117 (2002) Citations and quotations omitted.

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Using this type of analysis, I believe that a statute could be enacted to protect private property owners from intimidation and harassment from federal employees acting under color of law. Such statutory language could include the following:

The attempted taking of private property or private property rights by means of governmental employee harassment or intimidation, under color of law, is hereby declared to be a violation of the Civil Rights Act. Harassment or intimidation against the owners of private property or private property rights constitutes such violation when: (1) a property owner’s relinquishment of his property or property rights is made explicitly or implicitly a term or condition of receipt of a permit or license from a governmental agency; (2) submission to or rejection of such conduct by a property owner is used as the basis for the grant of or conditions included in a permit or license; or, (3) the conduct of the governmental employee has the purpose or effect of unreasonably interfering with an individual’s private property or private property rights. An attempted taking of private property or property rights under this section can be composed of a series of separate acts that collectively constitutes a significant deprivation of the ownership or use of private property or property rights. In determining whether the activities of a governmental

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employee are actionable under this section, consideration can be given to the frequency of the discriminatory conduct, harassment or intimidation, its severity and whether such governmental action interferes with the ownership, use or legitimate investment-backed expectations of the property owner.

210 **III. The Witnesses Today Are Not the End of the Story**

215 Today, you are going to hear compelling and heartfelt stories of individual families and businesses who are only asking to be able to walk in the doors of the federal courts to plead their cases. But, these are not the only stories in existence. To prepare for this hearing, my office talked to over a dozen other individuals and their representatives who are also willing to tell you their stories; and, ask your help in getting to the courts for justice. The Constitution created three (3) equal branches of government to provide a system of checks and balances over the actions of each other. Yet today, there is no adequate check over the actions of the federal governmental individuals who abuse their power against the American property owner. We are not asking to win every case; but, simply to be able to make our case. We respectfully request that Congress make the same avenue available to us as it does to other
220 Americans.

Prepared Statement of Frank Robbins, Thermopolis, Wyoming

225 My name is Frank Robbins; and, I am the owner of a ranch that includes private land; and Bureau of Land Management (BLM); and Forest Service livestock grazing permits and preference rights, known as the High Island Ranch, in Hot Springs County, Wyoming. I purchased the High Island Ranch from George Nelson on May 31, 1994, as a cattle ranching and a guest ranch operation. Although I had owned another ranch in Montana prior to purchasing the High Island Ranch, my goal was to move my wife and two children to Thermopolis and make that my home; then pass the ranch on to my children and grandchildren.

230 Just prior to the sale of the ranch, Mr. Nelson granted a nonexclusive easement to the BLM across the High Island Ranch on a private road known as the Rock Creek Road. The BLM failed to property record this easement. So, when I purchased the ranch, I was unaware of the BLM easement; and, when I recorded my title to the ranch, the BLM easement was extinguished.

235 Upon realizing the easement Mr. Nelson had granted to the BLM was no longer valid, BLM employee Assistant Area Manager Joe Vessels contacted me to demand that I sign a new easement across my private lands to the BLM; and, to warn me that if I did not give the easement to the BLM, the BLM would deny me access to my private property. Vessels stated to me that there would be no negotiation regarding this easement. Because the BLM would not negotiate to pay compensation or provide due process for the taking of my private property, I declined to just give the BLM one of my property rights.
240 In response to my decision, Vessels told me that the BLM would get the easement:

“...one way or another...”

From that point on, the BLM began engaging in a pattern of intentionally abusive conduct to coerce me to grant my property rights to BLM; and, to punish me for not immediately capitulating to the BLM’s demands. For example:

245 Ed Parodi, a BLM employee, was sent to my home to explain what the BLM would do to me if I did not acquiesce to the BLM demands. At that meeting, Parodi stated:

“If you keep butting heads, things are going to get pretty ugly.”

And:

250 *“They [the BLM] have more resources, more time and more money than you. If you keep butting heads with them, it will come to war.”*

Parodi also stated that the BLM was out to give me a *“hardball education”*.

In June of 1994, Vessels twice wrote to me requesting permission to survey for the BLM’s desired easement across the private lands of the High Island Ranch. I unequivocally declined to allow the survey. However, Vessels disregarded my clear instructions; and, orchestrated a survey anyway without my
255 permission; then, later bragged to me that I could not stop the BLM.

A policy was also developed by the BLM whereby the terms and conditions of the High Island Ranch Allotment Management Plan (AMP) were not followed in good faith. Although the High Island Ranch AMP, signed by both the BLM and my predecessor-in-interest, included significant opportunities for flexibility for my cattle operation, the BLM refused numerous requests for flexibility. Additionally, a
260 BLM employee, Teryl Shryack, made handwritten changes to the AMP without my knowledge; and, then tried to apply those changes to me.

The BLM also prohibited me from maintaining a portion of the Rock Creek Road located on BLM land that was necessary for me to access parts of the private property of the Ranch. Eventually, the BLM canceled my access rights across BM land to my private property.

265 Under Vessels' direction, the BLM also made trouble for me with my neighbors. In one instance, a BLM officer urged neighbor Pennoyer to file a criminal complaint with the Sheriff against me although the Sheriff did not follow up on the claim of my neighbor. In another instance, BLM employee Leone provided an incident between Mrs. Pennoyer and I whereby Mrs. Pennoyer drove a motor vehicle into and struck me and the horse on which I was riding.

270 Vessels also charged me with repeated livestock trespass prosecution; 27 in all. In these prosecutions, the BLM asserted that my cattle were in trespass even though the livestock were located on my unfenced private property. These prosecutions were brought under the theory that the High Island Ranch cattle allegedly could "access" the adjoining unfenced public lands. This legal theory has been rejected by the court. However, I had to appeal each and every one of the decisions individually to try to keep my
275 grazing permit.

Although I was willing to grant to the BLM the right to cross my private land to get to BLM land for lawful purposes, the BLM wanted the complete and unconstrained right to trespass on my private property. Because BLM wanted this complete access, they took an easement which allowed the BLM to maintain a 276-foot strip of fencing on a remote corner of a parcel owned by me; and, tried to argue it
280 gave the agency complete and unrestrained access. Using this Fence Easement, BLM employees Shryack and Merrill went onto my private property. When I encountered the BLM trespassing and stopped them to ask what they were doing, Shryack and Merrill showed me the Fence Easement, claiming it allowed them to drive on my private property. In frustration, I tore up the copy of the Fence Easement and told Merrill and Shryack to turn around and leave, which they did without any protest. Several days later, after lying
285 to me to get me to come to the BLM office, the BLM, through its law enforcement officers, notified me that I was being criminally charged with "*intentional interference with a BLM officer*" for telling Shryack and Merrill to leave my private property. Based on this criminal charge, a lengthy and expensive criminal jury trial was held in the Federal District Court for the District of Wyoming. However, after only 25 minutes of deliberation, the jury acquitted me of all charges, commenting that I could not have been
290 railroaded any more unless I worked for the Union Pacific Railroad.

Due to the BLM employees egregious conduct I have suffered significant economic injury to my business both in terms of direct lost revenues for loss of my grazing use and my outfitting business and personal reputation. I am only running one-half of my cattle numbers I once did; and, I cannot operate any of my guest ranching business on the Federal lands. I also spent a significant amount of money on legal fees,
295 individually appealing all of the decisions as well as defending myself at a 3-day criminal jury trial. The economic damage to both me and my family as well as to the local community is still present today.

Some BLM employees; and, based upon the press coverage, some of the public, believe that I deserved to lose much of my ranch simply because I would not give my private property to the Federal government. However, I have never had the chance to argue my case before a judge and jury.

300 Administratively appealing dozens of trespass decisions before an administrative law judge does not even begin to address the allegations that have been leveled against me. My Supreme Court case was not based upon the facts of the case; rather the question before the Court was simply whether I could even get to court. That is the question before this Congressional Committee. Win or lose, should private individuals and businesses have the chance to prove that they have been harassed, punished and bullied by Federal
305 bureaucrats. There needs to be more accountability of Federal employees; and, opening the courthouse door is one way to provide for that accountability.

Prepared Statement of Tim Lowry, Jordan Valley, Oregon

310 I am Tim Lowry and with my wife, Rosa; and, parents Bill and Nita Lowry; ranch in the Pleasant Valley community of Owyhee County, Idaho. The future of this rural, family ranching community is in jeopardy due to Federal government actions, policies and direction.

315 On June 6, 1994, a public hearing was held in Boise, Idaho on Secretary of the Interior Bruce Babbitt's proposed Rangeland Reform 1994 regulations. In preparation for the hearing, the Natural Resources Committee of Owyhee County carefully studied the proposed regulations and identified the areas that were problematic. In order to get all the points into the hearing record given the short amount of time allowed for testimony, the testimony was divided between over 30 individuals. This strategy worked well except for the fact that three of those testifying were WWII veterans, brothers Don and Gene Davis and my father, who were struck by the sad irony that the hearing on regulations that would undermine their rights was being held on the 50th anniversary of D-Day.

320 These veterans used their allotted time to very movingly explain how 50 years ago from that date they never dreamt a time would come when the greatest threat to their rights would be coming from their own government. I will never forget Gene Davis of Bruneau, Idaho, who, with tears running down his face, recounted the names of his Army friends who had died around him on the beach that morning to preserve our rights and liberties.

325 It is with that thought in mind that I would like to thank the Committee for holding this hearing. I appreciate the fact that you, who represent us, are concerned with abuse of power. The issue of preserving and protecting the individual rights and freedoms of the citizens of the United States is not a partisan issue; but, one that is vitally important to us all.

330 There are several examples of abuse by the BLM that could be the topic of my testimony. I shall relate one of them before detailing my main topic of the attempt of the Federal Government to usurp State law; and, steal a private property right; namely, stockwater rights.

In 1984, our family purchased a ranch with a grazing preference right that lay partially within the newly designated North Fork Wilderness Study Area. This allotment is a common-use allotment shared with two other permittees; the Stanfords and the Andersons.

335 Approximately one (1) month after purchasing the ranch, a BLM employee told me, off the record, that he wished he had known we were purchasing the ranch so that he could have warned us not to because the grazing allotment in the WSA was targeted in the Boise District BLM Office to "*have its head cutoff*". I assured him that I was confident that working together we could solve any issues relating to grazing in the WSA.

340 I was wrong. When some resource concerns were identified by the BLM, we worked with a range consultant to devise a grazing rotation system that would address the resource concerns; and, also be economically feasible. In order to implement the system, approximately three (3) miles of fence needed to be constructed with a little more than a mile of it in the WSA.

345 The BLM refused to agree to the fence, citing the WSA as the reason, despite the fact that the interim Management Policy for the WSA and the Wilderness Act allowed for such improvements. The BLM's solution for the perceived resource issues was to drastically reduce grazing.

After a couple of years of meetings and on-the-ground tours with the permittees, range management experts, Congressional staff personnel and conservation group representatives, the BLM issued a decision

to build the fence. However, the decision to allow us to build the fence contained provisions designed to ensure that the fence would never happen.

350 The national BLM director had issued a directive that any range improvements in a WSA had to be completed by September 30, 1992, when Congress was expected to act on designating wilderness. The Idaho State Director issued an order that improvements in WSAs in Idaho must be completed by September 30, 1991, in order to ensure that the national directive be met. We received word of the decision allowing us to build the fence the afternoon of September 26, 1991. We were told that the fence
355 had to be completely finished by midnight September 30, 1991; including the portion not in the WSA. We were also emphatically informed that if the fence was not completely finished, then the entire fence had to be removed. For three (3) men and their wives to build approximately three (3) miles of fence in three (3) days was an impossible task in such rough country; and, not being able to use motorized vehicles in the WSA portion made it even more impossible. However, neighbors heard of our plight and came from miles away to assist. With the generous help of thirty-two (32) caring neighbors, the fence was
360 completed by 4:00_{PM} Sunday, September 30, 1991.

On Monday morning, October 1, 1991, a BLM employee telephoned Jeannie Stanford and told her to tell her husband, Mike, and me that we had to stop working on the fence. Jeannie informed him that the fence was completed; and, that Mike and I were simply gathering up the excess material from the fence line.
365 Jeannie recounted to us that there was a long pause; and, then he told her to tell us that we could not install the cattle guard because it was considered part of the fence. When Jeannie explained to him again that the fence was done, including the cattle guard, another long pause ensued; and, then he said he had to tell his supervisor; and, hung up.

The rotational grazing system was utilized during the 1992 grazing season and, monitoring indicated that it was working to meet the resource objectives. However, in 1992 the BLM settled an environmental group's appeal of the fencing decision by agreeing to remove the fence. The fence was removed by the BLM in the fall of 1992, after only one (1) season's use. Incidentally, Jeannie took pictures of the tire tracks the BLM made in the WSA; and, of materials they left scattered in it after the fence was removed; illustrating that two (2) sets of rules must apply regarding what is allowable in a WSA. Our grazing
375 season was subsequently reduced from 3-1/2 months to one (1) month; and, our AUMs from 666 to 244. The Stanfords and Andersons suffered AUM reductions of the same ratio. Because sound scientifically recognized management tools were denied us, our ranch is greatly devalued; and, our ability to make a living is a huge challenge.

It was only a few years after receiving this body blow, that the Federal government forced us into court; and, massive debt in an attempt to steal our stockwater rights. The United States objected to our stockwater rights claims that were filed pursuant to the Snake River Basin Adjudication and filed its own stockwater rights claims to the same water.
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Before this case was to be heard, the Judge scheduled a settlement meeting between the United States and us to see if the case could be settled without a trial. At that meeting, which was attended by Justice Department attorneys, BLM personnel and me, the United States insisted that only the United States could hold a water right on federal land; and, that we must withdraw our claim. I knew that the United States' position was contrary to the Idaho Constitution, Idaho Law, Federal Law and court decisions; and, refused to abandon our vested rights.
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When the United States became convinced that we were not going to capitulate, I was told by the United States that we would need to retain an attorney. I was further informed that the United States would pursue the case to the Supreme Court if necessary; that it would become extremely expensive for us; and, that we would be wise to consider if the cost would be worth the effort. Knowing that the United States'
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arguments lacked any basis in law; and, not willing to give in to the veiled threat of financial ruin, we embarked on a litigation journey that spanned ten (10) years. Of all the ranchers who filed for their stockwater rights when the adjudication began, only one (1) other rancher, Paul Nettleton of Joyce Livestock, continued through to the end. The others settled with the United States rather than risk incurring a huge debt; and, losing their ranch.

Despite the fact that the legal theories raised by the United States were contrary to the established law; and, were rejected by the courts at each step, the United States continued to appeal each loss all the way to the Idaho Supreme Court. The Supreme Court upheld the District Court; and, ruled that the United States could not hold a stockwater right because it was not the entity putting the water to beneficial use. It further ruled that stockwater rights belonged to the grazers who put the water to beneficial use; and, that the water rights were an appurtenance of the permittee's base property. All of the assertions of riparian rights and other contentions of the United States were utterly dismissed by the Court.

With appeals and delays obtained by the United States, they managed to extend the litigation ten (10) years; and, saddle us with attorney fees in excess of \$800,000. Paul Nettleton owes a similar amount. I am convinced that those responsible for pursuing the position that the United States took were intelligent people who were not simply mistaken; but, were deliberately attempting to overturn Western water law; and, were sending a message to other claimants that challenging the United States is a costly endeavor. They had to know that water rights are created under State law and confirmed by Federal law, including the Mining Act of 1866, Act of 1870, Desert Land Act of 1877, Taylor Grazing Act and the Federal Land Policy Management Act. They also had to be aware that courts have consistently held that water rights may be appropriated on Federal lands by private parties; and, that these rights once acquired, will be afforded all protection. In spite of the clear and unambiguous policies enacted by Congress and the consistent recognition of those policies by the courts, they pursued their illegitimate theories ignoring Congressional policy and Supreme Court decision.

During the ten- (10) year litigation ordeal we were worried about the escalating attorney fees that we could not afford; but, we were certain that at a successful conclusion, attorney fees would be awarded under the Equal Access to Justice Act. Unfortunately, the Idaho Supreme Court determined that as a State court, it lacked jurisdiction to apply the EAJA to this case; and, rejected our EAJA claims. They reached this decision despite the fact that the Nevada Supreme court, in a similar type of case, awarded attorney fees to the prevailing private party litigant, holding that *"it would be an injustice to deprive a prevailing party of attorney fees and costs merely because that party chose to litigate in a State court, as specifically authorized by Federal statute."*

The EAJA clearly provides at 28 USC §2412(b) that *"any court having jurisdiction of such action"* may award attorney fees and expenses to the prevailing party against the United States. The McCarran Amendment gave jurisdiction to State courts over the United States in water rights adjudications. Therefore, State courts are the *"any court having jurisdiction"*; and, thereby should have authorization to award attorney fees under the EAJA.

Because we believed that the Idaho Supreme Court erred in its decision regarding awarding attorney fees, we filed an appeal of that portion of the Supreme Court of Idaho's decision with the Supreme Court of the United States. We had hoped that the United States Supreme Court would take the case in order to resolve the conflicting opinions of the Idaho Supreme Court and the Nevada Supreme Court. Unfortunately, they did not take the case, leaving the conflicting opinions intact.

Congress needs to amend the EAJA to clarify that State courts having jurisdiction over the United States in an action are included in the definition of courts in the EAJA. Failure to do so will act as a deterrent to private parties trying to protect their rights against unwarranted and unjustifiable litigation and actions

440 initiated by the Federal government. The EAJA was designed to protect the rights of individual and small businesses in litigation against the United States by leveling the playing field given the extreme disproportionate resources at the disposal of the United States.

445 Many other instances of abuse could be cited which have led to the present time where a scenario is unfolding in the Owyhee Resource Area on the Boise BLM District that threatens the viability of the family ranches, the economy of Owyhee County and circumvents provisions of the Owyhee Initiative Agreement which led to designation of wilderness and wild and scenic rivers in Owyhee County. The BLM is under a court order to complete the Environmental Impact Statements on a large number of allotments for the permit renewals by the end of 2013. Although the BLM has known this for several years, they are now at this late date rushing through the process.

450 This does not allow time for meaningful consultation, cooperation and coordination with the affected permittees as required. With time rapidly running out, it is questionable if the majority of the decisions will be issued in time for comments, protests and appeals before the end of 2013. Permittees are wondering how their due process rights are going to be affected. By bunching up all these decisions and issuing them at the last minute, the BLM will effectively negate the science review process of the Owyhee Initiative Agreement which was the foundation for an agreement to designate wilderness and wild and scenic rivers in Owyhee County. There will simply not be enough time or personnel available to
455 perform a science review of all the decisions.

I want to again thank the committee for holding this hearing. If family ranches are to remain intact, a functioning un-fragmented landscape maintained, the economy of Owyhee County protected and access for recreationalists preserved, this broken, dysfunctional land management must be fixed. More importantly, we all have a sacred obligation to not let the sacrifices of Gene Davis' fallen friends be in
460 vain. We must not allow the rights and freedoms they died for to be lost through bureaucratic tyranny.

Prepared Statement of Brenda Richards, Murphy, Idaho

I am Brenda Richards; and, I am here today in my capacity as the Owyhee County Treasurer, representing Owyhee County, Idaho. I have served in this elected position for the past eight and a half (8-1/2) years. In addition to serving as the Owyhee County Treasurer, my husband, Tony and I ranch in Owyhee County. My extensive experience in natural resource issues, along with my accounting background lend well to my position as treasurer in a county that largely depends on the ranching community for its economic backbone.

Owyhee County is Idaho's oldest county; and, was established and settled, as many places in the Western United States were, around its natural resources. In our county those two (2) draws were mining of gold and silver; and, grass for cattle and sheep grazing. The gold and silver are not nearly as abundant as they once were; the renewable natural resource of grass continues to help sustain the county. Owyhee County is the 2nd largest county in the State of Idaho, covering 7,639 square miles, or 4.9 million acres. Yet, the population of approximately 11,000 in the entire county averages out to 1.2 people per square mile. Owyhee County is seventy-seven percent (77%) public lands; six percent (6%) State lands; leaving a mere seventeen percent (17%) privately-owned lands. That seventeen percent (17%) is the tax base of the entire county. Owyhee County does receive Payment in Lieu of Taxes (PILT) for the public lands in our county; but, every year the county has to wait to see what will actually be allowed for that payment though we certainly feel it is the Federal government's duty to paying the property tax owed to the county as those acres cannot be developed or taxed in any other way.

Of the 4.9 million acres in the county, approximately 191,700, or about four percent (4%) are agriculture with just a bit over 4.5 million acres in rangeland; and, of that, approximately 3.7 million of those rangeland acres are Federal lands. With the numbers just given, you can see that a very small amount of the land in our vast county serves as the private, taxable base; yet, this privately-owned tax base is largely dependent upon the Federal lands for rangeland grazing accompanying their private lands through the BLM permits. In addition, the communities in this county are rural and small; and, whatever decisions are made for the public lands have effects on those communities.

Over the past twenty (20) years in this county, there is one thing that has become very apparent. Threats, bullying and intimidation do not always present themselves in obvious ways or methods; but, that does not make them any less damaging; any less wrong; nor does it have any less impact. As a matter of fact, these quieter, "*behind-the-scenes*" forms of threatening, bullying or intimidating often have huge impacts and significant damages over a longer period of time. I would like to share with you a few examples of the Bureau of Land Management actions that can certainly be seen as threats and intimidation to Owyhee County and the residents that live here.

No matter that the tax base in the county may be only seventeen percent (17%), those taxpayers and the county are responsible for providing services within the county; some are mandated by either Federal or State laws; and, some are elected county services. Many of those services, such as road maintenance, law enforcement, safety matters and search and rescue are provided to all; whether you live in the county, are visiting the county's vast area or are just passing through. With Owyhee County's close proximity, being not much more than an hour away from the Treasure Valley, with its larger urban population, there are many visitors each day that come across the Snake River to enjoy the vast expanses that surround our rural; and, some very remote communities. Owyhee County offers diverse recreational experiences from motorized to non-motorized, hunting, fishing and sight-seeing; wilderness experiences, white water rafting at the right time of the year and a host of other activities. Many of these activities are on public lands; but, much of it is either accessed by going through, around or across the small amounts of private ground. Almost any BLM decision that is made has an effect in some fashion on the county's well-being; and, that of its rural communities due to the large amount of Federal land around each of these

communities. Often the cost of these decisions, both financially; and, to the health of the natural resources, are not fully vetted; leaving that expense on the local taxpayer's budget.

510 Once such decision we have recently been dealing with in Owyhee County is the Gateway West
Transmission Line. The county residents; and, those of us serving as their elected officials, have attended
hundreds of hours of public meetings, written pages and pages of comments; and, found ways we thought
could be used to compromise to a solution. The player in this game that we have found to be playing by
their own set of rules; and, truly that is a form of bullying when you are aware you can get away with it,
515 is the Bureau of Land Management. Early on in this process, it was agreed the lines were to come across
the public land, leaving as much private ground as possible alone as necessary power lines were to be
brought in.. Remember the ratio of private acres to public in Owyhee County. This was agreed to by the
power company, the diverse interest groups attending these meetings such as conservation and
recreational groups, the county elected officials and the residents. After all this was agreed to over months
520 and months of meetings; some of them even held in Ontario, Oregon, that people attended; and, all of
them documented with minutes, the Washington BLM office, in one person's decision, negated all that
time, money and effort by putting the line right across much of the limited private ground in our county.
This is one example of costs to the county in attending and participating in the government's dog and
pony shows of public meetings for months and months; resources and time spent to have maps made of
525 the outcome of those meetings' proposed routes; legal advice on the matter; time invested, only to have
that thrown back in the face; and, have the line put where they wanted it anyway. This cost comes down
to the county and the taxpayers here in more than one way. The initial investments of time, money and
sincere participation in a process to come up with a viable solution with the other "players" in this
process, most who do not even live in the county; but, have conservation, recreational or special interest
530 in the area, is the first cost; the second is the cost to the county and the land owners as their property is
devalued due to huge transmission lines being placed across their land; and, last, this cost goes out to
those land owners who have not had the decision directly affect them; but, will feel the indirect impact of
tax increases as the same costs of services are required to be met within the county; but, the tax base of
some property has decreased leaving that hole to be filled by those properties whose value held, to absorb
535 the increase that will be required in the county tax levy rate. Does this not pose a direct threat to the
county through a process that surely can be viewed as intimidation?

Ranching has long played a role in Owyhee County; and, continues to do so today. Since the early 1990s,
the challenges from the Bureau of Land Management; and, their decisions or lack thereof, have had
significant impact on the county government and the residents within the county. These impacts have
540 been financially, emotionally and on the ground. Probably the longest running threat and intimidation
within Owyhee County has been that which has come from the BLM neglecting to fulfill their obligations
of renewing permits; neglecting to gather necessary information in a consistent, accurate and timely
manner as outlined in their own guides; not involving the permittees as is required by those same rules
and regulations; and, the results of all of this is the permittees and the county then end up in court battling
545 on the same side as the BLM to defend their rights, permits and livelihood. This is at the expenses of the
county and the permittee, as the BLM has the Federal government to cover their attorney costs and time;
which means it costs all taxpayers and those in our county twice.

Prior to 1997, the BLM failed to complete the permit renewal work that is necessary to keep ten- (10)
year grazing permits current; and, as stated before, public land ranching is the backbone of this vast
550 county that is seventy-seven percent (77%) Federal Land. Grazing continued for over half of the permits
by annual authorizations since the permits had been allowed to expire by the BLM. The 1995 changes to
the BLM grazing regulations required a valid grazing permit. The lack of action by the agency have direct
effects on the economic base; and, also on costs of litigation to challenge these decisions in order to graze
on public lands; so, this immediately put the permittees out of compliance due to BLM lack of doing their

555 job; and, brought radical environmental groups to file suits. The lack of action by the BLM had; and, is
still having direct effects on the economic base of the county and the land owners here as the costs of
litigation to challenge these decisions continue to be paid. The threat to the economic viability of the
county; and, the threat to the land owner and permit owner cannot be ignored as this is the backbone of
560 the county. Legal counsel and consulting to protect themselves and their interest can cost an individual
hundreds of thousands of dollars; but, the cost of losing is even higher to them and the county, not to
mention, it is a property right. Costs to defend several of these cases already have come in with \$100,000
for one allotment to reach a permit renewal; and, two others at \$55,000 currently where they are not even
half way though defending themselves to get to the end result of the permit being renewed.

As I have mentioned several times, the economic backbone of Owyhee County and the rural
565 communities, is largely dependent on the ranching industry; and, grazing on public lands. The beef
industry in Owyhee County accounts for approximately 19,760,000 pounds of edible meat per year;
which is enough to feed 300,000 people; or the entire population of our county plus the population in the
State capital city of Boise. The total number of acres these ranches occupy is just over 435,000; and, the
approximate assessed value for the county is \$28,815,299. Please realize this is the assessed value for
570 county tax purposes; not what the land could be sold for if it were to be parceled out and developed; yet,
much of this private land is remote; and, assures unfragmented habitat and water sources for many forms
of wildlife. Many of these ranches are located in small, very rural communities throughout the county that
have schools and smaller businesses depending on their success to keep those communities healthy and
vibrant. Because of that; and, because of the continued unpredictability; and, up and down relationship
575 the county has had with the Bureau of Land Management; the county developed a county land use plan in
the early 1990s in an effort to address matters relating to State and Federal lands; and, to help protect their
interests and assure input in decisions. The plan is reviewed regularly and updated; with the most recent
update to this plan having been in 2009; and, reviews are more regular.

The county also has signed a Coordination Agreement with the Bureau of Land Management that dates
580 back more than fifteen (15) years. This agreement was also established to help assure that the county;
which in turn represents the residents; is included and involved in decisions that the BLM makes. As the
largest land owner in Owyhee County, these decisions often have significant impacts or effects on or
within the county, which in turn can also affect the economic stability and well-being of the county; and,
have effect on the livelihood of the residents. Over the years in which the Coordination Agreement has
585 been in effect, the Owyhee County Commissioners have spent a tremendous amount of time reminding
the BLM of their obligation to coordinate; reinforced by the signed coordination agreement. In the past
three (3) years alone, over twenty-five (25) letters were addressed to the BLM by the commissioners on
matters and decisions that have directly affected the county. Many of the letters have been written when
the BLM either intentionally or due to lack of management's attention or new management, ignores the
590 coordination process. The number of times this happens could certainly be seen; not only as a veiled
threat to the county in that the BLM does not feel they have to comply; but, also comes across as a form
of intimidation trying to get the county to back off of expecting them to follow the law and requirements
of including them in decisions and planning processes.

Both of these have taken much time, resource and dedication by the elected officials; those participating
595 in the public meetings to develop these; and, then keep them updated and reviewed; and, the different
groups, agencies and others that use these in their decision making process within Owyhee County. The
one agency that has given the county the most problem with these aspects is, again, the BLM.

Every one of these examples given has either direct or indirect impact to the county financially. The cost
to our county residents on grazing decisions is astronomical; and, the county has often weighed in over
600 the years with their own financial contribution to the litigation because it is a vital component of the

economic stability within the county. The economic stability of the county is first and foremost in my mind and duty as county treasurer; as it is with the commissioners. The costs to both the individuals and the county have effects on those communities as to dollars that could be spent on schools, business or other areas; but, instead has to go to threats and litigation caused by BLM decisions or lack thereof. The permit renewal process continues here in the county under a court ordered mandate now. That mandate came down in 2008; yet, the BLM did not start on the 125 out of 150 permits included in that order until 2012; and, the deadline is December 31, 2013. If that deadline is not met, the court stated the BLM will be held in contempt. Even though the process was not started in a timely matter, the ones paying the ultimate price, both financially and in emotional duress, are the taxpayers. The documents the BLM is putting out to be reviewed and commented on; and, ultimately end up having to be challenged, are over 500 pages long; and, some of them are over 1,000. If that is not intimidating to a common person, I do not know what is. Yet, the county and our land owners will not take it lying down. We will stand up to the intimidation, threats and bullying because we believe in our property rights; in doing what is right; and, have hope that justice for what is right will prevail. The cost to the county in tax dollars, time and stress is substantial; but, the people of Owyhee County prove to be resourceful, resilient and show the American grit that settled the West in the first place; and, continues to capture the trust and wonder of many people not only in the United States; but, across the world. We only hope that by presenting some of these aspects we have had to fight for years to continue to remain viable, productive and responsible citizens in our county that we love, that the very laws and Federal agencies threatening our existence may be changed to protect those rights and to not allow things to be done in bullying, threatening or intimidating ways; but, in ways that you can hold your head up and be proud and successful in supporting.

Thank you for the opportunity to share this testimony with your subcommittee; and, I would stand for any questions.

Prepared Statement of Lorenzo Valdez, Fairview, New Mexico

Committee Chair Representative Hastings, Subcommittee Chair Bishop and all the Members of this Committee; I want to thank the Committee for this opportunity to present testimony on a very serious matter that will take Congressional and Presidential action to remedy. The management of the National Forests and Grasslands falls on shoulders of the staff of the United States Forest Service, who have the very important charge of keeping our public lands productive. The ecosystems services produced by those lands meet the needs of life in a concentric circle or connectivity; the closer you are to the land, the more dependent you are on the land. Human needs or services are generally grouped into three (3) categories: economic, social and cultural. We all understand that the ability of the ecosystem to deliver services depends on the well-being of the whole, including all dependent species, humans included. There is no time in human existence when we have not managed the landscape to serve our needs; some critters do that also to a lesser extent. It has evolved into a very complex management task worldwide with important decisions to be made.

Regardless of what stressors you believe or agree with, there is no doubt that to have those services in the future, we have to protect them now. And, there lies the dilemma; power dictates management; and, the constructs that emerge in the discourse affiliate closely with power emerge as specific actions on the ground. Power differentials in the United States are supposed to be tempered by Justice, a responsibility borne by all branches of our government.

I was asked to come here today to tell a story of how unjust acts in managing Forest lands push people closest to the landscape off of it; and, create scenarios that are replete with what the esteemed Economist and Nobel Laureate, Dr. Ronald Coase termed “*negative externalities*”. “*Mr. Coase’s revolutionary insight was that you and I have a shared interest in minimizing the total harm suffered.*” “*The Problem of Social Cost*”, Ronald Coase; “*A Pragmatic Voice for Government’s Role*”, Robert H. Frank. Victimized folks or creating unmanaged casualties is not an efficient option. That process is inefficient. The government has a responsibility to mitigate the “*negative externalities*” to a Federal action. On the ethical or moral plane, I turn to Pope John XXIII’s Encyclical for *Pacem in Terris*, Establishing Universal Peace in Truth, Justice, Charity and Liberty:

“When one reflects that it is quite impossible for political leaders to lay aside their natural dignity while acting in their country’s name and in its interests, they are still bound by the natural law, which is the rule that governs all moral conduct; and, they have no authority to depart from its slightest precepts.”

My livestock graze on lands in the Santa Fe National Forest, Coyote Ranger District which was titled originally as a Spanish Land Grant to Juan Bautista Valdez in 1807. I do not like the term “*Permittee*” when referring to indigenous Northern New Mexico Forest users. We were denied U.S. Title by the Court of Private Land Claims. My family has been in the Jemez Mountains for thousands of years; I am descended from southwest tribal ancestors as are most Northern New Mexico Villagers commonly called Hispanic; but, most scholars refer to the group as Indio-Hispano. On the colonial side we have been grazing cattle since 1590; we are the 1st herders on U.S. soil. We brought three thousand- (3,000) year-old- grazing culture to the new world. I run twenty (20) pair and a bull, on an allotment that includes fifteen (15) relatives; some of them are near full blood Native American. Together we run seven hundred, fifty (750) pair and twenty (20) bulls. These historical and social elements also apply to the folks that are the focus of this tragic narrative. I agreed to bring their message to you because they couldn’t be here. It is however my story as well, I was intimately involved with these folks as Rio Arriba County Manager. The message is that the “*government*” has a duty to hold its managers accountable, just like I was as County Manager. All the constitutional protections should be available to those on public lands, including

670 the courts as appropriate. There are many good managers in the Forest Service ranks. We have such
managers “*this year*” on the district I’m in. They carried us through to rainfall this year. And, they could
have done what was done in this story. I have supplied for the record a research document by Dr. David
Correa that provides a more painful look at the history of the Vallecitos lands that are at the basis of this
story.

675 **Jarita Mesa and Alamosa Grazing Association Ranchers**

The Jarita Mesa and Alamosa Grazing Associations’ members are Hispanic stockmen who graze cattle on
the Jarita Mesa and Alamosa Forest Service livestock grazing allotments; both of which lie within the El
Rito Ranger District of the Carson National Forest. The two (2) allotments also are part of the Vallecitos
Federal Sustained Yield Unit (“*Unit*”), an area of the Carson National Forest designated by an act of
680 Congress for special treatment because of its mix of intermingled private and Federal lands; and, its
particularized use, dating back to before the Guadalupe-Hidalgo Treaty between Mexico and the United
States. The ancestors of the rancher members of the Jarita Mesa and Alamosa Grazing Associations have
been grazing livestock on these lands for generations; and, in fact, most of these families were grazing
stock in this area before the United States Forest Service existed.

685 Beginning in the 1920s and accelerating in the 1940s, the Forest Service instituted “*management*”
practices that were calculated to; and, did result in a drastic decline in the number of livestock the
Hispanic residents within the communities located in or near the Carson National Forest and the Santa Fe
National Forest were allowed to graze. These reductions continued into the mid-1960s. Unlike the
predominantly Anglo ranchers in their areas of New Mexico and Arizona, the Hispanic ranchers in
690 Northern New Mexico generally ran small herds of livestock; and, were dependent on the availability of
their former common lands, i.e., common lands designated by the King of Spain or Mexico prior to the
creation of the National Forest, for survival.

Over the past seven (7) or eight (8) years, the permittees and grazing associations in the Jarita Mesa and
Alamosa Allotments have repeatedly exercised their 1st Amendment rights to petition their Congressional
695 delegation and other elected officials for the purpose of protesting what they believe have been unlawful
actions by Forest Service Officials that have served to destabilize and degrade the private property rights
and cultural and social fabric of the communities where these ranchers reside. The lawful conduct of the
ranchers has been met by punitive acts by Forest Service officials, particularly Forest Service District
Ranger Diana Trujillo, including the reduction of their grazing permits. These ranchers believe that they
700 can prove that many of the decisions by the Forest Service District Ranger were motivated by a desire to
punish them for engaging in speech critical of Forest Service practices; and, by racial animus; and, a bias
against traditional Hispanic culture and its traditional agro-pastoral way of life.¹ Based upon such animus,
the Forest Service has made it nearly impossible for these ranchers to sustain their grazing permits which
results not only in a loss of their private property; but, in the slow destruction of their cultural fabric.

¹ This bias has subtly existed against this land use; and, the relationship of these ranchers to the land for
many years. For example, in 1935, Roger Morris, a Forest Service grazing assistant, issued a report
concerning grazing issues entitled “*A Dependency Study of Northern New Mexico*”, wherein it was stated
that:

*“[Hispanos] are sedentary in character living in the present; and, with no thought for the
future. They accept conditions as they are; and, make the best of them with no idea of
conserving the natural resources much less enhancement of them. They would remain in
place to the point of extinction by starvation and disease before they would migrate.”*

705 For example, the Forest Service understands that wild horses are eliminating forage and damaging the soil; and, that any significant increase in the size of the wild horse herds in this area could significantly impact the local Hispanic communities in an adverse manner because it eliminates forage needed for the permitted cattle. Despite this knowledge and the existence of the Forest Service Region 3 Policy, the District Ranger decided to increase the wild horse herd beyond the numbers authorized in its 1982
710 Management Plan from the twelve to fourteen (12-14) head to between twenty and seventy (20-70) head. However, the Forest Service 2002 Decision Notice expressly provided for measures to be taken to reduce the herd if it ever exceeded that number, recognizing that allowing the wild horse herd to increase to even one hundred, twenty (120) head *“may cause some permittees to be forced out of the livestock business by competition for forage from the wild horses.”* However, in disregard for the needs of these local ranchers
715 who live within the Vallecitos Federal sustained Yield Unit, the Forest Service has now allowed the wild horse herd to increase far beyond the number permittee by the forest Service’s 2002 decision. In fact, Forest Range Trujillo has chosen to allow the wild horse herd to grow to over one hundred, fifty (150) head, rather than attempt to alleviate this problem so as to be responsive to the needs of the Hispanic people in the area.

720 To deal with these problems, the rancher sought the assistance of then-U.S. Senator Pete Dominici in May 2006. Senator Dominici took up the issue with one of Ranger Trujillo’s supervisors. Upset with ranchers for their having exercised their right to petition the government for redress of grievances, on July 5, 2006, Ranger Trujillo issued a decision ordering all cattle removed from the Jarita Mesa Allotment by July 31, 2006. Her decision was purportedly based on a reported June 22, 2006 inspection of range
725 conditions that found the ocular estimate of forage stubble height was less than one to two inches (1”-2”) at each of the key areas visited by Forest Service. On July 20, 2006, ranchers Sebedeo Chacon, Gabriel Aldaz and others appealed Ranger Trujillo’s decision based upon the significant rains since June 22, 2006, which greatly improved conditions on the range. In light of these changed circumstances, the ranchers implored the Forest Service to recognize that there was no justification for forcing them to go
730 through the significant economic harm that would accrue as a result of having to remove all their cattle prior to the end of the permitted grazing season in October, 2006. Ranger Trujillo refused; but, after Congressional inquiry, was forced to reverse her position.

Ranger Trujillo then tried to force an end to the grazing season in September 2006, instead of on October 31, 2006, based on an allegation that the permittees had failed to meet certain conditions she had
735 imposed. At the end of the grazing season, rancher Chacon was having difficulty locating a small number of cattle that had strayed in the forest. This is a common problem; and, is due, in part, to the number of hunters and wood haulers who come onto the allotments and leave gates open; and, the fact that these allotments cover thousands of acres in the mountains. According to Ranger Trujillo, on October 5, Mr. Chacon had seventeen (17) cows that needed to be located and removed. On October 6, 2006, only four
740 (4) days after her arbitrarily imposed removal *“deadline”*, Ranger Trujillo issued a decision suspending twenty percent (20%) of Mr. Chacon’s authorized grazing for two (2) years, a decision which had a profound economic impact on Mr. Chacon and his family, costing him tens of thousands of dollars. Mr. Chacon believes that he was singled out for disparately harsh punishment by Ranger Trujillo because she perceived him, correctly, as a leader of the permittees in the area due to the letters he had written to
745 government officials protesting Ranger Trujillo’s conduct.

On June 1, 2009, Mr. Chacon and Thomas Griego responded to Ranger Trujillo with a letter signed by 26 permittees which criticized her poor management style and her mismanagement of the two (2) allotments. The letter was also sent to the New Mexico Congressional Delegation, Governor Richardson and Ranger Trujillo’s immediate supervisor, Kendall Clark. In the letter, the ranchers’ stated that they were insulted
750 by Ranger Trujillo’s past letters and accused her of attempting to intimidate them. The ranchers pointed to Ranger Trujillo’s unsuccessful effort to force them to remove their cattle from the allotments during

July 2006. The ranchers also alleged that Ranger Trujillo and her staff had continually failed to install needed cattle guards or to fix plugged ones; and, that Ranger Trujillo then used the fact that cattle would drift from one allotment to another, as a basis to threaten and/or sanction the permittees.

755 According to the ranchers, in retaliation for these letters, in 2010, District Ranger Trujillo made a
decision to reduce the ranchers' use of their allotments by eighteen percent (18%); a decision that ignored
the scientific analysis in a Forest Service Environmental Assessment ("EA") that such a reduction was
760 not necessary. Despite the fact that it was a well-established practice and policy of the District Rangers in
the different ranger districts within the Carson and Santa Fe National Forests (as well as in other Forests)
to adopt the Proposed Action in the EA (the proposed action would have maintained the status quo with
regard to permitted use), Ranger Trujillo disregarded the analysis contained in the EA; and, making good
on her predetermined decision to punish the ranchers by seeking an alternative calling for a substantial
reduction in grazing. The decision of the Forest Service's Interdisciplinary Team contained in the EA did
765 not support the action of Ranger Trujillo. However, Ranger Trujillo was angry with and determined to
retaliate against Plaintiffs for having the temerity to point out her errors and criticize her mismanagement
of the two (2) allotments and the entire Sustained Yield Unit.²

Although the ranchers had availed themselves of all known administrative and other remedies, on January
20, 2012, they filed a case in the Federal District Court for the District of New Mexico alleging, among
other things, that they were being singled out through harassment and intimidation by Ranger Trujillo
770 under color of law in retaliation for the ranchers' exercise of their 1st Amendment right of free speech and
the right to petition the government for a redress of grievance. The Federal District Court, in a 115-page
ruling on January 24, 2011, found that the ranchers had pled sufficient facts to show a possible retaliatory
motive against them. However, citing to Wilkie v. Robbins, 551 U.S. 537, 500, the court held that the
ranchers could not sustain a Bivens cause of action against Ranger Trujillo personally for damages
775 sustained due to her acts of intimidation and harassment allegedly undertaken in retaliation for the
ranchers' exercise of rights guaranteed to them by the 1st and 5th Amendment guaranteed rights. See:
Jarita Mesa Livestock Grazing Association, et al v. United States Forest Service, et al., Civ. No. 12-69-JB
(Memorandum Opinion and Order, Docket 49, filed January 24, 2018). In essence, this meant that the
district ranger remains free to engage in further acts of retaliation; and, the ranchers have no way of
780 deterring her unconstitutional conduct.

² In order to create the appearance that her decision was based on science rather than an arbitrary
determination to punish Plaintiffs for having engaged in conduct protected by the 1st Amendment, Ranger
Trujillo falsely stated that the Forest Service had determined the current level of permitted livestock to be
"unsustainable". In fact, the EA had not concluded that the current level of livestock grazing was
unsustainable; but, had proposed that grazing continue at current numbers under Alternative 2.
Furthermore, despite the fact that the 2002 Decision Notice on the wild horse herd required the Ranger to
attempt to reduce the wild horse herd by taking certain measures set forth in that decision, Ranger Trujillo
failed even to consider any alternative that would achieve the required reduction in the wild horse herd
prior to reducing the number of Plaintiffs' livestock permits. Instead, Ranger Trujillo claimed the herd
contained only seven (7) horses when 2010 Forest Service documents showed the herd was estimated to
be over one hundred (100); and, as a 2011 Forest Service survey showed, was close to one hundred, fifty
(150). Ranger Trujillo had to know that the herd had grown well beyond sixty-seven (67), figure from a
2008 estimate, because almost no horses had been removed in the two and a half (2-1/2) years since the
study. In sum, although the EA proposed action was Alternative 2 (status quo) Ranger Trujillo selected
Alternative 3.

Prepared Statement of Wayne N. Hage, Tonopah, Nevada

785 Since 1978 the employs of these agencies have demonstrated a disregard for my families' property rights; and, have punished us for making an honest use and assertion of these rights. The reason I accepted the invitation to testify here today is that I believe that it is so important for Congress to be aware of the atrocities that are being committed against my family and countless other ranchers. It is worth the risk of retribution from the agency employees. I would not be surprised if the BLM, USFS and DOJ try to make my life difficult because I am testifying before this committee.

790 Many ranchers have a problem with the BLM and USFS. They have conducted themselves in a criminal manner and destroyed many ranchers. I personally have been at the receiving end of this criminal conduct. This problem, however, does not stop with the Hage family. The number of other ranchers that have suffered like my family is too numerous to count. I know many. In fact, you can talk to almost any rancher who has to deal with the BLM and USFS and hear about another incident where a federal employee has broken the law and was never held accountable. You will only once in a great while hear of
795 minor punishment.

My family has spent over twenty-three (23) years in the court protecting our property and liberties from these Federal employees. During these twenty-three (23) years, we have had eight (8) published decisions and findings of Takings of our property by the Federal agencies and findings of Conspiracy by the Federal employees.

800 Three (3) courts have been witness to and addressed the Government threats, intimidation and bullying. The 9th Circuit Court of Appeals overturned a criminal conviction obtained by the SFS against my father for cleaning out brush from a ditch with hand tools.

805 The Federal Court of Claims trial Judge realized and found that it would have been futile for the Hage family to comply with all of the demands of the BLM and USFS employees. He thus ruled the Federal Government had taken our water rights as potential cost to the taxpayer of \$14,000,000 for the criminal acts of employees of the BLM and USFS.

810 The Chief Judge of the Federal District Court of the District of Nevada was so shocked by their behavior that he had found and ruled that the Federal Government employees engaged in a conspiracy against the Hage family. He also was convinced that the employees of the BLM and USFS would not stop; and, therefore gave my family a permanent Injunction against the Federal Government. I pray that the 9th Circuit Court of Appeals does not overturn the Injunction, it is our only protection.

The employees of the agencies, namely Tom Seley of the BLM and Steve Williams of the USFS were also held in contempt of court for trying to seek their own remedy after they realized the court process was not going their way.

815 The bosses i.e., agency heads some from Washington, D.C., of Tom Seley of the BLM and Steve Williams of the USFS, testified in a Show Cause Hearing for their contempt that they expected Seley and Williams to conduct themselves in this manner that the court found contemptuous and which shocked the conscience of the court. This tells me the problem goes to the agency heads. The conduct, which the court saw as unlawful and vindictive was actually expected out of the Federal employees by the Agency heads.

820 The Federal District Court of the District of Nevada has referred the Tonopah BLM Field Manager and the Austin Forest Ranger to the U.S. Attorney's Office for the District of Nevada, for prosecution of the conspiracy against my family; but, then explained that there is a possible conflict of interest. The Court then suggested that a U.S. Attorney from another district handle the case. To this date I am not aware that

825 anything will be done to hold these employees accountable for this conspiracy. I also do not expect that the U.S. Attorney will ever hold these employees accountable for their actions. Thus they know they have enough protection from prosecution that they will not be deterred from acting this way in the future. It is for this reason and others that I believe I will be punished by employees of the BLM, USFS and DOJ for testifying before this committee. The dangerous part of this is that now the Federal employees will be braver than ever.

830 One of the main problems is that the employees of the USFS and BLM have the protection of the DOJ lawyers. They will go to great lengths to protect the employs of the USFS and BLM even to the extent of violating their ethics rules. One example: The USFS claimed that we needed a “*special use permit*” to maintain a July 6, 1866 Act ditch right of way with heavy equipment. The July 6, 1866 Act ditch right of way is a congressionally granted and recognized right of way that preexisted the USFS; and, did not have
835 any requirements or limitations for obtaining any permission for its maintenance and use. The USFS however claimed we could not maintain our July 6, 1866 Act ditch right of way without first obtaining a “*special use permit*” from them; or we could only use hand tools. Even though we believe the USFS is incorrect in requiring us to obtain a “*special use permit*”, which supposedly they can deny, for any maintenance, we chose to only use hand tools to remove “*brush*” that was obstructing water flow in the
840 ditch.

Nonetheless, the USFS prosecuted my father for cleaning this ditch. The prosecution was overturned by the 9th Circuit Court of Appeals.

845 However, the DOJ lawyer, Elizabeth Ann Peterson, in clear violation of the ethics rules; and, with no support of the record, represented to the Federal Circuit Court in the case Hage v. U.S. that my father was using “*heavy equipment*” and a dozer to clean this ditch. She argued that since we did not first seek a “*special use permit*” from the USFS and was not denied this permit that our case was not ripe. The Federal Circuit Court based its ruling on these misrepresentations of the facts; and, partially overturned the decision in Hage v. U.S. on the grounds that the case was not ripe because we did not first seek and get denied a “*special use permit*” from the USFS. Again, the USFS even argued that we did not need this
850 “*special use permit*” if we only used hand tools; and, the facts are only hand tools were used. Thus one intentional lie from a DOJ lawyer cost my family immeasurable hardship.

I have included some excerpts from the case U.S. v. Wayne N. Hage, Executor of the Estate of E. Wayne Hage and Wayne N. Hage, individually. Case No. 2:07-cv-01154-RCJ-VCF. I find it best to read the Judge’s own words on this matter.

855 In the present case, the Government’s actions over the past two (2) decades shocks the conscience of the Court; and, the burden on the Government of taking a few minutes to realize that the reference to the UCC on the Estate’s application was nonsensical; and, would not affect the terms of the permit was minuscule compared to the private interest affected. The risk of erroneous deprivation is great in such a case, because unless the Government analyzes such a note in the margin, it cannot know if the note would
860 affect the terms of the permit such that the acceptance is in fact a counteroffer.

865 The government revoked the grazing permit of E. Wayne Hage despite his signature on a renewal application form because he had added a reference to the UCC to his signature indicating that he was not waiving any rights thereby. Based upon the declaration of E. Wayne Hage that he refused to waive his rights; a declaration that did not purport to change the substance of the grazing permit renewal for which he was applying; and, which had no plausible legal effect other than to superfluously assert non-waiver of rights; the government denied him a renewal grazing permit based upon its frankly nonsensical position that such an assertion of rights meant that the application had not been properly completed. After the BLM denied his renewal grazing permit for this reason by letter, the Hages indicated that they would take

870 the issue to court; and, they sued the Government in the CFC. The Government, having already denied the renewal grazing permit arbitrarily, then chose to interpret the initiation of the CFC Case as a refusal to appeal its administrative decision, despite the issuance of further protests by the Estate's attorneys. The Government refuses to consider any applications from Hage at this point. The entire chain of events is the result of the Government's arbitrary denial of the renewal permit of E. Wayne Hage for 1993-2003; and, the effects of this due process violation are continuing.

875 In 2007, unsatisfied with the outcome thus far in the CFC, the Government brought the present civil trespass action against Hage and the Estate. The government did not bring criminal misdemeanor trespass claims, perhaps because it believed it could not satisfy the burden of proof in a criminal trespass action, as a previous criminal action against E. Wayne Hage had been reversed by the Court of Appeals. During the course of the present trial, the Government has: (1) invited others, including Mr. Gary Snow, to apply for grazing permits on allotments where the Hages previously had permits, indicating that Mr. Snow could use water sources on such land in which Hage had water rights; or at least knowing that he would use such sources; (2) applied with the Nevada State Engineer for its own stock watering rights in waters on the land despite that fact that the Government owns no cattle nearby; and, has never intended to obtain any; but, rather for the purpose of obtaining right of 3rd parties other than Hage in order to interfere with the rights of Hage; and, (3) issued trespass notices and demands for payment against persons who had cattle pastured with Hage, despite having been notified by these persons; and, Hage himself that Hage was responsible for these cattle; and, even issuing such demands for payment to witnesses soon after they testified in this case.

890 By filing for a public water reserve, the Government in this case sought specifically to transfer to others water rights belonging to the Hages. The Government also explicitly solicited and granted temporary grazing rights to parties who had no preferences under the TGA, such as Mr. Snow, the areas where the Hages had preferences under the TGA. After the filing of this action, the Government sent trespass notices to people who leased or sold cattle to the Hages, notwithstanding the admitted and known control of the Hages over that cattle, in order to pressure other parties not to do business with the Hages; and, even to discourage or punish testimony in the present case. For this reason, the court has held certain government officials in contempt and referred the matter to the U.S. Attorney's Office. In summary, government officials; and, perhaps also Mr. Sow, entered into a literal, intentional conspiracy to deprive the Hages not only of their permits but also of their vested water rights. This behavior shocks the conscience of the Court and provides a sufficient basis for a finding of irreparable harm to support the injunction described at the end of this Order.

905 The Court will not award punitive damages under State law, because there is not "*clear and convincing*" evidence of "*oppression, fraud, or malice, express or implied*" on behalf of Defendants. See: Nev. Rev. Stat. Sec. 42.005(1). Defendants clearly had a good faith belief in their right to use the land as they did; and, had no intention to disregard the right of others. This does not prevent a trespass claim; but, it does prevent punitive damages.

Defendants are also entitled to an injunction, as outlined, infra. There is a great probability that the Government will continue to cite Defendants and potentially impound Defendants' cattle in the future in derogation of their water rights; and, those statutory privileges of which the Government has arbitrarily and vindictively stripped them.

910 It is further ordered that to the extent not inconsistent with this Order, the Court adopts Defendants' Proposed Findings of Fact and Conclusions of Law (ECF No. 392).

The conspiracy ruling was much more limited than what it could have been. Had we presented all of our evidence the court would still be trying to write its decision.

915 It is warming to know that with regard to the Courts that we still have the Rule of Law. Although, as I
have found out, it is nearly impossible to defend a person's property and rights in the courts due to the
financial burdens and the length of time involved. My Mother and Father filed the original case; and,
were not able to live long enough to see the end of the litigation. My stepmother died before there was an
end to the litigation; and, it is looking like my siblings and I may be in old age before this is concluded.
920 However, it is becoming very apparent that there is no rule of law with regard to the employees of the
BLM, USFS and perhaps the DOJ; there we have the rule of man. I remind Congress that Aristotle
explained that the difference between a correct form of government and perverse form of government is
that the former is the Rule of Law and the latter is the rule of man.

What solution may I offer?

925 The Citizens of this great country need to have the means to hold the employees of these agencies
accountable for their actions. I believe that only if they are held accountable, will they stop the threats,
intimidation and bullying. To accomplish this, we need at least two (2) things from Congress:

1. We need harsh penalties to be placed upon the employees who break the law and violate
a person's rights. They are using the color law in the performance of their actions; and,
they have the force of the Federal Government to protect them.
- 930 2. There must be an easier way to be able to hold them accountable. One of the biggest
problems is that they claim their actions are actions of the Federal Government; and, thus
they claim sovereign immunity. The individual is then forced to go up against the full
force and might of the Federal Government; and, prove that it was not an action of the
government in order to proceed. This is a very difficult thing to do. We need to take the
935 sovereign immunity away from Federal employees who break the Law.

Thank you for allowing me to testify before this committee.

Prepared Statement of George Matelich, Sweet Grass County, Montana The Saga of the Cherry Creek “Road”

940 The Black Butte Ranch was purchased by George Matelich and Michael Goldberg (the “Owners”) in
May of 1997. The ranch is located in Sweet Grass County, Montana, adjacent to property owned by
descendants of the original homesteaders. Prior to purchasing the property, the Owners did “due
diligence” in examining the title, and checking on what appeared to be an old jeep trail on the property.
945 After finding no easements recorded, and no documentation suggesting that the jeep trail was a public
road, they closed on the purchase and took possession of the property. Upon taking possession of the land
the Owners closed a gate through which people had reportedly occasionally used the jeep trail to access
the Gallatin National Forest. This trail extends from the Boulder Road through the adjacent property and
the Black Butte Ranch to the National Forest boundary. In January of 1999 the Owners were sued by the
Public Lands Access Association, Inc. (“PLAAI”) who claimed that Cherry Creek “Road” was a public
950 road, notwithstanding the fact that the County did not claim the road, and refused to claim it under R.S.
2477. In defense of the suit, the Owners filed a quiet title action, naming the PLAAI, the United States
Forest Service (“USFS”) and the public at large as defendants. A FOIA request disclosed that the USFS
was engaged with PLAAI in planning the litigation and strategic options for opening the road, including
condemnation. Nevertheless, rather than litigate the issue on its merits, the USFS filed a Disclaimer of
955 Interest, disclaiming any interest in Cherry Creek “Road”.

The PLAAI litigation was resolved by a settlement agreement in which the Owners agreed to allow
limited public access on the Cherry Creek “Road” for a period of 10 years, after which the parties all
agreed the owners could shut the gate and permanently discontinue the access. The quiet title action
proceeded to judgment, which was entered in favor of the Owners. The decree included a finding that the
960 use of the Cherry Creek “Road” for the past 60 years had been permissive, no prescriptive easement
existed, R.S. 2477 did not provide for access under the circumstances and that Congress did not envision
rights of way for hunting, fishing, snowmobiling and similar activities when enacting R.S. 2477.
Additionally, the easement granted to the public for a 10-year period could be extinguished after August
3, 2009, and the Owners’ interest in the property was free and clear of any and all estate, right, title, lien,
965 encumbrance, interest or claim by any third-party defendants. No appeal was filed after judgment was
entered. Following the conclusion of the litigation, and after the court had entered the judgment in the
quiet title case, the USFS revised its Travel Management Plan for Gallatin Forest. As part of that process,
the USFS closed other existing roads and area access into the forest, and labeled all but the pipe stem of
land through the Owners’ property for the Cherry Creek “Road” as “roadless”. The USFS essentially
970 limited the travel access alternatives to the one that had been litigated, and in which they had disclaimed
all interest.

Pursuant to the settlement agreement, after the 10-year period had run in 2009, the Owners exercised their
rights as contained in the agreement and closed the gate to the jeep trail (Cherry Creek “Road”) traversing
their property.

975 Shortly before the end of the 10-year period, the USFS made an attempt to reach an agreement with the
Owners for access to this area, including a potential land exchange, as well as pursuing the purchase of an
easement over the Owners property. The Owners declined to sell an easement to the USFS which would
have had the effect of splitting their property, but did offer to engage in a land exchange, even offering at
their own expense to build the new road on USFS administered lands. The USFS rejected all offers for
980 limited access, and in a Letter to the Editor published on June 17, 2010 in the Big Timber Pioneer, made
it clear that the only alternative the USFS was willing to consider was a road with unlimited vehicular
access across the Owner’s property.

985 Sometime in 2010 the USFS notified Congress of their intent to pursue acquisition of the Cherry Creek
“Road” through eminent domain. The Owners followed, bringing their story before the Montana
Congressional Delegation and other relevant Federal parties. After the expenditure of countless hours and
hundreds of thousands of dollars over the course of 3+ years, the matter was finally settled; the Owners
are building a road at their own expense on their own land and will be granting a perpetual easement to
the public as the settlement required.

990 The Owners were fortunate in that they had the resources to fight the USFS and ultimately build a road at
their own expense that did not result in the splitting of their property. That they had to do this at all is a
matter of public policy which cries out for a systemic remedy. The Owners were forced into this situation
only through the USFS wielding the cudgel of eminent domain authority. The USFS did not pursue this
road access because they needed to, rather the USFS did so because they wanted to, and because by their
995 own actions in closing all other access and designating the entire area as “roadless” they created a lack of
public access. The record is clear that numerous other access points to this area of the Gallatin existed.
The record is equally clear that in the ensuing decade following the litigation in which they professed no
interest, the USFS took actions which had the obvious impact of vitiating the court decision. In all
likelihood they behaved in such a fashion because they were confident that they had the unfettered power
to simply take property they wanted, regardless of need. This crude and purposeful abuse of the Federal
1000 Government’s power of eminent domain must be remedied.

The Government’s power of eminent domain has always been viewed as one that should be used
sparingly and with great restraint. Preservation of private property rights is a fundamental right of our
constitution, subject to taking only when there is a public need that has been proven and when appropriate
compensation is provided.

1005 However, there is no sufficient compensation to assuage disingenuous behavior of the Government in
purposefully turning a want into a need to justify condemnation.

Thank you for this opportunity to tell our story and express our opinions.

THREATS, INTIMIDATION AND BULLYING BY FEDERAL LAND MANAGING AGENCIES, PART II

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS
AND ENVIRONMENTAL REGULATION

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

Thursday, July 24, 2014

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**OVERSIGHT HEARING ON THREATS, INTIMI-
DATION AND BULLYING BY FEDERAL LAND
MANAGING AGENCIES, PART II**

**Thursday, July 24, 2014
U.S. House of Representatives
Subcommittee on Public Lands and Environmental Regulation
Committee on Natural Resources
Washington, DC**

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 1324, Longworth House Office Building, Hon. Doug LaMalfa presiding.

Present: Representatives McClintock, Lummis, Tipton, LaMalfa; Grijalva, and Garcia.

Also Present: Representatives Pearce and Stewart.

Mr. LAMALFA. The subcommittee will come to order. The Chairman notes the presence of a quorum.

Under Committee Rule 4(f), opening statements are limited to the Chairman and Ranking Member of the Subcommittee so that we can quickly hear from our witnesses in time today. However, I ask unanimous consent to include any other Members' opening statements in the hearing record if submitted to the Clerk by close of business today. Hearing no objection, so ordered.

I will also ask unanimous consent that Members not on the subcommittee or the full committee be allowed to sit at the dais and take part in the proceedings. Without objection, so ordered.

STATEMENT OF HON. DOUGLAS LAMALFA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LAMALFA. Today we have Part II in our oversight series on, "Threats, Intimidation, and Bullying by Federal Land Management Agencies." During Part I of the hearing, the committee heard firsthand accounts of mistreatment by the hands of Federal officials seeking to extort the witnesses into relinquishing their property rights. In the case of one of the witnesses, the Supreme Court, in *Wilkie v. Robbins*, said Congress has not provided victims of Federal bullying a legal recourse to seek a remedy for damages.

In Part II of this hearing, we will hear other accounts of mistreatment of American citizens who have been subjected to abusive behaviors by Federal officials. These firsthand accounts, like those examined in Part I, will give the victims of abusive conduct by a Federal land managing official a chance to tell their story to Congress.

Their testimony will show that status quo agency oversight policies and procedures are inadequate for addressing or deterring employee abuses, and may instead embolden overreaching or malicious employee behavior, with little risk of retribution for their actions.

In many cases, citizens who refuse to surrender their constitutional rights have been subject to a pattern and practice of threats and intimidation. Government agencies, through individual and collective efforts, are actively using land designations and restrictions, prompted mainly by radical environmental groups, to curtail multiple use on Federal lands.

State and local governments have been subjected to threats, lack of cooperation, and numerous unfair or heavy-handed tactics, which threaten public safety and threaten the livelihoods of communities, especially those in public land states. These actions are creating unnecessary tension with individual citizens, state and local units of government, and even local law enforcement.

Congressional oversight and legislative solutions are necessary to provide an effective check on Federal officials who abuse their regulatory powers. Today's hearing will continue the committee's work to fashion a legislative solution that will give targets of abuse by Federal land management employees the opportunity to seek a just remedy.

I am eager to hear the panel of witnesses today, and I hope Members on both sides of the aisle will listen to their accounts of what happened to them so we can work together in fashioning our remedy to these abuses.

I would like now to turn it over to our Ranking Member, Mr. Grijalva, for his opening statement.

STATEMENT OF HON. RAÚL GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Mr. GRIJALVA. Thank you, Mr. Chairman. I also want to thank Chairman Bishop for holding this hearing today. As was stated, this is our second hearing on intimidation and bullying by Federal land management agencies. But I do not think anyone in this room wants to simply point fingers or make an unfounded accusation. The issue should be improving relationships, and that improvement is a two-way street that requires dialog and partnership, not name-calling and disengagement.

Unfortunately, like the first hearing on this subject, the administration was not invited to testify. We will not be able to hear their perspective or have them respond directly to the witnesses in order to find solutions and common ground. Their presence would have made this a much more useful hearing and better use of this committee's time.

Instead, this afternoon will be an echo chamber of complaints and hand-wringing. We will hear testimony on the range of issues, from the Endangered Species Act to accusations that the BLM is turning southern Utah into a police state.

However, I would also like to say that all Federal employees, regardless of rank and position, should have and should uphold a high standard of professionalism to provide the best possible service to the public, and I think we could all agree that the vast majority act in a professional and courteous manner. Unfortunately, like any company, organization, or government, there will be instances where employees do not live up to that standard, and they must be held accountable.

Today's hearing will be an opportunity to hear from individuals who have grievances with the Federal land managers and law enforcement personnel. As we hear from today's witnesses, I think it is important to remember that these incidents should not be seen as a reflection of all the public land management agencies and their employees.

Today's witnesses will describe disputes they have had with BLM and the Forest Service over grazing permits, water rights, and law enforcement, among other issues. Keep in mind, BLM administers 18,000 grazing permits and less 155 million acres, and the Forest Service administers nearly 8,000 grazing permits on roughly 90 million acres, the vast majority of which are managed without complaints or incidents.

It is the responsibility of the Federal land managing agencies and their employees to protect the land that is the property of the entire American people. With such a broad directive, the opinions on how to do so are endless.

In some of these cases, disagreement in policy is perceived as overreach of authority, and the land managers who, under law, carry out the policies are considered threatening and bullying. It is important to see these examples for what they are, a matter of difference in policy opinion, and we must not lose sight of that.

Mr. Chairman, thank you, and with that I yield back the balance of my time.

Mr. LAMALFA. Thank you, Mr. Grijalva.

We will now hear from our panel of witnesses, but at this time I would like to yield to the gentleman from Utah, Mr. Stewart, who would like to make some introductions of them.

Mr. STEWART. Thank you, Mr. Chairman. I appreciate the opportunity to sit before your committee for at least part of a day. I am on the Appropriations Committee now, but I am on the Interior Subcommittee, and these issues are very, very dear to me. And I think they are really important, and this hearing is very important. So thank you for that.

I would like to introduce two of your panelists today, who happen to be not only from the State of Utah but from my District, and in addition to introducing them, maybe make a brief comment on the topic of the hearing.

First, I am pleased to introduce Sheriff James D. Perkins, or as his friends call him, Danny. Sheriff Perkins has been in service to Garfield County for a total of 27 years in law enforcement. He was a deputy for more than 20 years, and was then chosen to serve as the Sheriff of Garfield County in January of 2007, and he has continued to serve Garfield County as sheriff ever since.

Sheriff Perkins is actively involved in the drug task force, and strives to keep drugs out of Garfield County. And Danny is devoted to the people of the community, there is no question about that.

I would also like to introduce a good friend, Commissioner Leland Pollock, who has been a Commissioner of Garfield County for the last 3 years. He and I have known each other for about that amount of time, and I have not met anyone in my role in Congress who has impressed me more.

It has been my pleasure to work with him closely on a number of different issues since coming to Congress, and he is a genuine

public servant who puts first the specific needs of his constituents in what are really some of the most rural parts of our Nation.

He understands the impacts of Federal ownership on land and how that can affect real people in his community, and he is committed to finding solutions to improve the lives of the people in Garfield County as those who come to visit this very, very beautiful part of the state.

Then, Mr. Chairman, if I could divert just briefly and talk a little bit about the subject at hand that the committee has chosen to hold this hearing. I feel like it is a timely and very important topic.

If you would refer to the slides, and I show you these slides, at first glance you might look at those and think, well, that is some scene from some war zone, maybe Afghanistan or Iraq or something similar to that. But actually, that is not true. Those are Interior Department agency employees, and those pictures were actually taken in the western United States within the last 6 months or so.

I have been disturbed over the past several months as I have learned more and more about the level of militarization occurring within many Federal agencies, and I mean almost every Federal agency, but also, unfortunately, including Department of the Interior agencies.

When I see agents with helmets, with shields, with hard-plated body armor, with grenades, and in some cases grenade launchers and M4 carbines, my assumption is that they are military or possibly with the Department of Justice. As it turns out, the National Park Service has a number of what they call special event tactical teams, and they look an awful lot like what we would consider SWAT teams. There are also BLM officers with a surprising amount of firepower.

I recognize that officers need to be able to protect themselves, and in some cases they are in very rural and lonely parts of the state or of the Nation, and they need to be able to protect themselves in situations that may be unpredictable. And I want them to be able to protect themselves.

But what concerns me is when you see these type of very heavy-handed SWAT-like teams, with non-DOJ agencies being used as the tip of the spear for Federal law enforcement. I am not sure that having these teams scattered across dozens of Federal agencies is the most efficient use of resources. I think it is heavy-handed, it is intimidating to the American people, and I think it harms the sense of trust that is so important to be established between American citizens and the Federal Government.

I have introduced a bill to address some of these concerns. If the Interior agencies have SWAT teams or SET teams or whatever they might be called, we ought to know of their existence and have a better justification from the agencies for why they are necessary and when and how they are used. And I am hopeful that this committee hearing will help cast some light on that.

With that, I thank our witnesses for being with us today. And Mr. Chairman, I yield back my time.

Mr. LAMALFA. Thank you to the gentleman from Utah.

Also, I would like to introduce the third member of this panel today. Please take the dais as your name is called. It is Mr. Grant

Gerber, a Commissioner from Elko County, Nevada. So welcome, sir. Thank you for joining the panel.

I would also like to pause here for a moment before we start with testimony. Our colleague, the gentleman from New Mexico, Mr. Pearce, would like to acknowledge and make introductions of the second panel. You will remain where you are until the first panel is finished, but Mr. Pearce is on a limited time frame.

So I would ask unanimous consent for the committee to do so. Mr. Pearce.

STATEMENT OF HON. STEVE PEARCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Mr. PEARCE. Thank you, Chairman LaMalfa and Ranking Member Grijalva, members of the subcommittee. I appreciate your holding this hearing today on Federal agencies which intimidate and bully private citizens. I asked the Natural Resources Committee in May of this year to conduct a hearing on this topic as it relates to Otero County, New Mexico, which is in my District.

I appreciate the subcommittee looking into the issues as well as inviting the people on the ground who deal with the Forest Service every day. I am proud to call Otero County Commissioner Ronny Rardin a personal friend.

I would also like to thank Jose Varela Lopez of the New Mexico Cattle Growers' Association, Attorney Blair Dunn, and Mike Lucero, all for making the journey all the way from the Land of Enchantment to the Nation's capital for today's hearing. Our National Forests are real treasures to the people of New Mexico. We in southern New Mexico know conservation better than any outside special interest group or bureaucrats in Washington.

However, in recent years we have seen a sharp downturn for the worse from Federal land management agencies. Balance is no longer the order of the day, but instead, agencies look to implement a narrow special interest-led agenda. BLM is slow-walking oil and gas drilling applications. The Forest Service only puts up minimal acreage for necessary thinning projects. Grazing is improperly stopped because of faulty science. Public access to public lands and resources is being cut off.

The situation in Otero County began this spring, when the U.S. Forest Service began construction of a pipe fence that directly impacted the water rights of ranchers in the Agua Chiquita riparian area of the Lincoln National Forest. This was done to maintain the habitat of the meadow jumping mouse before the mouse was even listed as endangered.

The Service claimed that the construction of this fence would not impact the ranch owners who own the water because their cattle can move through two small fence openings. Imagine trying to herd a large number of cattle through a 10-foot-wide opening in a fence. Bureaucrats and special interest groups treat that as a solution. I believe it is a shell game.

Had the Forest Service actually consulted with the Office of the State Engineer, the agency which oversees water rights in New Mexico, the Forest Service would have learned what my office learned within 24 hours of contacting the State Engineer: the Goss family has adjudicated water rights in the Agua Chiquita dating

back to the 1880s. The fact that an agency would make the claim that water rights do not exist when they clearly do is an example of the Federal Government's arrogance and attempt to bully our local ranchers into submission.

The Forest Service also claims to accommodate ranchers by saying that the trenches near the Agua Chiquita allow water to flow under the fences. New Mexico, like much of the West, has been in a drought since 2011, and water does not flow through these trenches unless a heavy downpour occurs.

The New Mexico State Supreme Court has ruled that an individual with water rights has the ability to move the water to the cattle through trenches or pipelines, yet the Forest Service refuses to allow the pipeline.

The Court of Federal Claims sided with the Goss family in a similar case 4 years ago. The actions of the Forest Service have made it nearly impossible to move the water to the cattle, violating the law and violating the findings of two different courts.

Despite the bullying by the Federal Government, the county attempted to mediate this dispute with the U.S. Attorney's Office. When my office asked to attend this meeting for our constituents, the U.S. Attorney and the Forest Service threatened to cancel it, leaving one to wonder why an elected official is being excluded.

At this meeting, the Forest Service and U.S. Attorney refused to compromise. They would not even agree to not lock the gates on the fence until the issue could be discussed more thoroughly and resolved.

I am afraid that this is only the opening salvo from Federal agencies attempting to further restrict access to water and other vital resources in the West. The Environmental Protection Agency is attempting to regulate virtually every ditch in the United States under the Clean Water Act.

The Forest Service believes it has a right to regulate ground water it does not own, including ground water underneath lands it does not own, as well as the power to review state water rights applications. The arrogance and the bullying by Federal agencies must stop. This is not some theoretical argument. It is about our culture in the West and our livelihood. It is about the economy of southern New Mexico and other western states.

Chairman LaMalfa, Ranking Member Grijalva, and members of the subcommittee, I would like to once again thank you for allowing me to speak here on this issue today. I look forward to reading the testimony, and I have a more complete statement that I would like to submit for the record, with unanimous consent.

[The prepared statement of Mr. Pearce follows:]

PREPARED STATEMENT OF HON. STEVE PEARCE, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW MEXICO

Chairman Bishop, Ranking Member Grijalva, members of the subcommittee: thank you for conducting this hearing today on Federal agencies' intimidation and bullying tactics of private citizens. I asked the Natural Resources Committee in May to conduct a hearing on this topic as it relates to Otero County, New Mexico. I appreciate the subcommittee looking into these issues, as well as inviting the people on the ground who deal with the Forest Service every day. I am proud to call Otero County Commissioner Ronnie Rardin a personal friend. I'd also like to thank Jose Varela Lopez of the New Mexico Cattle Growers' Association, Attorney Blair Dunn

and Rancher Mike Lucero for making the journey all the way from the Land of Enchantment to our Nation's capital for today's hearing.

Our National Forests are a real treasure to the people of New Mexico. We in southern New Mexico know conservation better than any outside special interest group or bureaucrats in Washington. Sportsmen require access to public lands to hunt and fish. Tourists need the ability to move their vehicles along roads, and recreational enthusiasts must be able to bring boats and OHVs to truly enjoy everything that our forests have to offer. And our ranchers, often surrounded by Federal lands and checkerboarding, require rights of way and grazing permits that they pay for. Allowing such varied forms of access helps to achieve the necessary balance that protects our lands and economic interests.

However, in recent years, we've seen a sharp turn for the worse from Federal land management agencies. Balance is not the order of the day, but instead agencies look to implement a narrow special interest-led agenda. BLM is slow-walking oil and gas drilling applications. The Forest Service only puts up minimal acreage for necessary thinning projects. Grazing is abruptly stopped because of faulty science. Public access to public lands and resources is being cut off.

The situation in Otero County began this spring when the U.S. Forest Service began construction of a pipe fence that directly impacted the water rights of ranchers in the Agua Chiquita riparian area of the Lincoln National Forest. This was done to maintain the habitat of the meadow jumping mouse—before the mouse was even listed as endangered. The Service claims that the construction of this fence would not impact ranchers who own the water because their cattle can move through two small fence openings. Imagine trying to herd a large number of cattle through a 10 foot-wide opening in a fence. Bureaucrats and interest groups treat that as a solution—I believe it's a shell game.

Had the Forest Service actually consulted the Office of the State Engineer, the agency which oversees water rights in New Mexico, the Forest Service would have learned what my office learned within 24 hours of contacting the State Engineer: the Goss family has adjudicated water rights in the Agua Chiquita dating back to the 1880s. The fact that an agency would make the claim that water rights do not exist when they clearly do is an example of the Federal Government's arrogance and an attempt to bully our local ranchers into submission.

The Forest Service also claims to accommodate ranchers by saying that trenches near the Agua Chiquita allow water to flow under the fences. New Mexico has been in a drought since 2011, and water does not flow through these trenches unless a heavy downpour occurs. The New Mexico State Supreme Court has ruled that an individual with water rights has the ability to move the water to their cattle. The Court of Federal Claims sided with the Goss ranch in a similar case 4 years ago. The actions of the Forest Service have made it nearly impossible to move the water to the cattle, violating state law.

Despite the bullying by the Federal Government, the county attempted to mediate this dispute with the U.S. Attorney's Office. When my office asked to attend this meeting, the U.S. Attorney and Forest Service threatened to cancel it, leaving one to wonder why an elected official is being excluded. At this meeting, the Forest Service and U.S. Attorney refused to compromise. They would not even agree to not lock the gates on the fence until this issue could be discussed more thoroughly, and resolved.

I am afraid that this is only the opening salvo from Federal agencies attempting to further restrict access to water and other vital resources in the West. The Environmental Protection Agency is attempting to regulate virtually every ditch in the United States under the Clean Water Act. The Forest Service believes it has the right to regulate groundwater it does not own, including groundwater underneath lands it does not own, as well as the power to review state water rights applications. The arrogance and bullying by Federal agencies must stop.

This is not some theoretical argument. This is about our culture and livelihood. This is about the economy of southern New Mexico and the West as a whole.

Chairman Bishop, Ranking Member Grijalva and members of the subcommittee, I would like to once again thank you for holding this hearing today. The legislative branch exists in part to conduct oversight of executive agencies. It is time to exercise that power, and rein them in.

Mr. LAMALFA. Thank you, Mr. Pearce. We appreciate having you here today.

Let's proceed, then. We have our three witnesses from the first panel in place. Like all of our witnesses, your written testimony will appear in the full hearing record, so for this portion I ask that you keep your oral statement to 5 minutes. And that will be governed, of course, by the green light, the yellow, and then finally the red. Things get pretty heated with the red, so we ask that you adhere to that, much like a stoplight.

So with that, first up we will have Sheriff Perkins.

**STATEMENT OF JAMES D. PERKINS, SHERIFF, GARFIELD
COUNTY, UTAH**

Sheriff PERKINS. Thank you. I would like to thank Chairman Bishop, Ranking Member Grijalva, and the members of the subcommittee. Thank you for inviting me to testify in this oversight hearing.

I am James D. Perkins, Jr., Sheriff of Garfield County, Utah. In my more than 27 years of law enforcement experience, I have worked closely with many different Federal law enforcement agencies. I would like to focus today on what I see as a system-wide failure by the Bureau of Land Management law enforcement to accomplish its mission.

If we had time, I could talk all afternoon, giving you example after example of problems I have experienced with BLM law enforcement. My written testimony includes nine examples that will give this subcommittee an idea of some of the difficulties we face. And I would like to talk today about three examples in particular.

But before I begin, I want to make sure that you understand that I absolutely recognize the critical role that Federal law enforcement agencies play in my county. Garfield County is more than 85 times the size of the District of Columbia. About 93 percent of our county is managed by the BLM, Forest Service, and National Park Service. So coordinating with each other is not optional.

We have a long record of working hand-in-hand with Federal agencies, like the FBI, the DEA, Immigration and Customs Enforcement, the Forest Service, and the National Park Service. I am proud of the many successful operations and investigations we have done jointly. We may not agree on everything, but we work together for one main reason: our relationships are based upon mutual respect. And that is where BLM law enforcement has been different.

My first example shows exactly how BLM law enforcement views our relationship. While I was attending a drug task force meeting in Cedar City, Utah, a BLM law enforcement officer told me point blank that he really did not care about any authority that I had as the Garfield County Sheriff. He told me that he did not feel like he had to coordinate anything through my office. His statement left me speechless. This attitude of lack of respect, which I find reaches through many levels of BLM law enforcement, is what I believe is the cause of the problem.

Another example of attitude happened during a search and rescue operation. We received a call that a party was overdue, and a search and rescue team needed to be sent. In these kinds of life-and-death emergencies, time is of the essence, and we need as

much help as we can get to locate the vehicle to give us a starting point for the search.

I asked one of the dispatchers to call the BLM law enforcement officer that is located in the middle of our county to help in the search. The frustrated dispatcher told me, “Sheriff, it is a waste of time. If he will answer the phone or we do get in touch with him, all he is going to tell us he is off duty or he is out of hours.”

My last example involves a complaint I received from a BLM field manager located in Escalante, Utah. On the night before the elk hunt was open, a BLM law enforcement officer posted “Road Closed” signs on a road that was actually open to the public. The BLM field manager received complaints about the illegal road closures, and he went to the area and started to remove the “Road Closed” signs.

The BLM law enforcement officer confronted the field manager and threatened to arrest him. He even stepped back and placed his hand on his service weapon. The field manager told me that he felt like his life was in danger.

These examples are not isolated incidents. They happen all the time, and not only in Garfield County. I have included in my written statement letters from the Western States Sheriffs Association, Utah Sheriffs, and Nevada State Sheriffs to be included in the official record.

Years ago we had similar problems with the Forest Service law enforcement, but we were able to resolve them. Dave Ferrell, the Director of Law Enforcement for the Forest Service based here in Washington, took the time to come to Garfield County personally and meet with me. Our discussion resulted in both a change in attitude and personnel, and the problems have resolved themselves.

I am confident that we could do the same with the BLM if we had the chance. Until then, BLM law enforcement will continue to cause problems for the Sheriff’s Office, first responders, residents, visitors, and the local economy.

Again, I appreciate the opportunity to testify before you today, and I will be happy to answer any questions.

[The prepared statement of Sheriff Perkins follows:]

PREPARED STATEMENT OF SHERIFF JAMES D. PERKINS JR., GARFIELD COUNTY, UTAH

Thank you Chairman Bishop, Ranking Member Grijalva, and members of the subcommittee for this opportunity to testify in this oversight hearing. My name is James D. Perkins, Jr., Sheriff of Garfield County, Utah. I have worked in law enforcement for more than 27 years and have significant experience in working with many different Federal law enforcement agencies. I would like to focus my testimony today on what I see as a system-wide failure by the Bureau of Land Management (BLM) law enforcement to accomplish its mission.

If we had the time, I could take all afternoon giving the subcommittee example after example of problems that I have experienced with BLM law enforcement and its lack of coordination with local law enforcement. I’ve included several examples in this testimony that will give the subcommittee an idea of some of the difficulties that BLM law enforcement has created for Garfield County—examples that affect not only the Sheriff’s Office, but also our first responders, residents, and visitors.

NEED AND HISTORY OF LOCAL AND FEDERAL LAW ENFORCEMENT COORDINATION IN GARFIELD COUNTY

Before I begin, I would like to give you some background on Garfield County to explain why coordinating law enforcement activities with Federal agencies is so critical. Garfield County is more than 85 times the size of the District of Columbia. Including me, the Sheriff’s Office employs only six full-time deputies across the county

to cover more than 3.3 million acres. Our law enforcement activities on public lands create a significant strain on our manpower and resources as we routinely are required to conduct emergency search and rescue operations and narcotic interdictions. We are often required to enlist the help of local volunteers, state police, and multi-county task force personnel.

Our law enforcement mission is made significantly more difficult because of the composition of the land ownership in our county and the number of people from home and around the world that come to see the beautiful landscape. About 93 percent of the area within Garfield County is managed by Federal agencies. We are home to three national parks, the Glen Canyon National Recreational Area, Dixie National Forest, and the Grand Staircase-Escalante National Monument. Combined, these areas receive more than 1.5 million visitors each year. With this number of people and overlapping jurisdictions, coordinating with Federal agencies is not optional.

Accordingly, we have a long record of working hand-in-hand with Federal agencies like the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE), the Forest Service, and the National Park Service. I am proud of the many successful joint operations and investigations that we have done. I have battled the Mexican Cartel as they moved their illegal marijuana growing operations into my county. I have worked with the FBI on a kidnapping case where I arrested the suspect in my jurisdiction. I have worked alongside DEA and FBI agents on an attempted assassination case where one of our local Adult Probation and Parole Officers was the target. While exercising a search warrant on this investigation, one of the suspects was shot. Because of the coordinated efforts of all the agencies involved, including Federal agencies, no law enforcement officers were injured during this operation.

As these examples show, I absolutely recognize the critical role that Federal law enforcement agencies play in my county. While we do not agree on everything, we are able to work together because our relationships are based on mutual respect. I respect the role of each of these agencies to enforce Federal law within their jurisdictions, and they respect my role as sheriff and the chief state law enforcement officer of the county.

Notably absent from these examples is any joint work with law enforcement from the BLM. It's because there is none. And that is what I want to focus on today, because I see this lack of coordination—rather, their refusal to coordinate—as a system-wide failure that needs to urgently be addressed.

LACK OF COORDINATION AND INAPPROPRIATE BEHAVIORS OF BLM LAW ENFORCEMENT

BLM's attitude toward coordinating with local law enforcement is summed up best by a conversation I had with a BLM law enforcement officer while we were attending a drug task force meeting in Cedar City, Utah. He told me point blank that he really didn't care about any authority that I thought I had as the Garfield County Sheriff, and that he did not feel like he had to coordinate anything through my office. This statement left me speechless at the time, and, in my experience, it is representative of the lack of respect that BLM law enforcement has for local law enforcement. This lack of respect and choice to ignore the Garfield County Sheriff's Office makes my job significantly more difficult because the BLM is the largest land manager in Garfield County.

This refusal to coordinate, coupled with a lack of any meaningful oversight, has created a perfect environment where the abuse of Federal law enforcement powers can occur. We have had complaints of BLM law enforcement stopping people under the pretext of enforcing state law, and they have refused to provide me with documentation of their authority or jurisdiction to do so. They have detained people completely outside of BLM's jurisdiction on land managed by the Forest Service, illegally closed roads, and interfered with county emergency medical technicians, wasting time and resources. Local residents and visitors who feel they have been wronged by BLM law enforcement have little recourse but to come talk to me. The following examples are from a cross-section of these complaints, and I can assure that they are not isolated incidents. They happen all the time, and not only in Garfield County. I would note that the first is from a complaint that I received, not from a visitor or resident, but rather from a local BLM field manager.

I received a complaint from a BLM field manager located in Escalante, Utah. On the night before the mule deer hunt was to open, a BLM Law Enforcement Officer posted road closed signs on roads that were actually open to the public. The BLM field manager received complaints about the illegal road closures so he went to the area to investigate and remove the signs. The BLM law enforcement officer confronted the field manager as he was removing the signs and threatened to arrest

him. The BLM Law Enforcement Officer stepped back and placed his hand on his duty weapon. The BLM Field Manager stated that he felt like his life was in danger.

- Several visitors to Garfield County told me that they would never return because of the way they were treated by BLM law enforcement. These tourists were visiting the Grand Staircase-Escalante National Monument and wanted to see a rock formation that was off the road. They parked their motorcycles off the roadway, within the county right-of-way, which is perfectly legal. When they returned, they were met by a BLM law enforcement officer, who threatened them with a citation and the impoundment of their bikes for not leaving them in the roadway.
- I have received complaints from citizens that live in Escalante, Utah. They reported that while they were on Forest Service property, a BLM law enforcement officer pulled them over for no apparent reason. The officer questioned them about what they were doing and they felt like they were being bullied. I contacted the District Forest Service Ranger in charge of the area and asked him if he had requested that the BLM law enforcement patrol on Forest Service property. He advised me that he had not and that he was also upset because he had received other complaints of similar activity. I contacted the BLM sergeant in law enforcement that is responsible for this area. This sergeant made excuses for the BLM law enforcement officer's actions and stated that they would get back to me. The sergeant eventually got back with me and advised me that the alleged allegations had taken place prior to her attaining the rank of sergeant, therefore they would not investigate. This didn't make any sense to me but that was the answer they provided.
- Garfield County Emergency Medical Service Director, Tammy Barton, reported to me that on three different occasions, a BLM law enforcement officer showed up on the scene of medical and search and rescue emergencies. The BLM officer refused to check in or sign the sign in sheet at the Incident Command, as is normal protocol. He took it upon himself to walk through the scene where an airplane accident was located within a State of Utah right of way. On another occasion, it was required to carry a patient out of a remote area to a landing zone where a medical helicopter could land to pick up this patient. The Incident Commander knew that carrying out the patient would take several hours. The BLM officer demanded that a helicopter be called immediately. Not only did the BLM officer again refuse to check in with the Incident Command, but he also took it upon himself to dispatch a helicopter to the scene after being told by the Incident Commander to wait until the patient could be carried out and was closer to the landing zone area. The medical helicopter arrived at the landing zone and sat there idling for approximately 4 hours. This resulted in the pilot having to return back to his station, get fuel, switch out pilots, and then return to the scene. This not only wasted time and money but further endangered the patient.
- I received reports from local ranchers that BLM law enforcement officers were seizing their empty protein supplement tubs as soon as the cattle had emptied them. The BLM law enforcement officer would take possession of the tubs and threaten the local ranchers with littering citations. I contacted the BLM's Special Agent in Charge and expressed my concern over the officer confiscating the tubs. I explained that the ranchers used these tubs for many different purposes after they were empty and certain types of tubs were returnable for a rebate when purchasing more of the protein. I told him that it was improper for the officer to remove these tubs and that the ranchers were not abandoning them. The Special Agent in Charge uncaringly laughed it off.
- It was reported to my office that additional roads had been illegally closed in the Spencer Flat area on the Grand Staircase-Escalante National Monument. I proceeded to this area and found a large pile of limbs, logs, and rocks blocking access to this road. I received a report that a BLM law enforcement officer was seen with limbs and logs in the back of his vehicle in the area. The Monument's manager was contacted and he advised me that this road had been illegally closed. I questioned the local BLM law enforcement officer that was implicated and he denied any involvement. However, to date there have been no other road closures of this nature.

These examples trouble me a great deal, especially where tourism is affected. Tourism is the lifeblood of Garfield County's economy. While we have received many similar reports from visitors, I have to wonder how many others have simply chosen to leave the county and not return.

Another area where a lack of coordination is very evident is in search and rescue operations on the Grand Staircase-Escalante National Monument. In recent history, we have had a number of fatalities for a lot of different reasons. I honestly cannot remember the number of people I have witnessed whose lives were nearly ended and then saved by Garfield County Sheriff's Office, Garfield County Search and Rescue, and use of the Utah Department of Public Safety (DPS) helicopter.

But these efforts are costly both in manpower and financial resources. From April 13, 2013 to March 11, 2014, I have spent a total of 469.75 hours of search and rescue time rescuing individuals. This does not count any training time for search and rescue—this is actual time spent on searches. From July 2, 2013 to April 29, 2014, I have 38.6 hours of use on the DPS helicopter. The helicopter's rate is \$1,700 an hour, which means the cost during that period for the helicopter is \$65,620.

Yet I have not received a single minute of help or assistance from any BLM officer, nor have I received one penny of assistance for search and rescue reimbursements from the BLM. Although search and rescue is primarily the sheriff's responsibility, the BLM does have an obligation to assist when requested. I think that it is time that the Bureau of Land Management stepped up and helped with these responsibilities. They also need to help with manpower and financially for the individuals that visit the Grand Staircase-Escalante National Monument and other BLM grounds.

Although my dispatchers have attempted to contact BLM law enforcement for assistance in search and rescue operations, there always seems to be an excuse for why they can't help. It has risen to the point where my dispatchers have become completely frustrated with BLM law enforcement. Recently, we received a call that a party was overdue and a search and rescue team needed to be sent. In these kinds of life and death emergencies, time is often of the essence, and we needed as much help as we could get to locate the vehicle to give us a starting point for the search. I asked one of my dispatchers to call the BLM law enforcement officer that is located in the middle of our county to help with the search. The frustrated dispatcher told me, "Sheriff, it's a waste of time! If he will answer his phone or we do get in touch with him, all he is going to tell us is that he is out of hours or he is off duty."

RESOLVING THE PROBLEM

I mentioned in the beginning that my office has excellent working relationships with other Federal law enforcement agencies. This has not always been the case, but we have always been able to work through these issues so we can do our jobs effectively. For example, several years ago we had incidents, similar to those I've discussed above, happening with the Forest Service Law Enforcement from our area. Dave Ferrell, Director of Law Enforcement for the Forest Service, took the time to fly from Washington, DC to personally meet with me in Garfield County. Our discussions resulted in both a change of attitude and personnel, and the problems have resolved themselves. In fact, I am in the process of deputizing two Forest Service law enforcement officers, in addition to the three Bryce Canyon National Park Rangers I have deputized since I became sheriff in 2007.

I am confident that if we had the opportunity to engage with the BLM constructively, in a spirit of working together, we could resolve the problems. We are open to any opportunity to work toward resolution with the BLM, and would appreciate any help the subcommittee could provide in our efforts. Oversight hearings like this give us a voice that is often overlooked, and the evidence that has been submitted to the subcommittee without doubt provides sufficient justification for a change in the status quo.

Again, Mr. Chairman, I would like to thank the subcommittee for this opportunity to testify before you, and would be happy to answer any questions.

Mr. LAMALFA. Thank you, Sheriff. We appreciate it.
Now we will move to Commissioner Pollock from Garfield County, Utah as well.

Five minutes, please.

STATEMENT OF LELAND POLLOCK, COMMISSIONER, GARFIELD COUNTY, UTAH

Mr. POLLOCK. Thank you, Mr. Chairman, Ranking Member Grijalva. My name is Leland Pollock. I am a Garfield County

Commissioner. I chair the Utah State Association of Counties' Public Land Committee. I sit on a national Public Land Committee for the National Association of Counties.

And if you will indulge me for a moment, we have some teenage TARS members. If I could just have them stand. Thank you. They are with us coincidentally.

What I am going to get into today, very seldom do we come back here and offer solutions. But I do have one solution to this problem. Contracting when it comes to BLM law enforcement is critical. That is where relationships are forged. And relationships in the West, believe me, are everything. In rural areas, good relationships can be the difference between life or death, really literally.

Now, a couple of years ago—and by the way, these are not partisan issues, a good friend of mine, State Director Juan Palma of the BLM—he has nothing to do with the law enforcement side; he is the State Director—he was working with me to establish a contract.

This contract would have allowed our sheriff to deputize BLM employees, let the BLM law enforcement officers use all our resources, use our dispatch, and basically protect his safety as well as the safety of the county. These cooperative agreements pay the counties, the rural counties, to offer law enforcement, and they are a huge savings to the agency, no matter what agency it is.

A prime example of how well this works is in Kane County, on the popular Grand Staircase National Monument. You all have heard of that. We share that monument with Kane County. They had an agreement similar to the one that the State Director and myself had worked out, and it was working beautifully. You can talk to the locals on the ground from either side, the BLM, the local sheriff, anybody you want to talk to, and this is the way to do it. OK?

Unfortunately, I do not share that same relationship with the State Director of Law Enforcement. It is not because I do not want to. It is because it is impossible. Unfortunately, as well, this State Director of Law Enforcement canceled all of the contracts in the entire State of Utah.

Now, you have for the record a letter from our Lieutenant Governor stating how imperative it is for the state to get those contracts reestablished, and we are not just talking about fiscally. We are talking about safety for the entire law enforcement system. Now, going forward, also, if you look at my statement, you are going to find a NACO Sheriffs Resolution, which means every county in the United States supports contracts with the local sheriff.

Every county in the United States—this was passed on through my committee and through NACO, the National Association of Counties—every county in the United States also supports him as the chief law enforcement officer. He has been told many times by the BLM law enforcement side that he is not the chief law enforcement officer of the county. This is a paradox that needs to be fixed, and you all have the power to fix that.

Now, we sometimes in the West and in Utah—some of you folks back here may think that we are anti-government, and that is just not the case. We are reaching out today as well as we will back

in Utah to try to forge relationships, to try to work through these issues.

What I am recommending here today is that we start with contracts. These contracts work all across the West, and they are vital to what we do on the ground. And they are a much greater help, believe me. And a good man, Juan Palma, State Director of BLM in Utah, knew that when he tried to forge and enter into an agreement with Garfield County.

But also, I want to bring one point up really quick. I am running out of time. It is kind of unnerving to me that the state director can work on an agreement with a local county commissioner, and the law enforcement side has the authority to override that. That is troubling.

Anyway, thank you for your time. And Congressman Stewart, I know you went through a lot to be here today, and you are very much appreciated in the great State of Utah, believe me.

[The prepared statement of Mr. Pollock follows:]

PREPARED STATEMENT OF LELAND F. POLLOCK, GARFIELD COUNTY, UTAH
COMMISSIONER

Chairman Bishop, Ranking Member Grijalva and members of the committee: my name is Leland Pollock, and I am a County Commissioner from Garfield County, Utah. I also serve as a member of the National Association of Counties Public Lands Committee and have been designated by my fellow commissioners in Utah as the Chairman of the Utah Association of Counties Public Land Steering Committee.

Garfield County is a scenic rural area roughly the size of Connecticut. Ninety-three percent of the land base is under Federal ownership, and I believe we are the only U.S. county that contains portions of three National Parks (Bryce Canyon, Capitol Reef and Canyonlands). We are also home to significant portions of the Glen Canyon National Recreation Area, the Dixie National Forest, the Grand Staircase-Escalante National Monument, two BLM field offices, and a small segment of the Fish Lake National Forest.

I grew up cherishing the lands in Garfield County as the son of a Park Service employee. An ex-marine, my father worked for Bryce Canyon National Park. My father's employment was outside strict law enforcement responsibilities, but because of his military experience, he was often called upon to assist NPS officers—especially in the most volatile situations. I observed with my own eyes proper methods for protecting and serving the people of the United States.

I am here today to testify on two issues regarding BLM law enforcement activities that have moved away from a public service philosophy: (1) polarization of BLM law enforcement personnel/bullying; and (2) cancellation of cooperative law enforcement agreements between BLM and local governments.

As a preface to my remarks I want to inform you that Garfield County has a cooperative and productive relationship with National Park Service and U.S. Forest Service law enforcement personnel. Things are not always perfect, but we work with them within the confines of the law and with honest consideration for the public. I also want to let you know we enjoy a very positive and productive relationship with Juan Palma, Utah's State BLM Director. We meet and talk on the phone frequently; and he has been attentive to our requests and has responded expeditiously and appropriately within his authority. Unfortunately, we cannot make the same statement regarding BLM law enforcement personnel. Discussing BLM law enforcement operations is my purpose today.

This is not our first attempt to resolve issues of bullying, intimidation and the lack of integrity exhibited by BLM law enforcement agents. We have tried locally, and earlier this spring Utah's Lieutenant Governor convened an executive level meeting to discuss law enforcement on Federal lands in Utah. The meeting was attended by the Lieutenant Governor Spencer Cox, Utah's Attorney General Sean Reyes, the Regional Forester, the Regional Chief of Law Enforcement for the Forest Service, Utah's State BLM Director, BLM's Chief of Law Enforcement, and numerous Federal, state and local leaders. The meeting was open, cooperative and productive, except for the participation of the BLM's Chief of Law Enforcement. The Lieutenant Governor of Utah caught BLM's Chief of Law Enforcement in a lie and

exposed in his deception. His arrogant behavior lacked integrity and was illustrative of his department's unacceptable culture.

Our concerns/complaints are not just a matter of hurt feelings. The policies of BLM's Chief of Law Enforcement have cost Garfield County real dollars. Last year Garfield County and the Utah State BLM Director worked out a cooperative agreement providing Garfield County Sheriff's office a contract for law enforcement on BLM land. The BLM was to reimburse the county a set amount that would have resulted in significant savings to the Federal Government. The County—with BLM concurrence—hired law enforcement staff, acquired vehicles and equipment, provided training and proceeded with implementation of the agreement. Contrary to the State BLM Director's orders and without concurrence, BLM's Chief of Law Enforcement canceled the agreement leaving Garfield County with a significant budget shortfall and staff operating in an area without an agreement. We are befuddled how one individual can override a State Director and negatively impact an entire county with impunity.

We need your help to correct these serious problems. Let me address the two issues cited above:

POLARIZATION OF BLM LAW ENFORCEMENT PERSONNEL

Over the past decade or so we have observed and experienced an increasing hostility from BLM's officers. I am confident you are aware of recent, highly publicized actions involving BLM agents. But you may not be aware that much of the frustration by everyday citizens has resulted from lack of professionalism by local BLM officers. Some equate BLM's law enforcement operations to bullying and intimidation.

Submitted under separate cover is a list of actions that illustrate BLM's heavy handed authority. Three additional examples from only one BLM unit in Garfield County illustrate the problem.

Example 1. BLM law enforcement officers have been known to block open public roads asserted under Revised Statute 2477 and maintained by Garfield County with rocks, logs and debris. Such actions constitute a Class B Misdemeanor under Utah law.

Example 2. Immediately prior to a big game hunt authorized under Utah Law by the Utah Division of Wildlife resources, a BLM agent placed road closed signs in several county roads that accessed the hunting area. The BLM land manager heard about the problem and took a field trip to investigate. The land manager reports that during the investigation he was harassed and intimidated by the law enforcement officer. At one point the officer put his hand on his gun in an effort to discourage the land manager from continuing. This was a direct threat to an individual with management authority in the officer's own agency.

Example 3. BLM requested the county's help to install an underground waterline to serve wildlife, livestock, recreation and other public interests. The county offered to put the waterline in a county road to minimize any disturbance on Federal land. A BLM back country ranger observed county equipment being transported to the jobsite and followed county crews for more than 20 miles. When the county crews stopped the BLM officer got out of his vehicle and walked behind crew members harassing and interrogating them. Some crew members became so upset they returned to their vehicle to cool down. This occurred on a project where the county was donating thousands of dollars of equipment time and a road easement just to help BLM.

The cumulative effect of BLM law enforcement is disheartening, especially when I know we have good relationships with other agencies. Dispatchers have been rebuffed so many times by BLM agents that the county only contacts them as a last resort and with little hope for assistance.

CANCELLATION OF COOPERATIVE LAW ENFORCEMENT AGREEMENTS BETWEEN BLM AND LOCAL GOVERNMENTS

As mentioned above, we have a positive and healthy relationship with many Federal agencies and especially with Juan Palma, Utah BLM State Director. We have worked with Mr. Palma to develop a cooperative law enforcement agreement similar to those executed for neighboring counties; and he is supportive of moving forward in accordance with Federal law. However the Chief of Law Enforcement for BLM has unilaterally canceled contracts which has reduced coverage and increased costs.

The Federal Land Policy Management Act (FLPMA) states that the Secretary of the Interior shall contract with local law enforcement *to the greatest extent possible* for law enforcement services on public lands. Typically, BLM has cooperated with

local county sheriff departments to enforce state, local, local BLM laws on Federal land. Yet lately, BLM has refused to enter into such contracts due to resistance from BLM's Chief of Law Enforcement.

Earlier this spring Utah's Lieutenant Governor took steps to develop cooperative agreements and contracts in accordance with Federal law. The BLM agent in charge opposed such contracts but agreed to provide some additional information. However, to date—4 months later, no communication has been received from him and no improvement has occurred in BLM's heavy handed actions.

This testimony is not intended to only document complaints. We offer a simple solution: comply with FLPMA by contracting with local law enforcement to the greatest extent possible for law enforcement services on public lands. This may require direction to BLM's Chief Law Enforcement Officer, but it is compliant with Federal law and is supported by local BLM leadership. Such contracts will also cut Federal administrative costs, provide better service and increase public safety at a time when fiscal constraints demand more efficiency. This may require Congress clarifying the authority of BLM State Directors.

We are hopeful that after careful consideration, the BLM will take appropriate steps to better coordinate law enforcement with local governments in Utah and BLM law enforcement will enter into contracts as directed by Federal law. Thank you for the opportunity of speaking today.

NACO Sheriff's Resolution 2013

Issue: Local Law Enforcement on Public Lands

Proposed Policy: NACO urges all federal land management agencies to recognize and respect sheriffs (or the chief local law enforcement officer) in public land counties as the primary and chief law enforcement officer of the entire county. Federal agencies should execute cooperative agreements with counties to ensure fair and prompt federal payment of compensation for additional local law enforcement activities desired of sheriffs, and federal agencies submit their agents for deputization and accountability under local sheriff authority and control.

Background: Federal land counties are frequently impacted by lack of coordination from federal law enforcement officers. Federal officials fail to recognize the County Sheriff's role as the chief law enforcement officer within his/her jurisdiction; and, often, federal officers undermine local law enforcement efforts by usurping local authority in violation of established law. Counties are also forced to expend limited local funds to perform uncompensated law enforcement functions on federal land. This resolution is needed to encourage federal agencies to: a) recognize the sheriff's role as the chief law enforcement officer; b) work cooperatively with local government to coordinate law enforcement functions on federal land in accordance with established law; and c) develop cooperative agreements to compensate local government for services provided on federal land and to establish clear lines of authority.

Fiscal/Urban/Rural Impact: There will be limited fiscal impact for urban areas. Rural areas, especially public land counties, can expect greater coordination with federal law enforcement officials, reduced duplication of effort, and increased funding resulting from cooperative agreements and clearly defined roles. Citizens will reap the benefits of more efficient responses to problems, reduced cost by eliminating duplication, a streamlined approach to law enforcement issues, and greater efficiency of all levels of government.

Mr. LAMALFA. Thank you, Commissioner Pollock.

At any moment, votes will be called on the House Floor for a series of votes, amendments, et cetera. So we will just work through this as we can here.

Mr. Gerber, you are up next, Commissioner Gerber.

**STATEMENT OF GRANT A. GERBER, ESQ., COMMISSIONER,
ELKO COUNTY, NEVADA**

Mr. GERBER. Thank you, Mr. Chairman, members of the committee. I certainly appreciate the opportunity to come here today and represent my constituents in Elko County and represent many of the people in Nevada that are concerned. I believe this hearing regarding threats, intimidation, and bullying by Federal land management agencies is very appropriate at this time.

I am a fourth generation Elko County resident. Our family settled there in the mid-1800s, and I have been cowboying in that county since the 1940s. I am 72 years old. I served in Vietnam. Our family, besides having a ranch, we had a hunting camp for over 30 years.

But a major change has occurred in Elko County. The BLM and Forest Service agents are operating so far different than they did when I was a boy and as I grew up. At that time, they were friendly. They came to the ranch. We worked with them. But over the years, that has changed.

They are predominately from outside the area and do not develop connections with the locals, and many of them start off with a belligerent attitude, even a commanding presence. They are especially offended if anyone opposes any Federal Government actions. And the worst are the Federal law enforcement agents that arrogantly announce that they are not governed by Nevada law but can enforce it if they choose.

Now we have been informed, without notice or hearings, that the BLM has determined that two more BLM law enforcement agents are necessary to control the people in Elko County. It is unacceptable to us, to have additional people imposed on us without our consent.

I am going to give you two quick examples of our problem. In the fall of 2012, three minors on their day off went up to cut wood on Spruce Mountain. They cut the wood, and after they came off the mountain, they stopped to readjust their loads.

They looked back, and here was a pickup flying down the road at them, and one of the minors said they were getting air as it came. And this BLM agent jumped out. He had two guns on him. He had a flak vest on him, dark glasses. He was belligerent. He told them that he was giving them a ticket for cutting wood in a wilderness study area.

They protested and said, "We've got permits here, and we were not on a wilderness study area." But because of the cost of driving 300 miles to Reno to contest it, and having to go down twice and hire an attorney, it would have cost them thousands of dollars to protest it.

So I heard about it and offered to represent them for free. And we got a ways into it, and I looked at the maps, and the law enforcement agent from the BLM was on the wrong mountain. To get to where he said the wilderness study area was, you had to go down the valley and up on the mountain on the other side. He did not know where he was. These people are, many of them, very unprofessional. They do not even know where they are.

We got that case dismissed, but only after he had called them and given them false information about when the hearing was

going to be, and that it had been dismissed. And we got that on their telephones.

But the most egregious is down at Battle Mountain at this point. In that district, the Battle Mountain BLM Manager, Doug Furtado, has been threatening, intimidating, and bullying the citizens down there. That Battle Mountain District covers a huge amount of the State of Nevada. It goes down and connects up with Clark County.

In Clark County, the BLM has succeeded in eliminating all 50 of the ranchers. There are no more ranchers on that district, according to the BLM regulations. The only one left standing there, is in their mind, still there illegally. In the Battle Mountain District, Mr. Furtado is attempting to do the same thing. In the last 2 years, he has eliminated over 10,000 head of cattle grazing on that district.

I was contacted, and volunteered to help these ranchers for free to see if we could change things. There are six families that this spring were given an order that—oh, I have run out of time. That's what happens with attorneys.

[Laughter.]

Mr. GERBER. But this is an issue that is clearly wrong, and we have to make changes, and we have to make them quickly.

Thank you very much. I would be happy to answer questions.

[The prepared statement of Mr. Gerber follows:]

PREPARED STATEMENT OF A. GRANT GERBER, COMMISSIONER, ELKO COUNTY,
NEVADA

My name is Grant Gerber. I am an Elko County Commissioner and a fourth generation descendant of ranchers that settled in Elko County, Nevada in the mid 1800s.

For over 35 years I have been serving as an attorney working on Federal Land issues.

A major change has been occurring in Elko County. When I was a boy and as I grew the few Federal Agents were mainly local or from rural areas and fit in well with the local area. They knew the people and worked cooperatively. Now the Federal Agents are predominantly from outside the area and do not develop connections with the locals as was done previously. Many start off with a belligerent attitude, even a commanding presence. They are especially offended if anyone opposes any Federal Government actions. The worst are the Federal Law Enforcement Agents that arrogantly announce that they are not governed by Nevada law, but can enforce it if they choose. Now we have been informed that, without notice or hearings, the BLM has determined that two more BLM Law Enforcement Agents are necessary to control the people in the Elko area. All of this is resulting in less use of Federal Lands by citizens as the citizens become afraid of being accosted and berated.

That has to change. Following are the most recent egregious examples in northern Nevada.

In the fall of 2012, three miners, on their days off, drove their pickups onto Spruce Mountain to cut winter wood. When they drove off of the mountain with the wood they cut they stopped to adjust their load. Suddenly, a pickup came flying down the road after them. One of the miners said it was coming so fast that it was catching air over the bumps in the road. The pickup slid to a stop and a man jumped out with two guns, flak vest, radio, tazer, handcuffs and with his pants tucked into jump boots. He belligerently announced that he was giving them a citation for cutting wood on a BLM Wilderness Study Area. When the miners told the agent that they had permits to cut and that they did not cut on a Wilderness Study Area, he would not listen. The agent told them that it was a Federal offense and not to contest the citation because the Federal Government always won. He gave each of the miners tickets of \$275. A boy was in one of the pickups and he was so intimidated that it made him cry.

The miners knew that they had not been on a Wilderness Study Area but it was going to cost them thousands to drive to Reno 300 miles away to Federal Court twice and hire an attorney to defend themselves. Additionally, they would miss at least 3 days of work. For these reasons, they decided to pay the fees and cut their losses. I heard about the situation and met with the miners. I told them that I had a criminal attorney friend in Reno and we would represent them for free. We reviewed the maps of the area and confirmed that the agent, Mr. Brad Sone, did not know where he was. *He was on the wrong mountain!* He cited the miners for cutting wood in a Wilderness Study Area on a mountain that was over 7 miles away down, across a valley and up the other side.

Before the preliminary hearing Mr. Sone called the miners and told them the date of the hearing had been changed. One of the miners called the court and learned that Mr. Sone had not told them the truth, that the date had not been changed. Then the agent called the miners again before the trial and told them the case had been dismissed. Again the miner called and learned that the case had not been dismissed. I do not practice criminal law, but criminal attorneys have told me that Sone's calls were illegal at worst, and if not illegal it was inappropriate for the arresting officer to contact the cited citizens. The agent had already intimidated them and now was continuing to intimidate and mislead them.

In Battle Mountain, Nevada the Battle Mountain BLM Manager Douglas Furtado has been *"threatening, intimidating and bullying."* He has used BLM Law Enforcement to attempt to intimidate people from exercising their First Amendment rights of petition, speech, assembly, press and prayer. The Battle Mountain District over which Mr. Furtado presides is huge. It covers from Clark County in the south to I-80 in the north covering Nye County, (the largest county in the Nation), Eureka County, Lander County and Esmeralda County. Mr. Furtado has been eliminating much of the grazing in the Battle Mountain BLM District. Over 10,000 cattle have been removed in just the last 3 years. On one area alone, in June 2013, Furtado removed all 900 cattle that had been grazing each year for over 140 years. And in 2014 he did not allow any of those 900 cattle to graze even though the grass was over 2 feet high on much of the range. Because of these drastic grazing reductions the fire danger is excessive. Millions of animals have burned because of the management practices of the BLM and these actions by Mr. Furtado will result in the burning of millions more. Before the huge BLM reductions in grazing there were few fires. If Mr. Furtado succeeds in eliminating all the cattle in his district he will join the Clark County BLM District as "cattle free". In the 1980s there were over 50 ranchers with grazing rights in the Clark County District. Now there are no cattle authorized to graze on that district.

In March of 2014 I volunteered, for free, to help the ranchers in the Battle Mountain District reverse the unfair, illegal and morally corrupt practices of Douglas Furtado that were threatening millions of animals, destroying the lives of ranch families, harming the mining industry, hurting hunting and recreation and causing great harm to the economy. In working on this project I have learned many things about Mr. Furtado. He is vindictive and conniving. He has developed one tactic to an art form—*"voluntary non-use."*

In April a petition was created and passed throughout northern Nevada to have Mr. Furtado removed. Mr. Furtado sent a BLM law enforcement officer to the local hardware store where there was a petition to have him removed on the counter. The BLM Agent informed the store owner that it was a Federal offense to threaten or harass a BLM official. He then left the store for a few minutes, but then went back in and took photos of the petition. Steve P. Seldin, the store owner stated, "The officer appeared to be dressed as though he were going to war over seas, with black jacket, guns, etc. Only thing he may have needed to complete the uniform would be a steel helmet."

A GRASS MARCH/COWBOY EXPRESS was then organized to take the petition asking for Mr. Furtado to be removed to Governor Sandoval 320 miles on horseback. At the end of the ride the BLM had an agent there taking pictures of the participants. Many of those participants were intimidated because they rely on Federal Grazing Rights that Mr. Furtado controls.

Following are some issues that I am investigating as a result of my work with the ranchers in the Battle Mountain District. This investigation is ongoing and far from complete. I will supplement my testimony at this hearing with the results of this investigation.

VOLUNTARY NON-USE

That phrase is supposed to mean that the holder of the grazing right has voluntarily decided not to graze an area. Mr. Furtado has gone to ranchers and asked them to take “*voluntary non-use*” for part of their grazing. If they refuse or argue he then tells them that he will give them 100 percent cuts. So they then agree to the “*voluntary non-use*.” Other districts in Nevada use this tactic, but are much more subtle when doing it. The rancher that is intimidated into taking “*voluntary non-use*” is then afraid to complain about it because they did it “*voluntarily*.”

One rancher is reported to have asked Mr. Furtado if the BLM would please remove some of the horses that were overrunning the range as required by Congress. Mr. Furtado is reported to have told him that he would not remove any horses until he had removed all the cattle from the Battle Mountain District.

In February of 2014 Mr. Furtado announced to six extended ranching families, the Tomera, Filippini and Mariluch families that they would not be allowed to turn any cattle out on Mount Lewis during 2014. Their 10-year grazing licenses authorized them to turn out over 2,000 head of cattle in March. They argued with Mr. Furtado, but he refused to budge. I prepared a petition demanding that Mr. Furtado be removed from his position as the Battle Mountain BLM Manager. That petition now has many signatures and is continuing to gain signatures. Some of the ranchers have refused to sign because of fear of retaliation by Mr. Furtado.

On May 17 a GRASS TOUR of Mount Lewis was conducted with Nevada State Senator Pete Goicoechea, Assemblymen John Ellison and Ira Hansen, the Lander County and Elko County Commissions. There were over 200 citizens on the tour that saw the grass that was over 2 feet high. This information was published in the newspapers along with the announcement that a GRASS MARCH would go from Elko to Battle Mountain on May 26 and a COWBOY EXPRESS would then go from Battle Mountain to the Capital in Carson City to deliver petitions to Governor Sandoval requesting that Mr. Furtado be removed. The Washington BLM office sent a representative to review the condition of the range and immediately after he came Mr. Furtado met with the ranchers and agreed to let them graze their cattle in 2014. So finally 2½ months after they should have had their cattle out on the mountain they began turning cattle out. But Mr. Furtado’s actions had caused them hundreds of thousand of dollars of loss. And because the low country was not grazed off when it should have been there is a tremendous amount of fuel that has now turned brown and is ripe to burn threatening the lives of tens of thousands of animals and the rancher’s cattle.

It is to the credit of the Washington BLM that Mr. Furtado was required to turn the cattle out, but immediately he began a program of intimidation to justify his earlier decision to not allow any cattle to graze on Mount Lewis in 2014. I am researching that intimidation and will supplement this testimony with that information. As a part of that intimidation Mr. Furtado took Ms. Fite of Western Watersheds on a tour of Mount Lewis and refused to allow any of the ranchers to participate.

To shed further light on the tactics of Mr. Furtado and help the public to understand the great threat to wildlife because of the increased fire danger and the great harm he has caused and is causing to the ranchers, miners, hunters, recreationist and the economy a GRASS MARCH/COWBOY EXPRESS will leave Carson City to Washington, DC on September 29, 2014 crossing the continent in approximately 20 days. It will be the fastest crossing of the Nation on horseback in history. A horse and rider will lope 5 miles and then pass the petitions asking for the removal of Mr. Furtado to another rider who will then lope 5 miles.

If everyone in Nevada, all County Commissions, the Nevada State Legislature and the Governor and even all of Congress wanted to remove Mr. Furtado it could not be done without an impeachment proceeding. Mr. Furtado works for the Executive Department and the Executive Department is the only entity that can remove him. That is an intolerable situation. There has to be local control and the only way that can be accomplished is for the Federal Government to transfer the BLM lands to the states. If Mr. Furtado was an employee of the State of Nevada he would have been removed in 2012 or 2013 and certainly by this time in 2014.

The BLM law enforcement agents in Nevada report to Salt Lake City and there is no local input. And the BLM is very reluctant to investigate stories of abuse. When the Elko County Commission considered the woodcutting incident the BLM was outraged and said the miners should have taken their complaint to the BLM. At an Elko County Commission meeting in the spring of 2013 the BLM said they would investigate the incident. But the investigation was not begun until the spring

of 2014 and is proceeding very slowly. The investigator from California is starting to ask the right questions, but so much time has passed, over 14 months, that when the report does come out it will be an old story. Contrast that with what would have occurred if the citation had been issued by an Elko County Sheriff's Deputy. Because the Elko County Sheriff is an elected official and answers to the citizens of Elko County the Sheriff would have done an immediate investigation and taken appropriate action. If he found the officer had acted improperly he would have either disciplined him or fired him and that information would have been public. There is no corresponding accountability within the BLM. Even if the BLM, after this delayed investigation, finds that the agent acted improperly the BLM will keep any actions it takes secret to protect the reputation of the BLM.

On January 9, 2013 a delegation of the leadership of BLM law enforcement from Salt Lake City came to the Elko County Commission meeting and proposed a Memorandum of Understanding that would give the BLM Law Enforcement Agents the ability to cite for Elko County ordinances and Nevada State law. The Commission was opposed. The delegation then went on to explain that it really did not matter what Elko County did the BLM was going to enforce Elko County and Nevada State Law if the BLM decided to do so, including citing drivers on Elko County roads, Nevada State Highways and I-80 because those roads and highways passed through BLM lands.

In 1930 Gandhi began the Salt March that eventually gained freedom for the citizens of India. He said that it was the inalienable right of Indian citizens to have freedom and enjoy the fruits of their toil. Likewise the citizens of Nevada have the inalienable right to freedom and the fruits of their toil. The combined might of the BLM, especially BLM law enforcement and BLM Managers like Mr. Furtado are depriving Nevadans of their freedom and the fruits of their toil.

Congress must act to restore freedom.

Enclosures:

Exhibit A: Hansen Letter

Exhibit B: Mariluch Letter

Exhibit C: Seldin Letter

Exhibit A

FYI - My open letter to Governor Sandoval from Assemblyman Ira Hansen District 32 regarding the BLM Battle Mountain District Manager Doug Furtado...

AN OPEN LETTER TO GOVERNOR SANDOVAL

Dear Governor,

As the Assemblyman for District 32, I represent Lander County and the Argenta BLM grazing district. I want to insure you are fully informed on the increasingly unreasonable and nearly tyrannical actions of the BLM there, especially the conduct of BLM District Manager Doug Furtado.

My involvement started this spring when I was contacted by State Senator Pete Goicoechea about an upcoming "allotment" meeting to be held between the permittees and the BLM. I contacted Mr. Furtado, asking him for details on when and where the meeting was to take place. He informed me I was mistaken; there was no such meeting. I then called Senator Goicoechea back and told him he was apparently mistaken.

However, after Mr. Furtado hung up with me, he called Mr. Pete Tomera, a permittee, and read him the riot act. He threatened him for notifying both Senator Goicoechea and myself about the meeting, and told him if Assemblyman Ira Hansen or Senator Goicoechea show up, he will shut down the meeting.

Mr Furtado flat out lied to me. There was a meeting scheduled, exactly as Senator Goicoechea had alerted me to.

Following Furtado's threats, Mr. Tomera contacted Senator Goicoechea and he, much agitated, again contacted me and told me to be sure and be at the meeting.

This blatant lie and Furtado's threats are simple illustrations of what the permittees have been dealing with for years.

I then met with Amy Leuders, Nevada BLM Director, and her assistant, Raul Morales in an effort to bypass Furtado. Instead, they showed me photos of poor range conditions sent in by Furtado. There seemed to be no interest in seeking a middle ground.

I then attended an all day tour on May 11th of the Argenta allotment. Contrary to the photos from Furtado - taken in February - the range is in excellent condition. Both the riparian habitat along the streams and springs and the uplands were in excellent condition. Without exaggeration, native grasses waved like wheat fields in the breeze, and on recent fire scars, cheatgrass was thick and already a foot high. These conditions are perfect for grazing - or fire. Several hundred people are witnesses and the photos and videos taken by many there are proof beyond dispute. I would love to escort you or your staff, by car or horseback, all around the Argenta district, and you can see for yourself who the liars are. Incidentally, the BLM was invited but chose to not show up.

One other disturbing development: a petition to remove Furtado is circulating in Northern Nevada. One is available in the Battle Mountain hardware store. When the petition was first introduced, a fully armed BLM cop, bullet proof vest and all, showed up at the hardware store. The heavily armed BLM agent asked for the store owner, Mr. Steve Seldin. The BLM agent then informed him that it was a crime to attempt to intimidate or harass a BLM official. After reading through the petition, he told Mr. Seldin the petition was "O.K." and left. Clearly, this was an attempt to intimidate. It also is a violation of a constitutional right - to petition our government for a redress of our grievances.

Governor, I have attempted to work with the BLM and local officials to resolve this - unsuccessfully. I ask you for additional assistance. Mr. Furtado is the root of the problem. I ask you to use your authority to protect the hardworking, honest people in my district and see that he is replaced. The situation is heating up. Action is needed now.

Ira Hansen Assemblyman District 32

Exhibit B

Shawn and Angie Mariluch
Filippini Ranching Company
HC 61 Box 75
Battle Mountain, NV 89820
June 3, 2014

Dear Officials of the *Nevada Department of Agriculture*:

This letter is another example of Doug Furtado's unprofessionalism and insulting ways as a public servant. On May 19, 2014 we went to the BLM office to get our license and pay our fees after our Range Consultant, Bob Schweigert, had made up a management plan for our allotment on Argenta. Adam Cochran came out to say there would not be a license or a bill at this time and that they would be meeting with us soon. Doug popped out and said he would like to meet with us about a recent letter we had sent him. Then out of the blue he started slamming our Range Consultant, Bob Schweigert. He went on to say in a mean and loud voice that Bob Schweigert did not know anything and the worst think about him is that he never learned anything because he never worked for the BLM long enough! He continued insulting him saying he could sway his monitoring results any way he wanted. This was so rude and uncalled for, and it upset us to no end as Bob is a very respected professional and takes his job very seriously.

After this, we met with the BLM on May 22, 2014 to work out and discuss a license to turn out on. Chris cook was in charge and right of the bat, shut down Bob Schweigert when he tried to present our monitoring results. He would not only let him make his presentation, he would not even let him even talk. When Bob asked if they would share their monitoring they said no! They would not even let our spokesman and representative represent us! They said it was a take it or leave it situation! Mind you this agreement, written up by Doug Furtado, would take away our due process if signed. What public service government agency in the USA would write a document that takes away all due process? This is simply appalling; we are not a dictatorship yet in this country.

Overall, on both occasions we were treated quite shabbily to say the least!

Thank you very much for your time concerning this matter.

Sincerely,

Filippini Ranching Company

Exhibit C

Royal Hardware
404 East Front Street
Battle Mountain, Nevada 89820
(775) 635-2422

7/21/14

An officer from/representing the BLM, arrived at Royal Hardware to review the petition to have Doug Furtado removed from the BLM office. The officer stated his business as, ...making sure there were no threats towards Doug Furtado himself, or his family... However, his attire seemed deliberately intimidating. The officer appeared to be dressed as though he were going to war over seas, with flack jacket, gun, etc. Only thing he may have needed to complete the uniform would be a steel helmet. He then took pictures of the petition, and left.

/s/ Steven P. Seldin _____
Steven P. Seldin

Mr. LAMALFA. Thank you, Mr. Gerber. You heard the buzzer go off here, so votes are underway. But I think we have enough time to do one question on each side before we have to recess for a little while to go do Floor votes. So we want you to stick around. You have traveled, and we want to have the chance to do the full round of questions, if you would like.

So I will recognize myself for 5 minutes here, and ask Commissioner Pollock, and Sheriff Perkins you can jump in as well, but we want to know what the impact is on your Garfield County budget as a result of the enforcement contracting agreement with BLM falling through.

Sheriff PERKINS. I am going to take just a few seconds, and then give it to Commissioner Pollock.

One of the impacts is going to be—I have another example where I actually have had people tell me that they will never return to my county because of the way they were treated by BLM law enforcement for simple things that they did that were not illegal. They parked their motorcycles in the borrow pit and walked over to a rock cropping, and were threatened with a citation and impoundment of their bikes. And these people are good people.

Mr. LAMALFA. Could you elaborate on that? They parked their motorcycles—how was that?

Sheriff PERKINS. Sorry. The borrow pit is a part of the county road right-of-way where the water drains.

Mr. LAMALFA. For those that are watching, so you are talking there is a roadway and there is the edge of the road where it is lower. That is the borrow pit?

Sheriff PERKINS. That is the borrow pit, yes. They parked their bikes down there so they did not leave them on the roadway, and they walked over to a rock cropping. When they came back, this is when they were met by this BLM ranger and told they should have left their bikes on the roadway.

Mr. LAMALFA. In the middle of the road?

Sheriff PERKINS. Well, on the edge of the road or on the roadway. They were threatened with a citation—

Mr. LAMALFA. Is it a narrow road?

Sheriff PERKINS. No. It is a two-lane road. It is a dirt road.

Mr. LAMALFA. Is it a paved road? A dirt road?

Sheriff PERKINS. A dirt road, but two lanes. Wide enough for two vehicles.

Mr. LAMALFA. So there was other traffic that might be coming, trucks and cars?

Sheriff PERKINS. Absolutely. It is a busy road.

Mr. LAMALFA. Logging trucks? Larger vehicles?

Sheriff PERKINS. Tourists. It is down the Hole-in-the-Rock Road, if you are familiar with the area.

Mr. LAMALFA. So the average person might think it is wise to pull your machine off and park it—

Sheriff PERKINS. Absolutely. You would not want to leave anything in this roadway.

Mr. LAMALFA. OK. And the gentleman was cited for that?

Sheriff PERKINS. He was not cited. He was threatened with a citation. They told me that they were bullied and mistreated, were their exact words. So that affects our economy a great deal, when

people will not return to our beautiful county because of the way that the law enforcement treated them.

Mr. POLLOCK. Thank you, Sheriff. Fiscally, you have to remember—let me frame this a little bit and put it into perspective; 93 percent of our county is federally owned; 3½ percent is state. So we have 3½ percent of that county to tax; 87 percent of that revenue goes to the school district.

So we can operate our county for 16 days from property tax revenue. So I am glad you asked that question. These contracts would have been vital. And again, this is nobody's fault on the State Director's behalf. He came down. I spent a full day with him on the monument. And he could see the problem.

And we worked out a cooperative agreement verbally, and he would have carried through on this. This man has integrity. He would have carried through on a contract that I believe was \$120,000 a year to cover another county deputy and provide additional services from all deputies. They would have been at his disposal.

So we hired a deputy in good faith. Now, when we hired this deputy, bear in mind he is still working for us. So we have the deputy, the additional deputy, which is needed. Whether it can be afforded or not is questionable. Now, bear in mind, property tax is how most counties survive. We survive from intergovernmental revenue.

So from a budgetary standpoint, things like this are very troubling to me.

Mr. LAMALFA. Thank you.

Mr. Gerber, would you like to touch on that subject as it affects Nevada?

Mr. GERBER. Yes. We have just done some recent studies, and the cost of the Federal Government is in the multi, multi millions. And that is why it is imperative that these lands be transferred from the Federal Government to the states so that we can survive, not just for the reasons that we have about the intimidation and the bullying.

But if the Federal agents were not there and it was state agents, we would do well, if county sheriffs could take care of things. But as a result of this, we have situations like in Battle Mountain, where the agent came at the request of the Battle Mountain manager and intimidated a store owner that had a petition there, saying that if there was any threats to Federal agents, he would be arrested. And it was purely done for intimidation purposes. There are those kinds of intimidation things we cannot accept.

Mr. LAMALFA. Thank you to our panelists. I will recognize Mr. Grijalva for 5 minutes.

Mr. GRIJALVA. Thank you, Mr. Chairman. I am just going to ask some questions for clarification, some of the inconsistencies that I want clarified or at least explained. We make a lot of decisions based on conjecture in this body sometimes.

On the issue in which we have BLM being, based on the experiences in Garfield and Nevada, categorized as an organization that—the generalization is this is system-wide, that it occurs everywhere. I think that is a leap too far for me in terms of conjecture. I think data for this committee, and verifiable examples that the agency has a chance to respond to, and the Members can deliberate

and see what they feel, I think would be the appropriate way to go.

But in terms of just clarification, Commissioner Pollock, Garfield County, as I understand it, passed a resolution declaring that Federal law enforcement authority—I am assuming specifically BLM—is not recognized in the county.

Now, if the county chooses not to recognize Federal authority, why the advocacy for Federal funding? That is where there is some inconsistency. Either you recognize the legitimacy of the Federal Government in the sense of law enforcement in this instance, and want to be a partner and deal with the contractual issues that have been brought up, or you do not. Am I misreading that resolution and your statements?

Mr. POLLOCK. No, Ranking Member. Actually, I am glad you asked that question. That resolution, believe me, was a last resort. That resolution has just been passed. What that resolution is doing is protecting our citizens. Now, I have been nice enough not to speak of the bullying going on, but I am going to give you a couple of examples.

Mr. GRIJALVA. No. That is OK. I only have 5 minutes. But I wanted to get to the specific question I asked you, about the inconsistency.

Mr. POLLOCK. The inconsistency? That is fine, and I can deal with that. If the BLM would like to come forward and forge a relationship and sign contracts, absolutely. We would recant that resolution. But bear in mind, a resolution is not a legal document. When we have to—

Mr. GRIJALVA. OK. I was going to bring up that next. But it is a formalized opinion by the—

Mr. POLLOCK. Absolutely. It is what we have to do in extreme situations. And believe me, Congressman, this is an extreme situation. These are not partisan issues. And if the BLM would like to forge something by way of contracts, not just with Garfield but the entire State of Utah—and it is not just Garfield County that has created these resolutions; four other counties have done the same and followed suit.

Believe me, it is a last resort. And I really do not think there are inconsistencies simply because we reached out to try to resolve this. We tried to resolve this.

Mr. GRIJALVA. Do you believe that based on Utah State law, that that provides Garfield County, Mr. Commissioner, with the authority to operate roads within the National Parks and the National Monuments?

Mr. POLLOCK. You mean as far as maintain, Congressman?

Mr. GRIJALVA. Operate. Yes.

Mr. POLLOCK. Yes. We are already doing that. We maintain them as we speak. If we did not maintain them—their budgets have been cut to the point we have to maintain BLM roads or they will be closed by way of weather. On the forest, you would not be able to see the popular Dixie National Forest without our road maintenance program. So we are maintaining those roads as we speak at our expense.

Mr. GRIJALVA. I think the last one—and I appreciate that—do you recognize BLM's authority to enforce Federal law on the public lands and in Garfield County?

Mr. POLLOCK. OK. Where they run into trouble with us as far as us recognizing that authority is if they affect the health, welfare, and public safety of our citizens. If they do so, then it is my job and the sheriff's job to protect the health, welfare, and public safety of the citizens in our county.

And believe me, this is protection that our citizens need. And it does not matter what the adversary is. If they are being threatened in any way, it is our job—when we were sworn in, we took an oath to protect the health, welfare, and public safety of the citizens of our county. So in that sense, we need to protect our citizens. That is our job.

Mr. GRIJALVA. But there is an acknowledgment, I hope—or that is my own preference—there is an acknowledgment that the enforcement of Federal law is BLM's prerogative?

Mr. POLLOCK. It depends on the situation. And I am telling you right now—I am telling you right now—

Mr. GRIJALVA. OK. Thank you.

Mr. LAMALFA. We have to stop here. We are going to recess for—I hate to guess time on the House of Representatives on real time. It looks like we made up 30 seconds on the clock here, but approximately 35, 40 minutes to get through the votes we have on the Floor.

So please stay if you can, and then we will finish up this first round of questions, then have our second panel. So thank you for your indulgence. We will recess for a little while.

[Recess.]

Mr. LAMALFA. We will resume with the hearing of the Public Lands Subcommittee. Thank you for your patience, you all, as we conducted our Floor business. It always seems to take longer than you would hope. But anyway, thank you for staying. We were in the middle of our first round of questions for Panel I, so I would now recognize the gentleman from California, Mr. McClintock, for 5 minutes.

Mr. MCCLINTOCK. Thank you, Mr. Chairman.

The stories you have told are similar to stories that my office is constantly receiving. I have the Sierra Nevada of California. Some of our counties—Alpine, for example—96 percent of the land area of that county is administered by the Federal Government.

Mr. Gerber, the change in attitude that you reported over a generation is very similar to what I have observed as well in my time in California. The frustration that we have for some very good reasons. Our Constitution is founded on a separation of powers. Congress has the sole authority to make the law, but the President has the sole authority to enforce it.

So my question of you, in speaking of essentially the administration of these agencies and the administration of the law, that is beyond our powers as a Congress. Our power is to enact legislation. What changes do you believe need to be made in order to right this wrong?

Let me throw out a couple of suggestions. One of them is, I do not understand why land managers have to be armed. Should not

the law enforcement on these lands be left to local law enforcement agencies?

Mr. GERBER. Without question, Congressman. The sheriff is and should be respected and be the chief law enforcement area of a county. He is elected locally. That was the purpose of the Revolution in the first place, is to have local control.

As a result of what has occurred, the Federal Government continues to increase its position in every one of these states. And so at the end of the day, the only solution, the only solution big enough, is to transfer the BLM and Forest Service lands to the states so we get back to what the Founding Fathers intended.

Mr. MCCLINTOCK. Are you suggesting transferring the entire lands to the states, or law enforcement responsibility to the states?

Mr. GERBER. The land itself. Six states have passed legislation that has begun taking us in this area, Montana, Wyoming, Utah, Idaho, Nevada, and Arizona, and it appears that Alaska is going to be next. We have made significant strides in the eastern states and in the southern states because they are beginning to realize that they should not be sending their tax dollars out there to waste money on these fires that would not occur if the locals had control.

If the locals had control, we would have it grazed. We would be logging. And as a result, millions of animals would be saved because these fires kill millions every year. And then all the easterners would benefit because the pollution would not be coming this direction.

So we are in a position where things can change, and that is why we are here. We want that change to occur, and we think that the western states should have the same freedoms as the eastern states. And we believe that the enabling acts of the western states are exactly the same as the enabling acts of these eastern states.

In Illinois and Indiana and Missouri, they had 90 percent of their land controlled by the Federal Government in the 1820s, and they got it changed because they banded together. So hopefully we can get that done, sir.

Mr. MCCLINTOCK. It is interesting to note that, as I said, I have a county where 96 percent of the land is controlled by the Federal Government. Overall, I believe about 42 percent of California is controlled by the Federal Government.

It is interesting to note that the Federal Government only controls 25 percent of the land area of the District of Columbia. Here is the national capital, a Federal district, with all of the national malls and buildings and other public works. That amounts to about 25 percent of the land area of Washington, DC.

Mr. GERBER. Well, at the time that was set up, the Founding Fathers were still in charge.

Mr. MCCLINTOCK. Thank you. I yield back.

Mr. LAMALFA. The gentleman yields back.

I will recognize the gentleman from Colorado, Mr. Tipton, for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman. I would like to thank our panel for taking the time to be able to be here. For Members out of Utah, I am out of Colorado. We probably have some very common experiences that are there.

Commissioner Gerber, I would like to question you. We had Secretary Jewell before the Natural Resources Committee, and we have had a lot of issues in Colorado, as I believe we have probably in Nevada, certainly over into Utah, with road closures, which have been noted in some of the testimony.

The Department of the Interior, the BLM, the Forest Service, have they ever approached you in any type of consultation in regard to road closures?

Mr. GERBER. Elko County met with the Forest Service over a hundred times during the period that the Forest Service was going through its travel management plan, and at the end of the day Elko County got nothing that they asked for, and they have closed hundreds of miles. In the West, they have closed thousands of miles of road, and the local people were just ignored.

So roads are being closed, and that also results in increased fire. Millions of animals killed. It is an intolerable situation, sir.

Mr. TIPTON. This might be a question for the entire panel. Given some of the road closures—we have a vast expanse of public lands throughout the West—from a sheriff's standpoint in terms of public safety, when we are responding to a forest fire or if there are other problems that are going on, have these road closures impacted your ability to be able to service your communities public safety-wise?

Sheriff PERKINS. Absolutely. Let me answer that. Absolutely. I had a search and rescue just last year where an elderly gentleman had been gone for over 24 hours. This man was in his 80s. Southern Utah is big and vast, like Colorado. A lot of this area, there were old ATV trails that had been closed off. We were using the helicopter, with no avail.

But I actually had to go open personally—I went and opened these trails for my search and rescue to get in and save this man's life.

Mr. TIPTON. So it is a matter of actual safety?

Sheriff PERKINS. Yes.

Mr. TIPTON. And Sheriff, just by way of a little bit of background, how long have you been in law enforcement?

Sheriff PERKINS. I have been around for a long time. At the end of this year, I will have 28 years—8 years as sheriff, 20 years before that as a deputy.

Mr. TIPTON. Great. Twenty-some-odd years, basically, of experience. Growing up, we dealt a lot with the BLM. Dealt a lot with the Forest Service. And effectively, they were community members. But it seems from your testimony that we are starting now to see changes in terms of some of the administrative policy that is coming out.

Do you see this as a systemic, out of Washington, top-down sort of an approach, or is it more at the local level?

Sheriff PERKINS. Well, I will tell you, I am not sure because like with the Forest Service, I am here to tell you that a couple of years ago I had the very same problems with the Forest Service as I do with the BLM today. They just would not work with me.

But after some personnel changes and after the director came to not only the Utah Sheriffs Association but Western States Sheriffs, and eventually to Garfield County, I've seen some good changes. And I have an extremely good working relationship with the Forest

Service now, like I always have had with the DEA and the FBI and Immigration.

In fact, I have a contract sitting on my desk. I am going to deputize two Forest Service law enforcement officers for Garfield County. Last Friday we just had a mission where we had a shooting suspect that was up in our hills, and I sent a deputy along with this Forest Service officer for backup.

So the BLM, I do not know where it stems from. I wish it was that easy. I think, and I am being candid here, and maybe that is kind of a fault I have, but there need to be some personnel changes. There have been so many bridges burned, I do not know if they can ever be repaired.

I want to work with these people. You people, please, go through these letters that I have provided you from other agencies, other sheriffs, and these people, they want to work with the BLM. They really do. But they need the BLM to recognize their law enforcement authority.

Mr. TIPTON. So is this a communication problem or is it more to the point you simply are not being heard?

Sheriff PERKINS. I think that they just do—the people that I have in my area, and I am speaking as Garfield County Sheriff, they have a problem with recognizing the sheriff as the chief law enforcement agency.

And you need to understand that if they have operations that involves a drug eradication program where they bring helicopters in my county, they need to go through me with that, on that kind of stuff, because—and this has happened—I have other situations that are going on that I may not want a helicopter over a certain area at a certain period of time because it could actually put people's lives in danger on other operations.

So they need to coordinate things with the sheriff. The sheriff is like Congressmen and Senators and all the other elected people. We are the people's representative, and it is our responsibility to oversee the law enforcement in our counties.

The FBI, when they come through my county, I get a phone call if they have something going on. The DEA, they are my right hand when it comes to big drug seizures and these cartel gardens that we have dealt with. I respect the Federal Government agencies, and they have a place. But the sheriff is the chief law enforcement officer of the county.

Mr. TIPTON. Thank you, sir.

Mr. LAMALFA. Thanks, Mr. Tipton.

We have completed the first round of questioning by those available on the panel here, so I will recognize myself in a brief second round of questioning here as well.

Sheriff Perkins, I do not imagine you are the only sheriff that is experiencing these activities and actions in your state or maybe even neighboring states. Do you know of other jurisdictions or other sheriffs that feel the same way?

Sheriff PERKINS. Once again, when you folks get a chance to go through the packet that I have provided you, there are going to be letters from a Nevada sheriff. There are going to be letters from western states sheriffs. There are going to be letters from several other sheriffs throughout Utah.

Yes. It is a problem in the western United States, not just in Garfield County. This is not just a Garfield County problem. This is a western United States issue.

Mr. LAMALFA. Other sheriffs you have talked to express concern?

Sheriff PERKINS. Oh, absolutely. They will pour their hearts out in these letters. If I may, I just want to read one paragraph from a sheriff in Lincoln County, Nevada, I think that is where he is from. And this is the problem. This pretty much says it all:

“Over the past few years I have continued to try to work with the BLM on issues in Lincoln County, but tensions have been very high. A few months ago, I had occasion to speak to a BLM employee and was discussing issues between counties and Federal agencies. The BLM employee pointed to a flagpole that was near to us and said, ‘See that American flag? It is above the Nevada flag, and you need to remember that.’”

That is the problem.

Mr. LAMALFA. Interesting. Well, the BLM had guidelines and rules that they are supposed to follow, and they have a handbook that their officers are supposed to use. So what do you think is in that handbook as far as their interaction with the state and local laws on that?

Sheriff PERKINS. First of all, and I have talked to the BLM and they recognize that they have—and I recognize that they have—proprietary jurisdiction. And this is the definition of that. It’s in the Eisenhower Report. It has been around for a while. “The United States has acquired some right or title to an area within a state, but has not obtained any measure of the state’s authority over the area.” That’s what it is.

Now, in their own handbook, in their own rules, let me read you this, if I can find it. “BLM law enforcement must not enforce state and local laws without a written law enforcement agreement with the state and local agencies that has authority to grant state law enforcement authority to Federal law enforcement officers.” That is in their own rule book.

Mr. LAMALFA. OK. Thank you. That is very telling.

Commissioner Pollock, what has your relationship been like? Have you engaged them? Have you dialoged very much with these folks in order to come to an agreement as gentlemen instead of perhaps the heavy hand of the Federal law?

Mr. POLLOCK. Thank you, Mr. Chairman. You are talking about the law enforcement side of it?

Mr. LAMALFA. Yes.

Mr. POLLOCK. Yes. In fact, the entire State of Utah convened a special hearing during the legislative session. The Lieutenant Governor, myself, and several others had the Director of Law Enforcement of BLM—I think he is over Nevada and Utah—in that meeting, and there was Utah State legislative leadership, Attorney General Sean Reyes, and many of the leaders of the State of Utah. And we were up—

Mr. LAMALFA. How did that go? My time is running short. How was the dialog, or was it a useful dialog?

Mr. POLLOCK. Not good. It was very, very petulant coming from the Director of Law Enforcement. In fact, there was no one in the

room, including the Lieutenant Governor of the State of Utah, that could get along with this guy.

So yes, that is a great question. And we have had problems that we cannot get through. And that is why we are asking, the only solution that we can see is a personnel change.

Mr. LAMALFA. OK. Thank you. We have heard that already a couple times.

Commissioner Gerber, the terminology, "voluntary non-use," is one that has come up and can be used in certain ways. Why do you not expound upon that for a moment in my remaining time?

Mr. GERBER. It is supposed to mean that the holder of the grazing right voluntarily relinquishes his grazing for a year or 2 years.

Mr. LAMALFA. Why would they do that?

Mr. GERBER. Most of the time they do not want to do that. But what happens is that in the case of Mr. Furtado, he went to them and said, "Look. I want you to reduce your grazing by 50 percent," in some cases 75 percent. And they said, "Well, what happens if we do not?" And he said, "Well, I will reduce you 100 percent, then."

So with a gun at their head, they say, "OK, we will accept that because we have to." And then when you ask them about it, they do not want to talk about it because they voluntarily relinquished it.

Now, other districts—and I represent lots of ranchers and have over the years—they do not want to ever take that. But in subtle ways, the agencies in other districts do it, too, but none of them with the heavy-handed approach that Mr. Furtado in the Battle Mountain District has done.

Mr. LAMALFA. Thank you. My time is up on that.

I recognize Mr. Grijalva for 5 minutes.

Mr. GRIJALVA. Thank you.

Sheriff Perkins, thank you for the—I guess you deputized me. Right?

Sheriff PERKINS. Well——

Mr. GRIJALVA. No. I am just kidding. Scared you for a second.

[Laughter.]

Sheriff PERKINS. You need to have 20 hours of training before I can legally do that.

Mr. GRIJALVA. And I understand, having been a county supervisor and commissioner in Pima County in Arizona, the tension that is inevitable between the Federal agencies and the county agencies and state agencies.

But I thought your point was well taken in terms of law enforcement, search and rescue, first responder activities, that there has to be a level of cooperation, memorandums of understanding, whatever is necessary to make that part of the service that is provided to the public excellent like you want it. And it requires not only good working relationships but to the point of even memorandums of understanding that have to be developed.

I say that because we had a tragedy in one of our national parks. A ranger was killed by drug runners. Very unfortunate. But what was discovered was one of the reasons was that we did not have the frequencies, the intermodal frequencies, between the communications between the county sheriffs, the state police, and the

National Park Service rangers that were also responsible for patrolling that part of it.

From that came many better understandings, intermodal communications where everybody can talk to each other. So Sheriff, for myself your point is very well taken. I think that level of cooperation, if it does not happen voluntarily, should be required in terms of that response that you have to have for the public. Thank you.

Commissioner Gerber, I was just going to ask you a question. This whole controversy that happened, did you support Bundy through that whole process?

Mr. GERBER. I did not go to it down there. I know Mr. Bundy. I know the Bundy family. Back in the 1980s, when they began eliminating all the other ranchers, Mr. Bundy was the only one that finally said, "Hey, I have had enough."

Mr. GRIJALVA. Physically. But as a Commissioner, did you—

Mr. GERBER. No.

Mr. GRIJALVA [continuing]. Because you made public comments that it was—"I truly honor his courage and desire to protect his rights"? I mention that because part of the situation in being able to work with any agency—we saw some pictures, isolated pictures, of the heavy-handedness of law enforcement under the Park Service or BLM. But there were also very graphic pictures of militia folks supporting Bundy on the highway, pointing weapons at U.S. Marshals.

That kind of a confrontation, I think, is something none of us want. And there was a court ruling that was being effectuated that he owed \$2 million worth of grazing fees. And 99 percent of all other grazing permits are paid for, and I would suggest that if that is the level of the rhetoric, then opening up the doors to BLM and having a discussion—I think both sides would be very cautious.

Mr. GERBER. And I agree with you, Congressman. It is a terrible situation. But I want to make it clear that in the 1980s, Mr. Bundy was paying the BLM, and it was not until they in effect were eliminating all of his neighbors' grazing and eliminating his grazing that he finally said, "I am not leaving." And so the history on that is not necessarily correct out there because he tried to pay, and they would not accept it.

Mr. GRIJALVA. Yes. I know. But the point is, as you said, the Founding Fathers—the point being that in their wisdom, to be three divisions of government, the judicial, who is just the important arbitrator on the law, the key arbitrator, ruled against that argument you just had.

I do not want to make this an argument about Bundy. Some people do not pay their bills. So with that, let me yield back.

Mr. GERBER. The ranchers that—could I answer that?

Mr. GRIJALVA. I yield back, but it is up to you.

Mr. LAMALFA. The gentleman may respond.

Mr. GERBER. The ranchers that I am here speaking for have always paid their grazing fees, have always done everything the BLM asked them to do, until he said, "This year you have to take all your cattle off," and they recognized it was going to destroy them. They have still followed the rule.

So the point I make is that we cannot allow the BLM to destroy the livelihoods of all these people on the whim of a BLM bureaucrat that is not even following his own rules.

Mr. LAMALFA. Thank you for finishing.

Mr. McClintock.

Mr. McCLINTOCK. It seems to me whether Mr. Bundy was right or wrong, the question occurs, was the BLM response reasonable? I think anyone who watched that unfolding fiasco can answer it was completely insane.

It seems to me that a local law enforcement agency that knew the circumstances, knew the people involved, would exercise much better judgment 9 times out of 10 than we saw out of the BLM. So I ask again, why are we arming land managers? Should that not be the responsibility of local law enforcement? Sheriff Perkins?

Sheriff PERKINS. You are absolutely right, 100 percent right. If that would have been turned over to the county, it would be done today. There would not even be an issue. We would not be talking about it.

And I have had situations with the Forest Service just recently where we did have some issues on the Forest Service with some stolen timber. And they come to me, and I helped them solve that case, and it ended up not being a big horrible thing like you have seen on TV with the Cliven Bundy thing. You are absolutely right. I agree 100 percent.

Mr. McCLINTOCK. Is there anything that you can see that would advise us not to simply contract out law enforcement duties on the Federal lands to the local law enforcement agencies?

Sheriff PERKINS. Now, ask me that again? I'm sorry.

Mr. McCLINTOCK. Is there any reason why we should not contract out law enforcement on Federal lands to the local law enforcement?

Sheriff PERKINS. There is every reason why you should. You are going to get better law enforcement, and it is going to be a lot cheaper.

Mr. McCLINTOCK. Say that again?

Sheriff PERKINS. You are going to get better, more effective law enforcement, and it is going to be cheaper.

Mr. McCLINTOCK. I am quite sympathetic to Mr. Gerber's concern that the best way to resolve these issues is to divest surplus land that the Federal Government has done an absolutely terrible job managing.

And I have the Rim Fire area in my district, 400 square miles destroyed by forest fire because we have not thinned the forests in that region in 30 years. We have seen an 80 percent decline in timber harvests across the Federal—the National Forest lands. And in those 30 years that we have seen an 80 percent decline in the timber harvest, we have seen a concomitant and proportional increase in acreage destroyed, utterly destroyed, by forest fires.

So it is quite clear to me the Federal Government is not properly managing the vast bulk of the lands that it holds and divestment is certainly advisable. But on those lands that we do not divest, it seems to me that at least we ought to restore local control over law enforcement decisions to the agencies that are directly responsible to the people in the community.

Sheriff PERKINS. Well, I agree. And I would take that responsibility on if it was, you know, absolutely. I do it now anyway.

Mr. MCCLINTOCK. Thank you. I yield back.

Mr. LAMALFA. Thank you. Are there any other questions of our Members of the dais here? OK, we will bring in our next panel, our Panel II. But I would like to have just a quick follow-up. The gentleman from Utah please feel free to be excused. I want to ask Mr. Gerber one more thing for about 90 seconds while the other panel comes on up. So thank you, gentleman.

Mr. GERBER, we were talking about the voluntary non-use before I ran out of minutes a little bit ago. It did not sound very voluntary. That was Battle Mountain, you mentioned?

Mr. GERBER. Yes, in fact, it is all over the state but in Battle Mountain it is so egregious that when they—when Mr. Furtado goes to one of those and says, “We want you to reduce your grazing,” if they say, “No,” he gives them a 100-percent cut.

Mr. LAMALFA. Do you have that in your written testimony that you have submitted?

Mr. GERBER. Yes.

Mr. LAMALFA. OK. We would love to have any more follow-up, Chairman Bishop here, or my office as well, specifying some of this treatment.

Mr. GERBER. And most of those ranchers know that they have to deal with Mr. Furtado again next year, so they are really afraid to say anything because he will cut them further. But the six ranching families that I have been involved with on this issue this last 3 or 4 months, they got 100 percent cut so they had no fear anymore of him cutting them further. Otherwise they would not have fought.

Mr. LAMALFA. OK. Mr. Gerber, thank you again to our first panel here. Let’s please seat the second panel that had been introduced earlier by our colleague, Mr. Pearce. So we will proceed.

Here again we are going to be up against another Floor vote. They are saying approximately at 4:40, but we will stick with this panel and get through the opening round of testimony. And we will see where we are at that time.

OK, very good. Panelists, thank you for joining us here. I will go ahead and recognize for 5 minutes the Commissioner from New Mexico, Otero County, Mr. Ronny Rardin.

**STATEMENT OF THE HON. RONNY RARDIN, COMMISSIONER,
OTERO COUNTY, NEW MEXICO**

Mr. RARDIN. Thank you, Mr. Chairman and committee members. We are kind of losing our committee up there, dwindling down. But I am going to go a little different—

Mr. LAMALFA. Well, reminded, this will all be on the record and all available for the permanent record. So that makes that important, so thank you.

Mr. RARDIN. I am going to go in a little different direction. As an elected official, I have been two terms, two full terms almost. I am going on my 15th year this year, and I will finish out in 16 years as a commissioner. And what I want to say to the committee, and to Washington as a whole, is there is an old saying my dad used to teach me. He goes, “Figures do not lie, son, but liars use

figures.” And it took me a long time to figure what he really meant by that, but what he meant was we really need to stand back and look at the issues this country is facing. We can point names and say this one is a bully and this one is not.

And I have seen that change from 1992 to 2000 when I was a commissioner, the first 8 years. I took office again in 2008. And in my testimony, I tell you the first 8 years, we did not have to raise taxes ever. We worked with the BLM and things got done. And RS-2477 roads were recognized. And we really had a good working relationship.

When I came back in 2008, different faces, different names, same rules. I love FLPMA. And I think it is a great Act of Congress, but it is not being imposed properly in New Mexico, especially in Otero County and in all these other places.

And so the problem has become, in my opinion, an oversight of an elected official over the employees. And what I like to think about is if the Commission—and my Commission is only three men, actually one lady and a man, three persons, if we went down and set policy and just left and never came back, a year later we would have total chaos within our little county because we deal with the public on an everyday issue all the time.

And that is what I see going on here is I really wish the Congress would look back and see where the weak spots are. And I believe it is the oversight. I do not believe being elected you have to go back to your constituents, as I do, and convince them that you are doing a good job. And then when you are, you get re-elected. If you are not, you do not. And what I see happening is there is no oversight out there. So these agencies, they will get their feelings hurt. They will not like what we are doing or they have an agenda of their own that is not a multiple-use agenda, not a multiple serving everybody, but it serves one person.

And I will give you an example. The Agua Chiquita that was mentioned earlier by Congressman Pearce, they are keeping out 180 cattle, but they are letting 10,000 non-indigenous elk jump the fence, which causes 10 times more damage than walking into. And there are not 10,000 in that area but there are 10,000 in the whole area. So we do not know how many, 200, 500 head can come in there at night and water. They are letting them get in the same area, and saying we are managing, when they have forest fires that are the number one threat to this mouse.

And then the second threat is the animals. And they are letting the animals that can threaten destroy it, but the ones that they can manage, they are kicking out. And to me as a commissioner, it kills us because we have a very small budget. We do not say federally owned because there are really only two parcels of land that the Federal Government owns in Otero County. There is 88 percent of it which is managed by the Federal Government. But when I checked with the GSA here in Washington, they gave me a book and showed how much land the Federal Government owns. They own Holloman Air Force Base. It has been ceded to them. And they own 40,000 acres on a bombing range. The rest of it, they just manage.

It is still the proprietary right that we have over law enforcement. We do not have that problem in our county with law enforce-

ment because we know that our understanding of law enforcement is through that situation, but what I am saying is when these managing agencies come in, and they take away even 2 percent of a budget that is only 12 percent that manage a \$30 million budget a year, it hurts us dreadfully. So we have to—we have to do multiple use.

Could I hand my FLPMA down there, please, my book? I am sorry, I forgot to get that. I handed out a FLPMA book to you. And I know you all read FLPMA, and you understand FLPMA, but what I try to tell our director for the state, I give him Title 7 of FLPMA. And you have it, and it is tabbed on yours and it is even highlighted. I highlighted yours. But Title 7 of FLPMA says, the act of FLPMA, it says, “Nothing in this Act, or in any amendment made to this Act,” this is Congress made this, “shall be construed as terminating any valid lease, permit, patent, right-away or other land use or authorization existing on the date of approval of this Act.” Which we all know is 1976.

And the second—(b) says, “Nothing”—“Notwithstanding any provision of this Act, in the event of conflict with, or inconsistency between the Act, the Act of August 28, 1937, insofar as the related management of the timber resources and disposition of revenues of the lands and resources, the latter Act shall prevail.” And this is what has happened. They are not prevailing.

[The prepared statement of Mr. Rardin follows:]

PREPARED STATEMENT OF RONNY RARDIN, COMMISSIONER, OTERO COUNTY,
NEW MEXICO

Chairman Hastings, Subcommittee Chairman Bishop, and members of the committee: I am an elected official at the county level and have been elected and re-elected by my constituents 10 different times with an opponent in each race. When I finish my term in 2016, I will have had the privilege of serving the public for a total of 16 years.

I remember a time when the BLM and Forest Service worked together with local officials and parties of interest to use the current laws and regulations to make Otero County and this country a better and safer place to live. Today I long for those days to come again.

Sadly I am here today to testify of what I have witnessed over the past 20 years. Instead of growing together under the current laws such as FLPMA, those laws have had the opposite effect. The Federal Government agencies (BLM, FS) have evolved into the problem we face today, instead of the solution we can turn to.

The 1976 FLPMA was passed and introduced to America and since then it has been many things to many people.

FLPMA, when followed correctly, can be a useful tool to assure local government and groups a part of management of their lands within their said county. However, let me assure you that what FLPMA has become is a tool for the agencies to use and hide behind with no oversight from any elected officials, Congress included. This has become the normal day-to-day way the bureaucracies control and devastate the local government’s ability to do our job, destroy the very Customs and Cultures of the people who elect us, and in the name of “Preservation” cause total devastation. If this is not corrected soon, there will be irreversible damage to this country as a whole.

Here are two examples of what has happened in Otero County in just the past 4 years:

1. In southern Otero County, we are blessed with minerals, oil and gas, resources that have never been developed in Otero because we have always had plenty in the logging, cattle and agriculture industry.

During my first 8 years in office, (1992–2000) the Board of County Commissioners never had the need to ask one time for a tax increase.

During my second 8 years in office (2008–2016) the Board of County Commissioners has had to raise taxes twice to just maintain the services we have to the public.

Approximately 2 years ago, a company called Gulf Coast Mining came to the Commission and laid out a plan that would create 150 jobs by re-opening an existing Oro Grande mine. All they planned to do was to clean up the tailing of Oro Grande that was left over from the mining done at this site in the 1800s.

David Davidson, an owner of Gulf Coast Mining Company, has produced an 1897 grant signed by the President giving this mine, Iron Duke, a right of way to cross Territorial Property. This grant has been shown to the BLM with no resolve. BLM refuses to recognize any grant to this day.

Furthermore, the leadership of BLM, State Director Jesse Juen and the District Manager Bill Childress, as well as other employees of the agency, not only refused to allow this company access to their private property, but to this day has refused to settle with them and allow Gulf Coast to use a “DIRT” road that had existed 80 years before FLPMA became law.

BLM is currently in a lawsuit with Gulf Coast for an alleged trespass that occurred on vested private property right of way owned by both the county and the mine.

At first BLM stated that if Gulf Coast paid a \$250,000 trespass fee, then they would allow a permit to be issued to allow them to use this road. When Gulf Coast chose to challenge their decision, the BLM tried to coerce Gulf Coast by raising the trespass fine to \$750,000 if they lose.

Otero County took a bold stand and we forced the BLM to give us a permit for the road recognizing and preserving our existing vested rights. However, it wasn't until we took heavy equipment out to the road and started to fix our road that BLM decided to make a deal where Otero County could allow whoever they wanted to cross the road, but not without restriction from BLM. True to form, the first time the county went to maintain the road, BLM stopped the crew and changed the rules again.

I have some maps of the area if the committee would like to see and get a better understanding of the situation they can be supplied later.

The bullying did not stop there. There is a section of land in this area, which the road crosses also, that is managed by the State Land office. The BLM seemed to have settled down, but the State Land office refused to issue a permit for their area until Gulf Coast paid the BLM the \$750,000 in fines. BLM claims they knew nothing about this, but it fits in with what these agencies have become and what we have to deal with every day.

Had FLPMA been followed, Gulf Coast would have been exempt and we would now have 150 new high paying jobs in Otero County. Instead we have no jobs and Otero County tax payers are out thousands of dollars spent on attorneys trying to resolve an issue that should have been handled at the local level within 30 days.

2. Forest Service: the Forest Service has evolved into a machine that is totally controlled by Washington and they use the Endangered Species Act to force an “agenda” that has obviously taken an attack on the ranching community in our country.

They have ignored the voice of the local people to force on us a management scheme that has cost the people of New Mexico and this country dearly. In the name of FLPMA and ESA, they have taken away thousands of jobs, burned millions of acres, become one of the biggest contributors of pollution in our country, and killed millions of animals in forest fires, some which are on the ESA list, all the while calling this good government.

Now they are taking private water rights away from local citizens by fencing off their water and calling it conservation for wildlife. However, the FS was never given any authority to manage wildlife, and in doing so, they are going against our Constitution and the very rights this Nation has fought to protect.

Agua Chiquita is a small area in the Sacramento Mountains where ranchers have grazed since before the 1900s. This small spring, called the Barrel Springs, has served the cattle and animals for hundreds of years. There are times it runs dry and times it has plenty, and for years there has been a wire fence around it, which had gates that could be closed if need be, but have always been reopened to allow all animals to use the waters.

Recently the Forest Service went up and fenced off the area with metal pipe fence and the only animals unable to obtain any water is the cattle of the local rancher who have used this water for years and years.

Please understand that we have over 10,000 head of non-indigenous elk in the area, thousands of mule deer, bears, and feral hogs, and hundreds of species of

smaller animals who all water at places like these. The rancher in this area only has, at the most, 180 head of cattle.

Elk will easily jump 6 foot, as will deer, and the hogs can go through the fence, but the cattle are fenced out of water that rightfully belongs to the rancher according to the history and laws of this Nation.

When the elk and deer jump into this protected area, they now will destroy much more than by simply being able to walk in and walk out. The FS says they are protecting the habitat for the New Mexico jumping mouse, but this makes no sense.

Now, before the New Mexico jumping mouse was even listed, the FS was being funded by the NM Game and Fish to put this fence up, but the NM Game and Fish decided to withdraw on this issue and they pulled their funding. So the FS went out and solicited private money to build this fence and it is now a reality. The New Mexico jumping mouse was listed and the gates were shut by the FS. All of this is unconstitutional and should never have been what the FS spends their time on.

The County Commission became involved and tried to find a solution to this situation. After running into a brick wall with Travis Mosley, the local supervisor, we were invited to meet with the U.S. attorney's office.

We hoped to solve this by simply allowing the gates to open until the local rancher could go into the "protected area" and pipe their water out so both sides could be served. However, all the U.S. attorney wanted from the county was for us to go back and settle down the people and make sure the Federal Government employees were protected while they did their job. We asked if they could just open the gates for 30 days until we could get this water piped outside the fenced area and the answer was NO. Further, they also made it a point to exclude Congressman Pearce from the meeting stating that there would be no meeting if the Congressman chose to try to attend. The reason for the meeting was simple, they wanted to threaten the county and its sheriff not take action or we would be facing criminal prosecution and lawsuits for any action to allow a private citizen to access their private property.

After this I decided to break all working ties with any Federal agency. I made that in form of a motion at our regular County Commission meeting this July and only part of it passed, but my point is we have a broken system. I truly don't believe it started off that way nor was FLPMA or the ESA ever intended to do what it has done to this Nation, but it has devastated us in its present form. Unless and until we can receive proper oversight from Congress for these Federal employees that act maliciously or our citizens can be given the tools to stand up to the bullying themselves we are fighting a losing battle.

Mr. Chairman and members of the committee, you have the power and the duty within your elected offices to hear the citizens of this country and to take action and fix what is an obvious problem that is plaguing our Great Nation. This will certainly be the destruction of the greatest Nation on earth if you don't act now.

I pray you will take this testimony to heart and act accordingly. I look forward to working with you to resolve this and put this Nation back on track.

Thank you.

Mr. LAMALFA. We are going to go on time here.

Mr. RARDIN. I am sorry, I apologize.

Mr. LAMALFA. So we will follow-up on a later round, OK.

Alright, Mr. Blair Dunn, you are up next, please, for 5 minutes.

**STATEMENT OF BLAIR DUNN, ATTORNEY, ALBUQUERQUE,
NEW MEXICO**

Mr. DUNN. Mr. Chairman and members of the committee, thank you. I would like to start by discussing some agreement and disagreement with what the Ranking Member started out with. This is about relationships. It is not about disagreements over policy. This is about inability of Federal employees, Federal agencies, Federal bureaucrats not following the laws.

I am going to refer back to the Agua Chiquita matter that has been in the news so much. And by way of background, I do represent Otero County, but I also represent farmers and ranchers across the state of New Mexico and in the western United States.

I also represent non-profit organizations concerned with property rights and environmental issues, such as Protect Americans Now, people like the cattle growers, who are also represented here on the panel. So this is not a singular issue. It is one that is very widespread across the western United States, affecting lots of communities and lots of individuals.

But when you look at the Agua Chiquita, one of the major things that has happened is the Forest Service even knowing what the law is in New Mexico concerning water rights ignores that. I have had previous hearings. We have had previous legal disputes with the Forest Service. They understand that in New Mexico that these water rights in question are actually what we would call pre-1907 water rights. It does not mean that they have to be on file with the state engineer's office, but they are still vested private property rights.

And the deal in the Agua Chiquita, what they got everybody so stirred up there was that the Forest Service came—despite the fact that these private property rights exist—and fenced around them.

Now, there was some discussion from Congressman Pearce about whether or not the access was reasonable. And the county felt that the access was not reasonable. I think the ranchers felt that the access was not reasonable. But at the end of the day, it was still their private property. It was still the U.S. Forest Service ignoring the laws of the State of New Mexico when it comes to water, which they are supposed to follow, and coming in and ignoring those laws in order to trample private property rights.

What we are here today is not to discuss whether or not the Endangered Species Act is proper or functioning as it should. What we are discussing is when they do not follow that, when they do not follow NEPA, what is the recourse to local governments, to private individuals when a Federal agent or Federal employee tramples their rights? That is the issue today.

And, unfortunately, when the Forest Service and other Federal agencies do not follow these laws, the effects are more far-reaching than just one instance. In a minute you are probably going to hear discussion about people picking on the Forest Service, but that is really not the case. It is a matter of when the Forest Service puts out mis-information or they mis-use the law, it tends to mis-lead other members of the public into believing that somehow it is the ranchers doing something wrong or it is the county picking on the government, Federal Government. That is not the case. These are private property rights, and the Forest Service sometimes tramples them. The BLM sometimes tramples them and takes them.

What we are looking for is a solution that would enable oversight to come from something other than just Congress. You guys have a lot of work to do, and the Federal Government is expansive and broad. We need a solution that empowers the people, empowers local governments when we have a bad apple to step in and take some action to hold them accountable. That oversight is one of the things that Congress is supposed to do, and they cede that back to the private individuals and give private individuals the ability to go to court to protect their rights or to re-gain or remedy some of what has happened to them.

There are a host of other instances that we could cite to and discuss, some of which are in my written testimony. But at the end of the day, that is what we are talking about—oversight and providing an alternative so that the public can take matters into their own hands and take it to court if need be.

I will yield now.

[The prepared statement of Mr. Dunn follows:]

PREPARED STATEMENT OF A. BLAIR DUNN, ESQ., ATTORNEY, ALBUQUERQUE,
NEW MEXICO

Chairman Hastings, Subcommittee Chairman Bishop, and members of the committee: my name is A. Blair Dunn. I am an attorney and a fifth generation agricuturist in southern New Mexico. My family, to this day, raises cattle and horses on a ranch that includes private land, Bureau of Land Management (“BLM”) land and New Mexico State Land. My law practice focuses on assisting those involved in agriculture, natural resource use, and conservation. My family has long been involved in the legislative process and active in government. My grandfather, a long time legislative finance chairman for New Mexico, would have told you that the business of government is much like the business of tending to the apple orchard, where myself and many of my family were raised. Growing apples consists of watching out for the good and the bad, and getting rid of the bad apples so the good ones don’t spoil; government should consist of watching for the good ideas by getting rid of the bad ones, allowing the good employees to thrive while getting rid of the rotten ones that destroy the whole bushel.

This applies to what we are here today to discuss, overseeing the business of Federal agencies and their employees. One of my clients is Otero County in New Mexico. You just heard from one of their commissioners regarding the trouble that their county is subjected to as a result of those within the Federal bureaucracy that would use their power in a heavy handed or malicious way that violates civil and constitutionally guaranteed rights. Otero County has sent pleas to this very committee for congressional inquiry and oversight into what is happening in their county, and what is happening in their county is far from an isolated incident.

Otero County, like many others, is crying out for congressional oversight into the harms caused by those bad apples that misuse the power of the executive in a way that harms or interferes with private property rights. Such oversight of executive agencies is a crucial component of ensuring a well-run government. Such oversight has long been held to be an implied authority of Congress derived from the rest of the legislative functions of Congress, as delegated by the U.S. Constitution.

To say that our Federal Government is large and extensive is an understatement, and would not do justice to the state of our affairs. To that end congressional oversight into the activities of the few bad apples runs counterintuitive to reality. Without a doubt, it must be agreed that the majority of Federal employees are dedicated and hardworking individuals that are trying to do their jobs to the best of their abilities in keeping with the direction and mandates of U.S. Constitution and Federal laws. However, a well-crafted tool to assist Congress in overseeing and addressing those that would abuse their power to violate the civil and constitutional rights of the citizens of the United States is sorely missing. Some would say that such a tool does already exist, and has existed for many decades, in the form of The Civil Rights Act of 1871, which prohibits governmental employees, “acting under the color of state law,” from proximately causing the deprivation of certain constitutionally guaranteed rights. However, The Civil Rights Act of 1871 only applies to state officials.

I. BACKGROUND ON CASE HISTORY AND EFFECTS OF PREVIOUS DECISIONS ON CURRENT INTERACTIONS BETWEEN THE PUBLIC AND FEDERAL EMPLOYEES

This committee has previously heard testimony from Ms. Karen Budd-Falen. I have reviewed her testimony and the cases to which she cites. I concur with her analysis of both *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) and its role in *Wilkie v. Robbins*, 551 U.S. 537, 577 (2007). For purposes of this testimony I will not belabor the important work of this committee by again reciting that analysis, but would respectfully offer that I incorporate her legal analysis in my testimony and adopt her legal opinion as concurring with my legal opinion.

Ms. Budd-Falen offered in her testimony that the *Robbins* case “now acts as a complete bar to the judicial branch of government, regardless of the extreme nature of the Federal officials actions,” and I would for the most part agree, certainly inas-

much as it does act as a complete bar to actions seeking to address conduct by Federal employees using the authority of their offices to violate private property rights outside of the mandates of the Fifth Amendment. But I would respectfully offer to the committee that her analysis falls short of the full effect of the decision without the subsequent action that the Court offered Congress should undertake:

We think accordingly that any damages remedy for actions by Government employees who push too hard for the Government's benefit may come better, if at all, through legislation. "Congress is in a far better position than a court to evaluate the impact of a new species of litigation" against those who act on the public's behalf. And Congress can tailor the remedy to the problem perceived, thus lessening the risk of a rising tide of suits threatening legitimate initiative on the part of Government's employees.

551 U.S. at 562. Citations omitted. Thus, instead of acting as a complete bar, such precedent now serves to embolden Federal employees to reach even further in abusing their power to violate private property rights absent oversight and legislation from Congress. An overreaching or maliciously acting employee runs little risk of retribution from their acts. Behaviors of threatening or cajoling, as you have heard about from others here testifying today, are allowed to proceed under a stronger cloak of immunity.

For example, one of my clients, El Capitan Precious Metals, Inc., a mining company in southern New Mexico that is seeking to utilize new technology to create industry and jobs in the local communities, has been subjected to threats and cajoling by the U.S. Forest Service employees. El Capitan is seeking to rework and reopen the mining claims on private property that they now own, some of which are hundreds of years old. Incidental to the claims to patented lands are vested rights of ingress and egress to their fee simple property that is surrounded by National Forest lands. Pursuant to the laws of this country, their predecessors owned a vested private property easement across forest service lands to access their private property. Now after 100 years of use on the 3/4-mile road, upon which their vested easement runs, they are being told that they have no right, that they must go thru the NEPA process and they must purchase a special use permit to use the road. The road has literally been in use since 1914 and the Forest Service is telling them they must go through a lengthy and expensive NEPA process to continue use of the 3/4-mile road from the highway to their mine. At one point they were threatened with charges of criminal trespass for mine employees utilizing their private property easement. They have repeatedly been cajoled to abandon their private property rights and just take a special use permit for the road. Such actions, if done by a state employee, would certainly have prompted a civil rights claim for the attempt to deprive them of their private property right. Instead, they are left seeking other less immediate remedies of pursuing Federal litigation for a taking and hopefully a short term remedy to provide them continued access to their private property, but in the mean time they run the risk of the loss of their business or even criminal prosecution for using their vested easement. I can point to other examples from clients seeking Federal grants of inspection harassed only because the Federal employee disagreed with the species of animal they intended to harvest. All of these types of actions harm not only the specific individual or companies, but also harm local rural economies and cost communities much needed jobs.

The public trust in government should be a sacred thing to Federal employees. I think that to most of them it is. But for those that would abuse the power they have been given, the public deserves an avenue to provide oversight, the public deserves a ticket to the door of the court house to seek a remedy for their damages. As has been previously cited, the *Robbins's* dissenting opinion discussed the merits of a narrowly tailored cause of action to provide and found merit to such an action:

Adopting a similar standard to Fifth Amendment retaliation claims would "lesse[n] the risk of raising a tide of suits threatening initiative on the part of Government's employees." Discrete episodes of hard bargaining that might be viewed as oppressive would not entitle a litigant to relief. But where a plaintiff could prove a pattern of severe and pervasive harassment in duration and degree well beyond the ordinary rough-and-tumble one expects in strenuous negotiations, a *Bivens* suit would provide a remedy. *Robbins* would have no trouble meeting that standard.

551 U.S. at 582. Internal citations omitted.

I can say without reservation that three of my current clients would directly fall into this category of people maliciously harmed by an abuse of power by Federal employees, and I can say with absolutely the same lack of reservation that all three

of them would never reach a point of needing to file a cause of action. I say that without reservation because I firmly believe that such options as are being discussed here by this committee would serve to deter many instances of abuse of power and would incentivize the agencies to ensure that the proper checks and balances were in place to prevent such an abuse of power.

An argument can be made that the creation of new causes of actions would cause a flood of Federal litigation, burdening the Courts and costing tax payers money. But such an argument leaves aside the fact that these causes already exist against the state employees. Further, one must give weight to the simple argument that if the harm is not occurring, then citizens will have nothing to bring a claim on.

A claim (similar to a Section 1983 claim) must include the components of a right that is possessed by a person that has suffered a deprivation of said right by an action carried out by a government employee acting under the color of the law. The deterrence policy of Section 1983 operates through the mechanism of compensation of the actual damages suffered by the victim. See *Carey v. Piphus*, 435 U.S. at 256–57 (1978); *Memphis Community School Dist. v. Stachura*, 477 U.S. 299, 307, 106 S.Ct. 2537, 2543, 91 L.Ed.2d 249 (1986) (“**deterrence is also an important purpose of this system, but it operates through the mechanism of damages that are compensatory**”) (emphasis in original). As the Supreme Court noted in *Carey*, “[t]o the extent that Congress intended that awards under § 1983 should deter the deprivation of constitutional rights, there is no evidence that it meant to establish a deterrent more formidable than that inherent in the award of compensatory damages.” 435 U.S. at 256–57. *Tinch v. City of Dayton*, 77 F.3d 483 (6th Cir. 1996) See also *Medina v. Pacheco*, 161 F.3d 18 (10th Cir. 1998) (recognizing the deterrent value of section 1983 of the Civil Rights Act).

II. PROPOSED LANGUAGE

I have also reviewed the following proposed language for a statute that could be enacted to protect private property owners from intimidating or cajoling behaviors by Federal employees acting under the color of law:

The attempted taking of private property or private property rights by means of governmental employee harassment or intimidation, under color of law, is hereby declared to be a violation of Civil Rights Act. Harassment or intimidation against the owners of private property or private property rights constitutes such violation when (1) a property owner's relinquishment of his property or property rights is made explicitly or implicitly a term or condition of receipt of a permit or license from a governmental agency, (2) submission to or rejection of such conduct by a property owner is used as the basis for the grant of or conditions included in a permit or license, or (3) the conduct of the governmental employee has the purpose or effect of unreasonably interfering with an individual's private property or private property rights. An attempted taking of private property or property rights under this section can be composed of a series of separate acts that collectively constitutes a significant deprivation of the ownership or use of private property or property rights. In determining whether the activities of a governmental employee are actionable under this section, consideration can be given to the frequency of the discriminatory conduct, harassment or intimidation, its severity, and whether such governmental action interferes with the ownership, use or legitimate investment backed expectations of the property owner.

Such narrowly tailored language would serve as a much needed guidance post to Federal agencies. Imagine if, in considering fencing around private property water rights, threatening local governments with trespass for using vested easements, or cajoling a fifth generation agriculturist to go along with a plan or lose his grazing permits, the Federal employees also had to consider whether their desired actions and behavior resulted in liability to the government for damage to private property rights. Arguably they should already be doing so in their oaths to uphold the Constitution, but in reality some of them are not, with no fear of retribution for acting badly. I would respectfully request that the committee consider what added deliberation decisionmakers and supervisors would make when considering a proposed action or statement made to a private land owner if they must first consider the liability of violating a citizen's civil and constitutional rights. Section 1983 claims under the Civil Rights Act have been proven to encourage constitutional policing by local law enforcement officers around the country; wouldn't it make sense to encourage constitutional regulating and land managing by our Federal agencies employees?

III. THE AMOUNT OF BAD APPLES VERSUS GOOD AND GIVING THE PUBLIC THE TOOLS
TO HELP CONGRESS PROVIDE OVERSIGHT TO FEDERAL AGENCIES AND EMPLOYEES

By and large, these examples of Federal employees acting intentionally to violate the private property rights of American citizens are the exception, not the rule. But as you have heard from testimony today, and will continue hearing well into the future, should Congress fail to act to remedy this issue, the problem will continue to grow. The Federal Government is broad in size, with thousands of Federal employees; sorting through all of the employees to root out the bad apples is a task that is beyond the capabilities of Congress to do one oversight committee hearing at time. Congress should open the door of the courthouse to the everyday citizens to help shoulder the burden sorting out the bad apples and remedying the damages done by those that would abuse their power.

Mr. LAMALFA. Thank you.
Our next panelist is Mr. Jose Varela Lopez.
Five minutes, please.

**STATEMENT OF JOSE VARELA LOPEZ, NEW MEXICO CATTLE
GROWERS' ASSOCIATION, SANTA FE, NEW MEXICO**

Mr. LOPEZ. Mr. Chairman, members of the committee, thank you for the opportunity to come before you today. My name is Jose Varela Lopez. I live on my family ranch, southwest of Santa Fe, New Mexico. I am the 14th generation of my family to do so, and I pray daily that I will not be the last.

I am president of the New Mexico Cattle Growers' Association, the executive director of the New Mexico Forest Industry Association, immediate past president of the New Mexico Soil and Water Conservation Commission, vice chairman of the Santa Fe-Pojoaque Water Conservation District, and a former Santa Fe county commissioner.

As you know, we are here today to talk about bullying and abuse of citizens at the hand of the Federal Government. Unfortunately, this is a story that is all too familiar, ranging from the IRS scandal to the mistreatment of veterans, the failure to protect dignitaries in foreign lands, the protection of private information, the collapse of security on the Mexican border, and most recently the failure of the CDC to protect their own employees. And you can add to that the treatment of Americans by the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Army Corps of Engineers and others.

I am not here to tell you that every employee of these agencies is rogue, but I can tell you that the agencies are permeated with employees who wantonly violate the rights of the rural citizens of this country and their small businesses, entities that provide economic stability to the majority of the counties in our great Nation.

As Cattle Growers' president, we are dealing daily with individual and collective efforts to remove families like mine from the land. The worst part is that we have no recourse. New Mexico has been a hotspot not only for catastrophic wildfires resulting from lack of management by Federal agencies but also for species listings which affect natural resource users.

Endangered species protection is the biggest culprit. At the moment, the Fish and Wildlife Service is considering critical habitat for the Lesser-Prairie Chicken, the New Mexico meadow jumping

mouse and two varieties of garter snakes. Expansion of the Mexican wolf habitat is expected as early as tomorrow.

We have had 764,000 acres in New Mexico and Arizona recently designated critical habitat for the jaguar, although only a few male jaguars have been sighted in the United States over the last 60 years. We are awaiting the listings and designations for the Canadian lynx and the wolverine even though those species do not exist in our state.

But that is just half the story. New Mexico has been a hotbed for land use designations. The most recent transgression is the Organ Mountain-Desert Peaks National Monument, encompassing some 550,000 acres in the southern part of the state bordering Mexico. Add to that the recent Rio Grande del Norte National Monument of 250,000 acres and the Rio Mora National Wildlife Refuge and Conservation Area of 800,000 acres. There are also proposed designations for national monuments and wilderness expansion of 1.3 million acres.

Each of these listings and designations provide the opportunity for Federal overreach and the violation of our rights as citizens. And there is no recourse. Federal agents are literally taking the food out of the mouths of rural families and Americans as a whole. I believe my civil or constitutionally guaranteed rights are violated by a local—if I believe my civil or constitutionally guaranteed rights are violated by a local or state agent, I have the right to my day in court where a judge and a jury will have the opportunity to hear both sides of the story. If those agents have crossed the line, they are held personally liable.

Not so with Federal agents. Under current law, Federal land management employees hold the same immunity from the law as diplomats and are above any law. That is patently inequitable, can be discriminatory and violates the humanitarian ethics we strive to live by. There is no accountability for those who use the power of their employment against people like me.

A report done by the U.S. Department of Agriculture in June of 2013 documents the fact that the U.S. Forest Service employees in Regions 2 and 3 routinely violate the civil rights of allotment owners in New Mexico and Colorado. The report states that a detailed corrective action plan must be developed within 60 days of receipt of the report. As of today, to my knowledge, nothing has happened.

In closing, our government agencies are punishing natural resource users through unnecessary land use designations and restrictions prompted mainly by radical environmental groups. The preservationist mentality is making it difficult, if not impossible, for renewable resource users to make a living and is in effect extinguishing the customs and culture of our country's land-based people.

Thank you for your time and attention. We look forward to working with you to resolve these issues so our families can continue to feed ourselves and the rest of the world.

[The prepared statement of Mr. Lopez follows:]

PREPARED STATEMENT OF JOSE J. VARELA LOPEZ, ON BEHALF OF THE NEW MEXICO
CATTLE GROWERS' ASSOCIATION

Chairman Bishop, members of the committee, thank you for the opportunity to come before you today. My name is Jose Varela Lopez. I live on my family ranch southwest of Santa Fe, New Mexico. I am the 14th generation of my family to do so and I pray daily that I will not be the last.

I am president of the New Mexico Cattle Growers' Association, the executive director of the New Mexico Forest Industry Association, the immediate past chairman of the New Mexico Soil & Water Conservation Commission, vice chairman of the Santa Fe-Pojoaque Soil & Water Conservation District and a former Santa Fe County Commissioner.

We are here today to talk about the bullying and abuse of citizens at the hands of the Federal Government. Unfortunately, this is a story that is all too familiar ranging from the IRS scandal, the mistreatment of veterans, the failure to protect dignitaries in foreign lands, the protection of private information, the collapse of security on the Mexican border, and most recently the failure of the CDC to protect their employees.

You can add to that the treatment of Americans by the U.S. Forest Service, the U.S. Fish & Wildlife Service, the Bureau of Land Management, the U.S. Army Corps of Engineers and others. I am not here to tell you that every employee of these agencies is rogue, but I can tell you that the agencies are permeated with employees that wantonly violate the rights of the rural citizens of this country and their small businesses, entities that provide economic stability to the majority of the counties in our great Nation.

As Cattle Growers' President, we are dealing daily with individual and collective efforts to remove families like mine from the land. The worst part is that we have no recourse.

New Mexico has been a hot spot not only for catastrophic wildfires resulting from the lack of management by Federal agencies but also for species listings which affect natural resource users.

Endangered species "protection" is the biggest culprit. At the moment the Fish & Wildlife Service is considering critical habitat for the lesser prairie chicken, the New Mexico meadow jumping mouse and two varieties of garter snakes. Expansion of the Mexican wolf habitat is expected as early as tomorrow. We have had 764,000 acres in New Mexico and Arizona recently designated critical habitat for the jaguar although only a few male jaguars have been sighted in the United States over the last 60 years. We are awaiting listings and designations for the Canadian lynx and the wolverine even though those species do not exist in our state.

Additionally, the Fish & Wildlife Service is taking their power to a whole new level directing their employees in Region 8 **NOT** to follow the current law, but rather to direct their resources to a program created by a secretarial order issued in December 2010. We have not yet located similar orders for the rest of the Nation, but are confident they are out there.

But that is just half the story. New Mexico has been a hot bed for special land use designations. The most recent transgression is the Organ Mountains/Desert Peaks National Monument encompassing some 550,000 acres in the southern part of the state bordering Mexico. Add that to the recent Rio Grande del Norte National Monument of 250,000 acres and the Rio Mora National Wildlife Refuge and Conservation Area of 800,000 acres.

There are also proposed designations for a national monument on Otero Mesa of up to a million acres, the La Bajada National Monument of about 130,000 acres, Hondo/Columbine Wilderness at 60,000 acres, Pecos Wilderness expansion of approximately 120,000 acres and the transfer of the 89,000 acre Valles Caldera National Preserve from a multiple use property to the National Park Service. Add to that existing wilderness designations and wilderness study areas of 2.8 million acres and 4.6 million acres of inventoried roadless areas, areas of critical environmental concern, special management areas and national conservation areas.

In my own case, the BLM has been buying up private lands near my family ranch within the boundaries of an Area of Critical Environmental Concern that they designated as part of their Resource Management Plan. They now refer to our ranch as an in-holding, meaning that we are now surrounded by federally managed land and ostensibly the next "willing sellers." What this designation has done is devalued our land and effectively prohibits any type of future development on the ranch that is not consistent with the BLM's Area of Critical Environmental Concern. My takings protest to their headquarters was to no avail.

Each of these listings and designations provide the opportunity for Federal overreach and the violation of our rights as citizens. And there is no recourse. Federal

agents are literally taking the food out of the mouths of rural families and Americans as a whole.

If I believe my civil or constitutionally guaranteed rights are violated by a local or state agent, I have the right to my day in court where a judge and/or a jury have the opportunity to hear both sides of the story. If those agents have crossed the line, they are held personally liable. Not so with Federal agents.

Under current law, Federal land management employees hold the same immunity from the law as diplomats, and are above any law. That is patently inequitable, can be discriminatory and violates the humanitarian ethics we strive to live by. There is no accountability for those who use the power of their employment against people like me.

A report done by the U.S. Department of Agriculture in June of 2013 documents the fact that U.S. Forest Service employees in Regions 2 and 3 routinely violate the civil rights of allotment owners in New Mexico and Colorado. The report states that a detailed Corrective Action Plan must be developed within 60 days of receipt of the report. As of today, to my knowledge, nothing has happened.

The hierarchy of the Forest Service and the BLM is such that it seems nearly impossible for there to be justice for natural resource users. In the case of the Forest Service there is no recourse. A district ranger is generally the prosecution, judge, jury and executioner. Decisions go up the chain of command, but are rarely overturned.

The BLM does provide at least some way to appeal to higher levels, but allotment owners go to those higher levels at their own peril because retaliatory action at the field level is a real and constant threat.

In closing, our Government agencies are punishing natural resource users through unnecessary land use designations and restrictions, prompted mainly by radical environmental groups. This preservationist mentality is making it difficult if not impossible for renewable resource users to make a living, and is in effect extinguishing the customs and culture of our country's land based people. Besides, how do you preserve a renewable resource?

Thank you for your time and attention. We look forward to working with you to resolve these issues so our families can continue to feed ourselves and the rest the world.

Attachments

ATTACHMENT 1

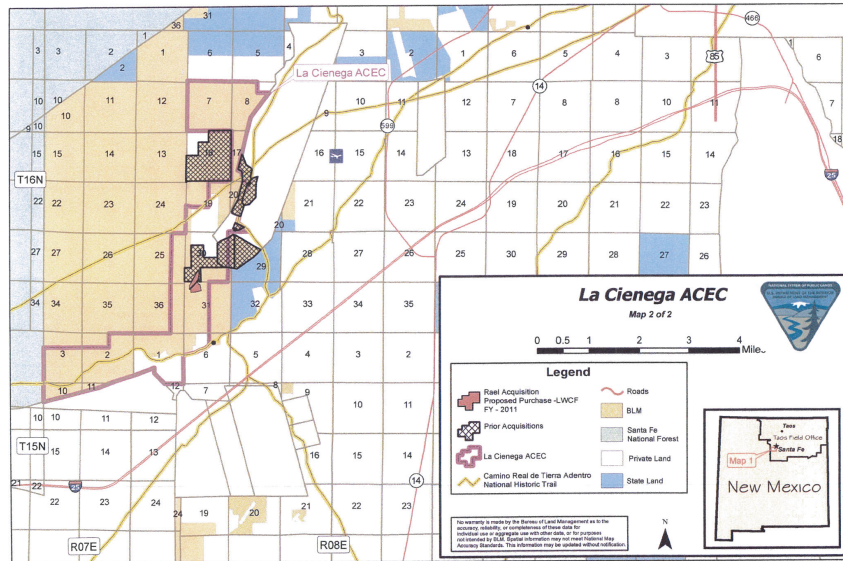
A list of all lawsuits or petitions filed by you against the federal government in the current year and the previous four years, giving the name of the lawsuit or petition, the subject matter of the lawsuit or petition, and the federal statutes under which the lawsuits or petitions were filed.

Case Name and Description **Approximate Date Filed**

Federal Court Cases

<p><u>Valley Meat LLC. v. Vilsack et. al. and HSUS,</u> U.S. District Court NM Civ. No. 12-cv-1083</p> <p>Represent Intervenor New Mexico Cattle Growers Association et al against U.S. Department of Agriculture Food Safety and Inspection Service relating to delay of a grant of inspection.</p> <p><u>Front Range Equine Rescue et al., v. Vilsack et al.,</u> U.S. District Court NM 1:13-cv-00639-MCA-RHS</p> <p>Represent Intervenor New Mexico Cattle Growers Association supporting U.S. Department of Agriculture Food Safety and Inspection Service relating to grant of inspection.</p> <p><u>Front Range Equine Rescue et al., v. Vilsack et al.,</u> 10th Circuit Court of Appeals 13-2187</p> <p>Represent Intervenor New Mexico Cattle Growers Association et al supporting U.S. Department of Agriculture Food Safety and Inspection Service relating to grant of inspection.</p> <p><u>WildEarth Guardians v. New Mexico State Game Commission,</u> 10th Circuit Court of Appeals 13-2001</p> <p>Represented Intervenor New Mexico Cattle Growers Association et al supporting New Mexico Game Commission in opposing claims of "take" of Mexican wolves for allowing lawful trapping pursuant to New Mexico state law.</p>	<p>02/13</p> <p>09/13</p> <p>11/13</p> <p>02/12</p>
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ATTACHMENT 2



ATTACHMENT 3



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
2800 Cottage Way, Suite W-2606
Sacramento, California 95825



In Response Reply To:
FWS/R8/AES

MAY 20 2014

Memorandum

To: Regional Director, Pacific Southwest Region
Sacramento, California

From: Assistant Regional Director, Ecological Services

Subject: Ecological Services Workload Prioritization */s/ Michael Fris*

Consecutive years of reduced funding for the Ecological Services Program have had a meaningful impact in Region 8. Workload associated with sections 4, 7, and 10 of the Endangered Species Act (ESA) is greater than our resources can address. To compound this problem, we anticipate the demand for ESA permitting, listing, and recovery work will increase in the coming years as the housing market improves, natural resource needs increase, and listing petitions rise. We expect this increase in workload to occur while renewable energy permitting remains a high priority for the Administration and Department of Interior. Given decreased staff resources and budgets, it behooves us to craft a strategy for prioritizing workload. Ultimately, we need a long-term strategy which may entail shifting resources throughout our region to ensure that staffing is commensurate with our priority assignments. As we for-

ulate this long-term strategy, this memorandum will guide deployment of our resources in the short term.

Regionally, our top priorities include Department of Interior initiatives, preservation of health and human safety, and workload required to meet our legal mandates. Our highest priorities also include continued implementation of Landscape Conservation Cooperatives and the surrogate species concept. Specific priorities encompass Tribal trust responsibilities, Klamath water operations projects (including the hydroelectric settlement agreement), the Desert Renewable Energy Conservation Plan, the Bay-Delta Conservation Plan, the Central Valley Project Operations and Criteria Plan, issues of national security, projects related to flood prevention, projects related to fire risk reduction, and communicating with the public through external affairs. While these priorities comprise our regional focus, they do not provide the fine-scale sideboards to determine how offices should prioritize projects, and they do not all apply to each office within Region 8. Thus, each office will need to prioritize its own workload within their specific geographic priorities, and using surrogate species as the measure of success.

Among the remaining workload, we will focus on projects with a high conservation benefit. Whenever possible, we will place the highest priority on projects where big conservation gains can be achieved with relatively little effort through the solid work of our partners. When conservation value and programmatic priority are equal, projects will enter a queue to be addressed on a first-come, first-served basis. Streamlined, programmatic approaches (landscape scale) will be prioritized ahead of individual projects.

Action agencies and applicants can reduce permit processing time frames by producing well-prepared biological assessments and habitat conservation plans. For priority projects we cannot accomplish due to budget shortfalls, reimbursable dollars may enable us to hire temporary or term employees to work on the project from start to finish. Reimbursable dollars should only be accepted when a project would otherwise be a priority, but would go unfunded due to budget shortfalls.

Based on limited staff resources, we anticipate that we will not be able to meet regulatory time frames with some degree of frequency. This includes ESA section 7 time frames for issuing biological opinions (135 days) and time frames for issuing ESA section 4 findings (e.g., 90-day findings and 12-month findings). Finally, there are a number of items we simply won't be able to do. These items are discussed below, by Ecological Services Program.

Section 7 and Section 10

Our primary focus will continue to be Departmental and agency priorities, as well as projects where we foresee having the biggest conservation benefit. Departmental and agency priority projects include the DRECP, high-profile renewable energy projects, Klamath, BDCP, and OCAP as well as projects necessary for health and human safety or national security and those for which we have court-ordered or settlement obligations. Among section 10 projects, we will prioritize those regional HCP development efforts for which we think the applicants are committed to expeditiously completing the plan and which are most promising in terms of positive conservation outcomes. Our section 7 priorities will focus on those projects that are designed with species conservation in mind and projects where we can achieve the greatest conservation outcome for the resources expended in working on the project. We will pursue programmatic consultations if there are expected long-term conservation and workload benefits.

To focus our efforts and attention on priorities, we foresee rarely or not doing Safe Harbor Agreements, general technical assistance, and CCAAs and CCAs. We will step away from the lead role on most intra-Service consultations for non-Ecological Services programs. Those programs have been delegated the authority to complete their own section 7 consultations; we are committed to providing those programs with the tools they need to support their own determinations.

As the economic recovery continues, we anticipate that HCP and consultation workload associated with urban development will increase. We must be prepared to prioritize projects. We will not be able to complete all projects in a timely manner. Sometimes our partners have assisted with funding, which helps us complete these requests in a more timely manner (streamlined MOU with FS, agreements with Caltrans and the Corps). To enable Federal land management agencies to reduce the risk of catastrophic wildfire, we will continue to engage these partners on fire-related consultations. We have recently reaffirmed our commitment to the Streamlined Consultation process in the Northwest Forest Plan area, and will continue to seek consensus and efficiencies in these consultations.

Listing and Recovery

Our primary (and perhaps only) focus will be on meeting court-ordered and settlement deadlines for findings, including findings for reclassifications. We will also put resources toward completing litigation-driven recovery plans, and for other recovery plans we will continue to implement our work activity guidance for FY13–FY17, ensuring that the pace of plan development is commensurate with staffing levels. Recovery implementation will be focused on critically imperiled species and will be primarily in the form of Service staff working with partners to identify and fund recovery actions.

With few exceptions, we do not plan to carry out the following activities: uplisting rules, downlisting rules, post-delisting monitoring plans, petition responses, CNORs, non-MDL findings and proposed rules, or recovery plan revisions. Five-year reviews will not be done, although abbreviated reviews may be completed if sufficient resources are available.

Contaminants

Our main priority will be maintaining spill response planning and preparedness capabilities with our field offices as well as our Federal and State partners. Another priority will be to ensure new case development and support in our Natural Resource Damage Assessment & Restoration (NRDAR) program. For restoration activities of our on-going existing NRDAR cases, implementation and support will continue as these funds are non-appropriated and derived from settlements.

With the exception of our current On-Refuge Investigation program activities, all contaminant investigation activities are no longer being implemented (unless funding/support is provided to us from our partners or stakeholders). In addition, technical assistance provided on contaminant issues to other Service Programs (i.e., Consultation, Recovery, Listing, Refuges, Fisheries, etc.) will be significantly reduced. Some technical assistance may be provided on a case-by-case basis for high-priority issues, and in such cases cost-sharing with the requesting program will be sought. Specific Service issues that will be affected include:

- Clean Water Act regulatory reviews (water quality standards, TMDLs, etc.)
- Listing support reviews (five-factor analyses, 90-day reviews, delisting, etc.)
- Mining-related NEPA reviews
- Pre-acquisition Environmental Site Assessments (Level II and Level III)
- Recovery support reviews (recovery plans, 5-year reviews, etc.)
- Refuge Pesticide Use Proposal reviews
- Refuge Cleanup reviews (EECAs, PASIs, etc.)

Conservation Planning Assistance

We will continue to focus our efforts on Departmental and agency priorities, including the Secretarial Determination for the Klamath settlement agreement, and water operations associated with the Klamath hydroelectric facilities and the Central Valley Project Improvement Act. Our field offices have been and will continue to rely on reimbursable funding from our Federal partners for work on Fish and Wildlife Coordination Act reports. It is imperative that these funds be sufficient to fully support staff, and we will prioritize projects based on the amount of funds, Departmental and agency priorities, and conservation benefit. We will continue work on FERC reviews insofar as the available funding allows, which will likely entail stepping away from involvement with some FERC projects (except Klamath).

We will not or rarely be reviewing and commenting on other agencies NEPA documents, unless we have agreed to be a Cooperating or Participating agency. Our involvement with Bald and Golden Eagle Act permitting will be minimal, and will largely depend on the priority given to individual projects.

cc: R8 All ES Project Leaders

Mr. LAMALFA. Thank you. Real quick, 14 generations, what year does that go back to?

Mr. LOPEZ. 1600, sir.

Mr. LAMALFA. Incredible. OK, thank you. Mr. Mike Lucero? OK, we are changing the order, I am sorry. We need to go to Mr. Garrett VeneKlasen. Is that in the ball park, VeneKlasen? Go ahead and say it your way so we will pronounce it correctly.

Mr. VENEKLASEN. It is Garrett VeneKlasen.

Mr. LAMALFA. VeneKlasen, thank you. Alright, 5 minutes, please.

STATEMENT OF GARRETT O. VENEKLASEN, EXECUTIVE DIRECTOR, NEW MEXICO WILDLIFE FEDERATION, SANTA FE, NEW MEXICO

Mr. VENEKLASEN. Mr. Chairman and members of the committee, my name is Garrett VeneKlasen. I am a native New Mexican, and I have spent my entire life hunting and fishing throughout the Southwest. Before taking my position with the New Mexico Wildlife Federation, I was the Southwest Director for Trout Unlimited, working on cold water restoration and public land protection projects, including Rio Grande del Norte and the Organ Mountains-Desert Peaks designations throughout New Mexico, Arizona and Colorado.

Hunting and fishing combined contribute \$93 billion to the Nation's GDP. It is a massive industry. Like all western states, hunting and fishing in New Mexico is a thriving and rapidly growing, yet sustainable industry that enhances and greatly diversifies rural economies west-wide.

Eighty-nine percent of New Mexican sportsmen and women utilize public lands to hunt and fish. And even though we are a sparsely populated state, New Mexican sportsmen spend \$579 million, support \$258 million in salaries and wages and contribute \$58 million to state and local taxes and support 7,695 jobs annually.

It is also important to note that in New Mexico, hunting and fishing are more than just sport. They are the oldest of our core cultural land use values with a 10,000-year-old tradition. This vibrant industry and our cultural values and lifestyle are dependent upon two things: expansive, viable habitat for our fish and wildlife and large undeveloped tracts of public lands in which our rapidly growing community can recreate.

A tiny spring and its riparian area in the Lincoln National Forest known as Agua Chiquita has gotten a lot of attention lately. The Agua Chiquita offers crucial riparian habitat used by elk, which are native to the area, turkey and other wildlife for water, food and breeding. The riparian areas have been fenced with gaps for cattle for more than 20 years to mitigate livestock damage. Such cattle enclosures have been used by virtually all state and Federal land management agencies to protect critical habitat for more than 50 years west-wide.

The original barbed-wire fence around Agua Chiquita was cut so often that the Forest Service replaced it with a welded pipe rail fence. It is 4 feet high and roughly encompasses 23 acres of land. It encloses less than 23 acres of riparian habitat within a 28,000-acre grazing allotment.

It was not the Forest Service that paid for the fence. Hunters and anglers did using \$104,000 from New Mexico's Habitat Stamp Program, which is paid for with hunter and fishing license dollars, and \$11,000 from the New Mexico members of the National Wild Turkey Federation. It was a sportsmen-generated project that was designated by the Southwest Habitat Stamp Program. It was not generated by extreme environmentalists or anybody else.

Some of those who were offended by the Agua Chiquita project said water rights were being ignored or taken away, but the U.S. Forest Service told our organization that when they checked with the New Mexico agency that monitors water rights, the Office of the State Engineer, that the database showed that the only recorded water rights in that portion of Lincoln National Forest belonged to the U.S. Forest Service.

This issue of habitat protection goes far beyond the Lincoln National Forest. It extends wherever important wildlife habitat is threatened in New Mexico and other states. Stream enclosure projects offer tremendous benefit for game and non-species alike, both aquatic and terrestrial.

Outdoorsmen like me are primarily interested in trout, elk, turkey and other game, but what is good for little creatures like meadow jumping mice are also great for trout, waterfowl, upland birds and big game, for which New Mexico is known worldwide.

The discussion in New Mexico, and now in this hearing, is focused on fencing projects around critical wildlife habitat. But the discussion should broaden and acknowledge the impact of livestock grazing on our western landscapes and watersheds. Hundreds of years of grazing have transformed entire western landscapes and compromised the function of our water head. This is a fact, and it is high time that both state and Federal policymakers and land management agencies recognize this.

Grazing practices affect the fish and wildlife, but the general public has also felt the impact. Our watersheds have been degraded and they are dysfunctional. And the downstream users, municipalities and larger agricultural interests, are the ones that are really feeling the brunt of this. Our western watersheds are broken and need to be fixed.

The good news is that our watersheds are restorable and that sustainable grazing can and should continue alongside proactive habitat restoration. But as a Nation, we need to start thinking of better ways to protect and restore degraded watersheds and riparian habitat while at the same time allowing our grazing community to thrive. Sportsmen have already shown they are ready to chip in and do our share.

The Agua Chiquita incident reflects the feeling by some that Federal agencies, such as the Forest Service and BLM, have somehow overstepped their authority. They have not. They are abiding by law laid down through 200-plus years of democratic action. Sportsmen have had to learn to share our public lands and to take responsibility for protecting them. We urge others who use and profit from our Federal public lands to do the same.

Thank you very much.

[The prepared statement of Mr. VeneKlasen follows:]

PREPARED STATEMENT OF GARRETT O. VENEKLASEN, EXECUTIVE DIRECTOR,
NEW MEXICO WILDLIFE FEDERATION

Chairman Rob Bishop, Ranking Member Raúl M. Grijalva, members of the committee: thank you for giving me the opportunity to present my perspective on "Threats, Intimidation and Bullying by Federal Land Managing Agencies," especially as it pertains to cattle enclosures on Federal lands in New Mexico.

My name is Garrett VeneKlasen. I am a native New Mexican and have spent my entire life hunting and fishing throughout the Southwest. Before taking my current

position as the Executive Director of the New Mexico Wildlife Federation, I was the Southwest Director for Trout Unlimited, working on coldwater restoration and public land protection projects throughout New Mexico, Arizona and Colorado.

Hunting and fishing combined contribute \$93 billion to the Nation's Gross Domestic Product. Like all western states, hunting and fishing in New Mexico is a thriving and rapidly growing yet sustainable industry that enhances and greatly diversifies rural economies west wide.

Eighty-nine percent of NM sportsmen and women utilize public lands to hunt and fish. New Mexico sportsmen alone spend \$579 million, support \$258 million in salaries and wages, contribute \$58 million to state and local taxes and support 7,695 jobs annually (Outdoor Industry Association, Boulder, Colo.)

It is also important to note that in New Mexico, hunting and fishing are more than just "sport." They are the oldest of our core cultural land use values with a 10,000-year tradition.

This vibrant industry and our cultural values and lifestyle are dependent upon two things: expansive, viable habitat for our fish and wildlife and large, undeveloped tracts of public lands in which our rapidly growing community can recreate.

The tiny spring and its riparian area in Lincoln National Forest known as Agua Chiquita have gotten a lot of attention lately. A small group of ranchers claims the U.S. Forest Service is trampling their rights. They make it sound like they're the victims, but there's far more to the story.

The Agua Chiquita offers crucial riparian habitat used by elk, turkey and other wildlife for water, food and breeding. The riparian area has been fenced—with gaps for cattle—for more than 20 years to mitigate livestock damage. Such cattle enclosures have been used by virtually all state and Federal land management agencies to protect critical habitat for more than 50 years.

The original barbed-wire fence around the Agua Chiquita was cut so often that the Forest Service replaced it with a welded pipe-rail fence, 4 feet high and roughly a mile long on both sides of the stream. It encloses less than two dozen acres of riparian habitat within the 28,000-acre grazing allotment. Cattle have access to the stream through two "water lanes" built into the fence.

But it wasn't the Forest Service that paid for the fence. Hunters and anglers did, using \$104,000 from New Mexico's Habitat Stamp Program and another \$11,000 from New Mexico members of the National Wild Turkey Federation. It was sportsmen in southeast New Mexico that manifested the Agua Chiquita project and made it a top priority because riparian habitat is a precious thing in our arid state.

Some of those who were offended by the Agua Chiquita project said water rights were being ignored or taken away. But the U.S. Forest Service told our organization that when they checked with the New Mexico agency that monitors water rights, the Office of the State Engineer, the database showed that the only recorded water rights in that portion of Lincoln National Forest belonged to the U.S. Forest Service.

There were also complaints that the cattle in that grazing allotment were being denied water. But in fact, there are two places along the Agua Chiquita project where cattle can reach the stream. The Forest Service has excellent photographs if you would like to see them for yourselves.

But this issue of habitat protection goes far beyond Lincoln National Forest, however. It extends wherever important wildlife habitat is threatened, in New Mexico and other western states.

Stream enclosure projects offer tremendous benefits for game and non-game species alike, both aquatic and terrestrial. Outdoorsmen like me are primarily interested in trout, elk, turkey and other game. But what's good for tiny creatures like the meadow jumping mouse is also great for the trout, waterfowl, upland birds and big game for which New Mexico is known worldwide.

The discussion in New Mexico and now, in this hearing, has focused on fencing projects around critical wildlife habitat. But perhaps the discussion should broaden and acknowledge the impact of outdated livestock grazing practices on our western landscapes and watersheds. Hundreds of years of overgrazing has literally transformed entire western landscapes and greatly compromised the function of our watersheds. This is a fact and it's high time both state and Federal policymakers and land management agencies recognize and address this issue head on.

Grazing practices have affected fish and wildlife, but the general public has also felt the impact in many western states. Degraded watersheds—especially upland watersheds—do not properly hold and dependably deliver our precious and limited water reserves. In the end, the biggest losers are municipalities and downstream

agricultural interests who can and should be receiving more water if the upstream systems functioned as they should. The economic impacts to these water dependent economies—especially in times of extreme drought as we’re seeing in much of the West—should be carefully considered by this committee.

The good news is that our watersheds are restorable, and that sustainable grazing can and should continue alongside proactive habitat restoration. But as a Nation we need to start thinking of better ways to protect and restore degraded watersheds and riparian habitat while at the same time allowing our grazing community to thrive. Sportsmen have already shown they are ready to chip in and do our share.

It is ironic that the title of this hearing is “Threats, Intimidation and Bullying BY Federal Land Managing Agencies.” I would ask this committee to also consider “Threats, Intimidation and Bullying OF Federal Land Managing Agencies,” by certain members of the public lands grazing community as well as by select county policymakers. More than once I have witnessed county commissioners publicly verbally abuse and ridicule land managers in their meetings.

I believe the tension under discussion today boils down to one thing: communication. I suspect that if Federal land managers were treated with more respect, the public lands grazing community, county officials and the land managers could start working out their issues on a local, mutually respectful level.

The Otero County Commission’s actions and behavior certainly has not represented the best interest of their sportsmen constituents, but instead follows a flawed ideological agenda of rejecting America’s public lands legacy. It is also contrary to the best of human traits—collaboration and cooperation.

Public lands are democracy in action. They are worth fighting for. They are an American birthright that belongs equally to all citizens both born and unborn. Proximity bestows neither privilege nor special entitlements, only a heightened responsibility of localized stewardship.

But as misguided incidents like the Agua Chiquita in New Mexico, the Cliven Bundy standoff in Nevada and the ATV trespass fiasco in Utah’s Recapture Canyon show, there is a move afoot to ignore these fundamental public property rights. To some, it may not matter. To public lands sportsmen and women, it does.

The Agua Chiquita incident reflects the feeling by some that Federal agencies such as the Forest Service and the BLM have somehow “overstepped” their authority. They haven’t. They are abiding by the law laid down through 200-plus years of democratic action. Sportsmen have had to learn to share our public lands and to take responsibility for protecting them. We urge others who use and profit from our Federal public lands to do the same.

Attachment



Sportsmen save habitat protection project



It appears the habitat protection project funded by sportsmen and built around sensitive riparian habitat in Lincoln National Forest is having the intended effect. In this photo taken several months after work finished, the left side is the area open to cattle while the right side is protected for wildlife. (Photo courtesy U.S. Forest Service)

Efforts to derail work funded by hunters and anglers falls short

By Joel Gay
New Mexico Wildlife Federation

Sportsman-funded habitat projects rarely make the news, but one in Lincoln National Forest draws surprising amount of attention this spring, including strong opposition from ranchers and others who want to remove the stream protection project for the sake of livestock.

Efforts to derail the work on Agua Chiquita, a spring-fed stream in the Sacramento Mountains south of Cloudfrock, actually started a year earlier. But New Mexico members of the National Wild Turkey Federation made it their top priority to complete the work this spring, which prompted a fresh round of complaints, threats and legal action.

"Some people have claimed this habitat protection project was 'overreach' by the U.S. Forest Service, but nothing could be further from the truth," said New Mexico Wildlife Federation Executive Director Garrett Veneklaesen. "This was sportsmen doing what they have always done, which is working together to protect public land and habitat so that their children and grandchildren have opportunity to hunt and fish in the future."

"Hunters and anglers have had to learn to share our public lands and to take responsibility for protecting

See "Agua Chiquita," Page 12

Tierras preciadas:

Public lands are a treasure for sportsmen and women. In this Outdoor Reporter we focus on how and why hunters and anglers work so hard to protect them.

- Hunters key to protecting traditional areas near Las Cruces, Page 3
- Wilderness Act turns 50, Page 5
- Efforts to 'transfer' public land bad for all, especially sportsmen, Page 5
- Agencies work together to reopen landlocked public land, Page 7
- Streams open? Still no answer, Page 7

Gila Wilderness A legacy for sportsmen

By M.H. "Dutch" Salmon
Special to New Mexico Wildlife Federation

When Aldo Leopold, founder of the organization that would become the New Mexico Wildlife Federation, arrived in the Southwest as a fledgling U.S. Forest Service ranger in 1909, he discovered six blocks of roadless country in the region's national forests that contained half a million acres or more.

"By the 1920s," Leopold would write later, "roads had invaded five of them and there was only one left: the headwaters of the Gila River."

Leopold, who by his own admission had "hunting fever," was the perfect scribe for the subject at hand — wilderness — with just the right mix of skilled narration, authenticity (he fished, he hunted, he camped out), poetry, polemic and foresight. In 1921 he wrote something in the *Journal of Forestry* that most Americans would never read but that professional foresters and game managers did.

By dint of his literacy, elegance and passion, Leopold would convince his peers that this far-away place in New Mexico would best serve the nation by being left "open to lawful hunting and fishing, big enough to absorb a two week's pack trip, and kept devoid of roads, artificial trails, cottages, and other works of man."

Furthermore, he continued, "a good big sample of it should be preserved. . . . It is the last typical wilderness

in the southwestern mountains. Highest and best use demands its preservation."

Ninety years ago this summer, District Forester Frank Pooler responded to Leopold's assessment of "highest and best use" by designating 755,000 acres of the headwaters of the Gila River as off-limits to roads, vehicles and other works of man, yet available to hunters and anglers.

It was the nation's first protected wilderness area.

Gila has it all

The Gila now makes up just a fraction of our nation's wilderness system, which has grown to more than 100 million acres. And to this day you may stand, as I have, amidst these far-flung and peculiar mountains and ask: How can this be? How is it that in the whirl of population growth and burgeoning industry and technology, the nation has here, voluntarily, turned its back on the 21st century and returned to the 19th?

Well, it all happened right here in the Gila — the Mimbreno artist, the Apaches' legacy as equine buccaners, mountain men, hound men and predator hunters, and the conservation legacy of Leopold, the most avid and articulate of sportsmen, who killed quite a few animals and saved entire landscapes. All were inspired

See "Gila," Page 4

State of the Game

Turkey tracks getting thicker all over NM

By Jim Bates
Special to New Mexico Wildlife Federation

"I think that's number 25," I said to my turkey hunting buddy Dick as we got back into my pickup and headed on down the forest road.

"Wow, this is incredible. I've never heard so many gobblers in my life!" Dick responded.

What was even more incredible was the fact that we were "putting gobblers to bed" along a main thoroughfare running through Lincoln National Forest.

Gobbling turkeys were everywhere on this eve of the start of the spring turkey season. What was particularly encouraging, though, was that this was not some isolated hotspot or wildly unusual incident. It was only a single example that wild turkeys are doing well in many locations in our state.

New Mexico has always had a fairly stable turkey population. Even in the grim years following the end of market hunting which decimated wild turkey numbers

See "Turkey," Page 10

... Agua Chiquita work finished, despite hurdles

Continued from Page 1

them," Veneklasen continued. "We urge others who use our federal public lands to do the same."

Protecting water a top priority for sportsmen

The Agua Chiquita project has been on sportsmen's radar since at least the 1990s, according to Dale Hall, the head of the Habitat Stamp Program for the Department of Game and Fish until he retired last May. For many years, hunters and anglers volunteered their time and provided funding to install and maintain a barbed wire fence meant to keep cattle out of the fragile riparian area, he said.

In an arid state, Hall added, "Those are premium habitats, and we should be protecting them."

But because livestock and wildlife kept breaching the barbed wire, the Forest Service proposed to replace the barbed wire with a pipe-rail fence. The project was to be funded by the Habitat Stamp Program. It was discussed and approved by the program's southeastern Citizens Advisory Committee more than a year ago.

Work began in the spring of 2013, using thousands of feet of pipe donated by Yates Petroleum Corp. of Artesia and \$104,000 in Habitat Stamp funds. But as word of the project spread, an Otero County Sheriff's deputy visited the site and threatened to arrest the contractor and Forest Service personnel for allegedly violating fire restrictions in place at the time.

The Forest Service had already taken fire precautions, said USFS wildlife biologist Jack Williams. The agency's fire management office had issued the contractor a waiver and fire personnel were on site. "All the necessary precautions were in place," Williams said.

Work resumed, but in May 2013 the Department of Game and Fish pulled out of the Agua Chiquita project completely. Hall said he was ordered to stop work by then-director Jim Lane.

"He called me in and wanted an explanation of what I was doing down there," Hall told NMWF. Hall said he was in the process of developing a presentation on the project when Lane pulled the plug. "I never got chance to explain it," Hall said, "because he made a political decision, not a biological decision" to kill the habitat protection work.

At that point, Game and Fish was walking away from a project that was nearly complete, according to Williams and Hall. Both the Forest Service and the Habitat Stamp program coordinator wanted to finish it after fire restrictions were lifted, but even after Lane resigned last fall — well after fire season was over — Game and Fish would not complete the job, Hall and Williams said.

Once again, sportsmen stepped up. In March of this year, New Mexico members of the National Wild Turkey Federation made the Agua Chiquita their top priority. Scott Lerich, the federation's biologist in New Mexico, said he met with the Forest Service, Hall and the fence contractor and determined that a little over \$11,000 was needed to finish the job. The Turkey Federation picked up the tab and work began again in early April, Lerich said.

This time, however, the Forest Service returned to the worksite with a fire engine and law enforcement officials. "We wanted to make sure the contractor was going to be able to complete the job," Williams said, recalling the interaction with the Otero County Sheriff's office last year. "We wanted to make sure there wasn't going to be any further interruption in the work."

Indeed, the job finished up on April 24. It consists of 4-foot-high pipe-rail fencing along both sides of the Agua Chiquita, enclosing about a mile of stream and



Sportsmen wanted to beef up the fence protecting sensitive habitat along the Agua Chiquita to keep cattle out, for obvious reasons. This photo was taken several weeks after the pipe fence was completed in April. (Photo courtesy U.S. Forest Service)

some 24 acres of riparian habitat. Cattle still have access to the stream through two "water lanes" built into the fence.

Work sets off firestorm

By the time the contractor was putting away his tools, opponents of the project had taken their complaints public. The Otero County Commission sided with local ranchers and issued a cease-and-desist order on the project. When the Forest Service received the letter, the work had already been completed.

Commissioners then asked the agency to unlock gates in the fence and allow cattle full access to the stream. When the Forest Service stood its ground, the commission ordered the county sheriff to cut the locks. According to news reports, the sheriff sought permission from a federal judge but was denied.

Coming on the heels of the standoff between the BLM and Nevada rancher Cliven Bundy, the Agua Chiquita project generated national attention. The news media reported charges of "federal overreach" and allegations that the government was ignoring the Constitution or taking private property without compensation.

Judyann Holcomb Medeiros, whose Holcomb Family Ranch was most affected by the fence-out project, was quoted by several newspapers and said, essentially, that the Forest Service was harming her business. "Fencing our cattle off of the water denies us our usage rights," she told the Alamogordo Daily News. "During the drought, our cattle have to walk extended lengths to reach water. The fences also causes the cattle to use the heavily used county road, and we have had cattle hit and killed or severely crippled or damaged by the impacts."

She did not mention the fact that her ranch will receive 15 elk tags — unit-wide — from the Department of Game and Fish this fall.

Blair Dunn, an Otero County attorney, said the Forest Service "doesn't have the right to appropriate water for wildlife," the Daily News reported. "So to pen something off for wildlife to go drink and to appropriate that water for wildlife when they don't have the necessary legal permits or rights to do so amounts to an illegal diversion of water."

Several ranchers said the Agua Chiquita project was aimed at driving them off their land, and one Otero County com-

missioner described the Forest Service's actions as "tyranny." More than 100 people gathered in Alamogordo in late May to protest the Agua Chiquita project, including John Bell, president of the Otero County Cattlemen's Association, who said, "We've got to stand up and fight back and that is what this is about."

Supporters have facts on their side

To those who followed the project closely, however, the Otero County protests missed the mark. "A grazing permit is not a right, but a permit that allows the permittee to occupy the forest but which can be revoked for any number of reasons," Sacramento District Ranger James Duran said. "Nobody lost their grazing permit over the Agua Chiquita flip," he said.

Nor did anyone lose their water rights or access to water. In fact, Duran said, "We have no documentation from the Office of the State Engineer, who we rely on for these determinations, that water rights exist or are being violated" in that portion of the Lincoln National Forest. "A lot of folks have made claims," he said, but his office searched the water rights database maintained by the state and found no evidence. "The only licensed water right is issued to the Forest Service in the database," he said. Even if a water right did exist, he said, "We have not limited livestock access to the use of the water. Since the herd was turned out into the area on May 18 cattle have had water all along."

And as to claims about the Forest Service violating local, state or federal law, Duran said no law enforcement agency has brought forth charges. "We have no intentions of breaking the law," he said. The Forest Service is, however, mandated by law to manage its forests for multiple use. That includes protecting water quality and wildlife large and small as well as providing for livestock grazing. "I don't want folks to believe the Forest Service wants to put ranching out of business," Duran said.

Lerich, the Turkey Federation biologist, said the Agua Chiquita project was needed to protect a fragile stream and riparian area, and nothing more.

"I don't have anything against cattle," he said. But cattle and elk have starkly different impacts on a water source. "Elk

will have an impact, but they'll leave. Cattle, if given a choice, will never leave — they'll stay there, and before long it's a pile of dust."

Protecting riparian habitat like the Agua Chiquita "fits into the mission of the turkey federation," he said. "It's what we do. But if we want to protect 10 or 15 acres out of the 28,000 in that grazing allotment, I think that's benefiting everybody, including the rancher. Our goal here is to provide clean water and more of it."

Public lands like Lincoln National Forest are among the many reasons the United States is exceptional in the world, said NMWF Director Veneklasen. Thanks to visionary sportsmen of the early 20th century like Theodore Roosevelt and Aldo Leopold, everyone — regardless of race, social status or bank account — has a place to hunt, fish and relax.

"Public lands are our birthright," he said. "They are worth fighting for."

But as incidents like the Agua Chiquita protests and Cliven Bundy standoff in Nevada show, there is a growing movement to treat public lands as if they were private or to transfer federal public lands to the states, and then very likely into private ownership. (See associated story on this page.)

"This is a huge threat to the sportsmen of New Mexico and throughout the West," Veneklasen said. "We can camp, hike and scout for big game freely on BLM and Forest Service land, but not on state land and certainly not on private land."

If the state seized our national forests and BLM landscapes, New Mexico taxpayers would be on the hook to fund everything from fighting forest fires to maintaining thousands of miles of roads, he continued. "It wouldn't take long before the financial demands of such management would force the state to sell, trade or lease 'our' lands. And sportsmen would lose, I guarantee."

Although some have argued that federal agencies such as the Forest Service and the BLM have somehow "overstepped" their authority, "Sportsmen know they haven't," Veneklasen said. "These agencies are abiding by the law laid down through 200-plus years of democratic action. Sportsmen have had to learn to share our public lands and to take responsibility for protecting them. Others who also use our federal public lands should do the same."

Mr. LAMALFA. Thank you.

OK, Mr. Mike Lucero, you are the closer here, so 5 minutes.

**STATEMENT OF MIKE LUCERO, RANCHER, JEMEZ PUEBLE,
NEW MEXICO**

Mr. LUCERO. Mr. Chairman, members of the committee, I appreciate your time. First off, my name is Mike Lucero. I was born and raised in New Mexico as well as my family. My family, friends and I ranch in northern New Mexico, as do many.

I am here today to inform you on some of the issues that we are having with our Federal agencies, the Forest Service and the Fish and Wildlife Service.

We feel that when it comes to these agencies, they take the "take it or leave it" stance with us, as they have now for many years due to the budget issues, low staffing and lack of training, to name a few. But the most recent one that I will not stand for is, "This is to avoid a lawsuit, that is why this is happening to you." By saying that, I feel that they are telling us, "This is the land of opportunity until somebody does not like what you are doing."

We have always wanted to work well with the Forest Service, and I think that our records will show that. And even now, we are respectfully disagreeing with what is going on though we are growing tired of trying to get answers and talk about compromise and being shut down because of the threat of lawsuit by a non-governmental agency.

Remember, our tax dollars are being spent to keep out cattle that have been grazing—that occurs only 45 days a year in these areas. And to my knowledge, are not the only grazing animals that use this area. And by doing so, we feel that our rights are being violated. Cattle have been grazed on this land for generations. Forgive me, my emotions, because this is dear to me, OK, for generations, long before the Forest Service took over.

The Fish and Wildlife talk about ecosystems. How long does something have to be in place for it to become part of the ecosystem? Is 100 years not part of that? And how does it change the ecosystem by changing what is going on now and what has been for over 100 years?

Somehow I feel that they have not done their studies and found an effective way to spend this money that has somehow been set aside for New Mexico jumping mouse habitat.

Now, we have been asking for compromise. We have been wanting to work out alternatives to what is going on up there. The ranchers there are tired of asking questions and never getting answers. Every time we have a question, there is always a thread of "if you question what is going on, you are going to lose your permits."

The majority of these men that are ranching in these areas are elderly. This is their sole source of income. And these agencies need to realize that when this—when people come to this table, and they sit across from the Forest Service or the Fish and Wildlife and they ask and answer, they expect the respect that we give them when we do our daily job up there and manage the way we have been for 100 years. The problem is we do not get answers ever. And if we question more than we are supposed to, we are always threatened.

Now, I sit before you today to let you know what is going on up there. And I hope that we can come to some kind of agreement on what needs to be done and move forward with it because enough is enough when it comes to bullying people that have been on this land for generations. Remember, this was a land grant before the Forest Service took it over. And my family ultimately has been the stewards of this land for as long as they have. And the reason we are in the situation we are now with poor watershed and wildfires is mismanagement by the people that are taking care of it now, the Federal agencies.

Thank you.

[The prepared statement of Mr. Lucero follows:]

PREPARED STATEMENT OF MICHAEL LUCERO, JEMEZ PUEBLE, NEW MEXICO

Mr. Chairman and members of the committee, thank you for allowing me to tell you what is going on in New Mexico at the hands of the U.S. Forest Service and the U.S. Fish & Wildlife Service.

My name is Michael Lucero, I was born and raised in New Mexico. I am an allotment owner in the Santa Fe National Forest, as is my father. I currently serve on two boards; the Jemez Valley School Board of Education and the Union Board at work.

My family and I ranch on the Santa Fe National Forest, and have for many generations. My great grandfather started off on foot with 1,000 head of sheep when the Forest Service was not even in existence. This was then passed down to my grandparents, then to my father.

Our allotment originally started as the San Diego Land Grant which eventually was taken by the government and became Forest Service land. Land grants were issued to settlers by the king of Spain when the land was part of Mexico. The land was taken from us to create the bureaucracy in place today. Now that government is driving us completely from the land.

We feel that the government has taken away and are still trying to take away what is rightfully ours, from our grazing rights to our water rights. It seems that every year it gets more difficult to continue with our way of life and keep our heritage alive as the government is continually putting obstacles in our path.

My mother's family was driven out of the logging business when the Spotted Owl became an endangered species. They left the valley that they grew up in to find work elsewhere.

Since the drought took over New Mexico, the Forest Service has used the "drought" to reduce our herd numbers. We always did as we were asked and cut our herds. Even though we cut our numbers for a particular year, we still paid the full payment due for the permit. When we looked at the drought maps and the formula they were using with the Forest Service, we were able to prove to them that their formula was incorrect. We were then allowed to come in with full numbers for our herds. Now that that issue has been resolved, here we are again with another issue, an endangered species threatening to shut us down.

Two years ago in 2011, our range conservationist gave us a handout which talked about the New Mexico Meadow Jumping Mouse. In that meeting he stated that if it was listed, that it would be the end of grazing on Forest Service Lands.

This mouse hibernates about 9 months a year and requires a 24-inch stubble height of dense grass. If we were not already providing the appropriate conditions, how can the mouse be there?

Another puzzling fact is that the mouse can apparently detect property lines. The proposed critical habitat goes right to the fence line to the Valles Caldera National Preserve and stops.

That was all we heard on the issue until the fall of 2013. The comment period in the Federal Register would open and the Forest Service told us how important it was to comment. That being said we did make comments when the notice was posted in the Federal Register. We then were called into another meeting with the Forest Service where they told us that they had no control over what was going happen if it was listed.

The local ranchers had many questions about the New Mexico Meadow Jumping Mouse, like where it was found. How many were found? What would be done to protect it and where it would be done? The Forest Service had no answers about the mouse. They told us that the Fish & Wildlife Service made all those decisions.

We then asked the Forest Service to call a meeting with the Forest Service and the Fish & Wildlife Service. In that meeting the Fish & Wildlife Service told us that the listing of the mouse would not affect grazing and that the Fish & Wildlife Service had not told the Forest Service to put up fences of any kind; we were told that all the Fish & Wildlife Service does is list the species.

The Forest Service was present at this meeting. Eric Hines from the Fish & Wildlife Service told us that we would still have our opportunity to be involved in a Section 7 consultation. We asked the Forest Service about that and they had no clue what we were talking about. All this being said we have been in the dark since day one.

The science used to list the mouse is disputable. Why are there no lists of areas that were studied? And if there is a list, why was it not provided to us when we asked for it? In the meeting with the Forest Service, they stated that the only reason for the fence was to avoid being sued by the WildEarth Guardians.

Why is the Forest Service making these decisions that will affect the local economy, the ranching industry and the culture, and well being of rural communities? It appears that they are not taking into account the local comments on these issues based on a lawsuit by a non-governmental party.

Since when is America not a democratic country? Why is the Federal Government not giving every citizen its due process on issues that affect so many different aspects of their lives? In every meeting with the Forest Service, they are always telling us that we are closer to NO RANCHING ON FOREST SERVICE LANDS! When we asked how we can work out a compromise with the Forest Service on issues like this, the Forest Service personnel always answer, "It's not me, I was told that this is the way the upper staff wants it."

I personally asked about alternatives fencing us off water and then out of our pastures but always hit road blocks, such as, no money or more studies needed. But somehow there is now money to build fences? At about \$20 per linear foot, where did the money come from and why now, when we have been asking for alternatives for the past year. The expense of putting up this fence does not make sense since we only graze our cattle 2 months out of the year in these areas.

We were told in the meeting with the Forest Service and Fish & Wildlife Service that nothing would be done without first the NEPA process and a meeting with all of the ranchers and the Forest Service to come up with a plan together. Next thing we hear is that they are going to put up an 8-foot fence spanning 117 acres to keep animals and humans out of the critical habitat for the mouse. That is just my allotment. There are 10 others who are being similarly affected. Seems that we skipped a couple of steps and their words are just empty promises. Moving forward like this is a clear picture of GOVERNMENT BULLYING. They tell us one thing and do the opposite. They are never truthful with us and we are living in constant fear of what comes next.

After the media got involved around the 4th of July camping season, the Forest Service changed their tune. They are now proposing a 5-foot fence covering the same area that may impact dispersed camping. Why are we told about an 8-foot fence and 2 weeks later it becomes a 5-foot fence? Why are humans and wildlife, particularly elk, not harmful to the mouse?

The money being used to erect these fences is from taxpayers. That being said, it appears that the Forest Service is using my tax dollars to fence my family and numerous other families OUT OF BUSINESS! Tell me how that makes sense? Why would our concerns and comments not be heard, when we have been using these lands since it was our ancestors Land Grant?

Every time that there are compromises to be made, it is always us, the ranchers, who have to compromise on our end. We are told that if we do not compromise and agree with the decisions being made by the Forest Service that we risk losing our grazing allotments.

How are we supposed to work with the Forest Service when we all know that they do not listen to our concerns? We want to work with the Forest Service for the benefit of us all. It is in our best interest to take care of the land and help manage it properly. If we were not managing properly, then how is it that my family has been in business for over 100 years? It's because we love the land and our tradition and hope to pass it down for many generations to come.

I feel that Agriculture is very important to America, if you've seen the price of beef in the grocery stores lately, the more they cut herds the higher the price goes up for all American People.

I don't get how the environmental groups work with the Federal Government; what gives them so much power that they dictate what the Federal Government does with other people that use government lands? If you look at the WildEarth Guardians Web site, it states exactly what the U.S. Forest Service is going to do.

They want to protect one endangered species and do everything in their power to get it done, they don't take into consideration that land management is so important for example: the Spotted Owl that was listed years ago. Many people (most of my family) from the logging industry lost their jobs which caused them to move out of the area to find work.

Through the years, now from the lack of managing the land correctly the Santa Fe National Forest is overgrown and we have had several forest fires with so much fuel they are out of control and the American Tax Payers spend so much more money on these forest fires than they would have if the land was managed properly. People would still have jobs. The Spotted Owl would not have a burned forest and not only that species, but all the other listed species on the Endangered Species List. In the ecosystem how do you protect one species and throw it off for the other endangered species?

Fencing off the river would dramatically affect our culture, economy, and our local community. Our local community businesses thrive on the business generated by ranchers, campers, fishermen, hunters and hikers. If we fence off all of the proposed rivers, it would have a detrimental effect on these local businesses.

I don't understand how people from other states get jobs at these Federal agencies that don't understand the way you manage a ranch in New Mexico. The way we manage a ranch in northern New Mexico is completely different than you would manage a ranch in a place like Wyoming or Montana.

The ranchers in this area don't have a lot of money; there are not a lot of big cattle operations like everyone thinks there are. I bought my own cattle and allotments and I bought it for a reason. It was an investment to put my two kids through college and so I could have something to hand over to my children that they have known their whole lives. My father inherited his small operation from my grandpa, which helps pay for my elderly grandmother's care: medical insurance, daily caretaker, and anything she may need. Because of these cows, grandma is not in a state paid or Federal paid nursing home. This is how we take care of her, it's how our community works; this is a part of what we do as a ranching family and community.

It saddens me to sit in a meeting where the head Forest Ranger (Linda Riddle) is telling us "I could care less if they got rid of all the cows on the Forest, that would make my job that much easier."

This statement coming from a Federal Government employee! Robert Trujillo, Deputy Director of the USFS stated in a local newspaper that he feels that the forest is overgrazed, however if the USFS was to pull the allotment management records, it would show that this is and never has been the case. The areas used by the ranchers are NOT OVERGRAZED! We have never been in violation of the Federal regulations governing ranching.

The opposite is true for the Forest Service personnel because they are not following the Federal regulation that says they are to protect the heritage and culture of ranching families that are allotment owners on the USFS. The Federal regulation states that they are to always get input from the allotment owners when making decisions that would affect them.

Rumors are floating in our communities that the Forest Service is planning to use eminent domain to obtain private land that is within what is believed to be jumping mouse areas. We cannot document them, but this is the fear we are living under.

The government and environmental groups are making it almost impossible for us to do what we love (our culture/heritage). In my opinion cattlemen are the caretakers of the land, if it wasn't for cattle grazing these lands we wouldn't have an environment for a jumping mouse or most other creatures. We are the ones who manage the lands and wildlife also benefit from our watering systems.

The media has accurately shown how our land looks. This is how we have taken care of this land, a part of our culture is an understanding that you have to take care of the land, in order for the land to take care of you.

We are trying to do the right thing, but what we see for doing the right thing is we better go along with this or you are going to lose your permits! Ultimately the government is losing its caretaker, because that's what we do.

Thank you for your time. We pray that you can help us.

Timeline on New Mexico Meadow Jumping Mouse

- February 27, 2014—Official meeting about the NMNJM, the Forest Service told us they were going to start the NEPA process
- March 4, 2014—The Forest Service told us NO NEPA; Forest Service talked about the fence and taking 300 feet on each side of the river

- March 28, 2014—Forest Service sent letter on mouse fencing
- April 2, 2014—We called a meeting with the Forest Service to ask questions
- April 8, 2014—Meeting with the Forest Service; we looked at other options, but no money
- April 9, 2014—Meeting in El Rito NM with Cal Joyner; NO ANSWERS
- April 25, 2014—Meeting with the Forest Service and Fish and Wildlife Service
- May 9, 2014—Forest Service sends letter retracting the March 28, 2014 letter
- June 25, 2014—Meeting with the Forest Service; they showed us a map of fencing areas and they told us about categorical exclusion
- July 2, 2014—Forest Service and Fish & Wildlife canceled meeting
- July 10, 2014—Received comment notices from Forest Service

Mr. LAMALFA. I want to thank you, Mr. Lucero. OK, we are still doing OK on time. Let's move to our first round of questions here. I will recognize myself for up to 5 minutes here.

Let me come back to you, Mr. Lucero. In your dealings, you felt that decisions are made by Federal managers not because maybe it is the best practice or the most neighborly one but a fear of lawsuits by other outside sources. Could you dwell on that a little bit, please?

Mr. LUCERO. Exactly. We have asked—we have asked them, OK, “What is the alternative to putting a fence up that excludes cattle out of these riparian areas?” And they said, “If we do not put this up, we are going to be sued.”

Mr. LAMALFA. By who?

Mr. LUCERO. By the WildEarth Guardians. And with their permission, I videotaped the meeting because I knew this was going in this direction. And for years, it has been. And I am fed up with it. So if anybody wants to question what was said by them, I have it on videotape.

Mr. LAMALFA. You should put that on YouTube then.

Mr. LUCERO. Yeah, I guess.

Mr. LAMALFA. It would be easily accessible.

Mr. LUCERO. But, yes, their answer is, “The reason we are doing this is because we are going to be sued.” As a Federal agency, that is not how you manage what is going on in this forest.

Mr. LAMALFA. It is all too prevalent over a lot of the West where decisions are made by various entities, and I have run across it too.

In my part of the state, there is becoming a larger and larger elk problem in northern California where people are looking for remedies, and they are not getting them. They are told, “Hey, put up a fence, keep the elk out.” Well, an elk is a very powerful animal. And so putting aside the idea of the expense of the fence or you having to change your operation for something that perhaps should be managed, how effective do you see fencing as far as just affecting an elk population and preventing elk grazing, for example?

Mr. LUCERO. The fence they originally proposed was 8-feet high, and it would exclude elk, cattle, hunting, fishing, hiking, everything. The Fourth of July weekend went by, and for some reason they came back to us with a letter. And I provided the letter to you guys. They came back to us with a letter, and now they are proposing a 5-foot high fence that would just exclude cattle. Now, tell me that makes sense when we are talking about 45 days worth of cattle grazing versus 365 days of elk grazing.

Mr. LAMALFA. So the fences are not preventing over-grazing, it sounds like?

Mr. LUCERO. No. And to go back to the over-grazing, the term has been thrown around loosely. And I provided some pictures here. And if I could point to these pictures real quick, I would like to. This is in a drought. This is the actual meadow that we are talking about. This is in a drought before the rain started, and we have already grazed that pasture. And this is over-grazing to them.

Mr. LAMALFA. This is post-grazing?

Mr. LUCERO. Yes. Also, I would like to add the fact that if we have over-grazed it, why have they never told us we have?

Mr. LAMALFA. OK, thank you. I go to Mr. Dunn. What recommendations do you have to allow individuals to seek recourse for the abuses by some of these employees? Have you—

Mr. DUNN. Mr. Chair, yes, I have. There is some proposed language that was part of my written testimony. One alternative is to make that an addition to the Civil Rights Act and essentially create a cause of action similar to a Section 1983 civil rights claim. As you are probably aware, Section 1983 claims can be brought against state and local authorities that exceed the law and harm somebody's individual rights. But that is not a remedy that is available to private citizens against Federal employees.

One way to gain some accountability would be to make that kind of a cause to action available. And I honestly believe that it would act as a deterrent. I think if there was some accountability, and the Forest Service, the BLM had to think about the fact that their actions might cause liability, they might take a little bit more care in not abusing the law.

Mr. LAMALFA. OK, thank you. I am going to come back on the second round. I will yield now and recognize Mr. Grijalva, our Ranking Member.

Mr. GRIJALVA. Yes, thank you very much. Mr. Lucero, I want to thank you for your testimony. What are the disadvantages of not having the agencies that we are talking about here today is they cannot respond to some of the points that you make. And I think they need to be responded to. It is my understanding that nothing has been finalized because we asked about that, in particular up in northern New Mexico. I asked your Congressman about that, and the Forest Service said nothing had been finalized. Leaving that aside, but it would have been good to get a direct answer,—

Mr. LUCERO. Can I speak on that real quick?

Mr. GRIJALVA. Let me finish my question, Mr. Lucero, and then you can—

Mr. LUCERO. OK.

Mr. GRIJALVA [continuing]. Wrap it up. Breaks in the fence that would allow cattle to be able to go into those 23 acres, is it?

Mr. LUCERO. This is a completely different area—

Mr. GRIJALVA. OK.

Mr. LUCERO [continuing]. That you are talking about.

Mr. GRIJALVA. That is the other one?

Mr. LUCERO. Yes.

Mr. GRIJALVA. Breaks in there so they could go—cattle could have access, the pumping of water even if it is necessary, those were two points that I think I had also heard in a letter that I re-

ceived from one of your colleagues, one of the ranchers up there. And those are questions we are going to pursue with the Forest Service because there is no way to get an answer right now. You have your point of view and your opinion and what you taped. And I do not deny that, but I want to hear from the agency as to how they are working with and what mitigating steps they are making to try to draw something cooperative with the ranchers in the area because I think that is the important way to go.

I know you will be advised that litigation is the only way to fly, but if this can be worked out cooperatively, I think it would be to the best benefits of everybody.

So we will pursue with the agency the points that you brought up because I think they deserve answers. And I certainly want those answers as much as you do.

Mr. LUCERO. OK. I think I kind of gave you what you are asking for. Categorical exclusion is what they told us they are using on this, which does not give us our option for a NEPA or an environmental assessment. We have asked for that in an official letter.

Mr. GRIJALVA. Well, see, that is the point. The agency being here, I would have asked those questions of the agencies.

Mr. LUCERO. Yes, well, I provided you the paperwork so you have it in front of you.

Mr. GRIJALVA. Well, I would still need to the talk to the agency, Mr. Lucero,—

Mr. LUCERO. Yes, sir.

Mr. GRIJALVA [continuing]. And get that point of view. Thank you. I was going to ask Mr. Dunn, the argument that I have heard you make is that the Federal grazing permits are, if I am not mistaken, a form of private property or should be recognized by the Federal Government?

Mr. DUNN. Ranking Member, I was actually discussing water rights. I had not talked about whether or not grazing rights were private property.

Mr. GRIJALVA. Is it in the written testimony? Well, I thought it was in your written testimony as well as we read it. Is it?

Mr. DUNN. I believe all I discussed at this point was private water rights.

Mr. GRIJALVA. But is it in your written testimony or is it not?

Mr. DUNN. I do not believe it is, sir.

Mr. GRIJALVA. Well, then that question is moot then if it is not in there, but if it is, we will get back to that question, OK? Because I think I am not the constitutional scholar that you appear to be, but I do have a constitutional question.

Mr. DUNN. OK.

Mr. GRIJALVA. The other point is, Mr. VeneKlasen, in the first panel, we heard about transferring all the Federal public lands to the states. We also heard a little bit about let the local communities be the decisionmakers and the state just pays the—and the Federal Government just pays the bills. But all the policy decisions are going to be made by the state. What does that mean for the sportsmen you represent?

Mr. VENEKLASEN. Well, I mean it sounds good on paper but it is sort of a gilded—

Mr. GRIJALVA. Lily?

Mr. VENEKLASEN. It is gilded. One of our biggest concerns is we have had some catastrophic wildfires in New Mexico, the cost of which are in excess of \$150 million. There is no way on earth the state could even begin to pay for fighting a catastrophic wildfire, for example.

We have a 100,000-acre thinning project in the Jemez Mountains right now. The Federal Government has donated \$80 million to thin that 100,000 acres of forest.

And so the idea of state management sounds good on paper, but what we would also see is in our state, for example, you cannot camp on state land. And the lands are regulated in a very different way. So, you know, the idea of the state managing lands is a—it is a pipe dream is what it is.

Mr. GRIJALVA. And the states charge a much higher grazing fee than the Federal Government and for other uses?

Mr. VENEKLASEN. The average AMU in New Mexico on private land is \$13, and the Federal lands, it is a \$1.34. And so, you know, those are big things that would impact the grazing community.

Mr. GRIJALVA. But state land does not have the constitutional issues that have been raised today as to—

Mr. VENEKLASEN. No. And one of the other concerns we have is the thing we like about Federal management is there is a standard that is followed across the board that will make sure that these lands and the habitat are—

Mr. GRIJALVA. And I agree. I think the point that Mr. Lucero brought up about northern New Mexico that I am not real familiar with, but I got real lucky and married a young lady from Penasco, so I know—I got very lucky, is there is unique historical, there is unique cultural issues that while there is a general standard, sometimes those nuances have to be part of the decisionmaking. I think that in particular in northern New Mexico, that might be the case. In some of the other areas, I do not think they have that nuance.

Anyway, I yield back.

Mr. LAMALFA. Alright, thank you. Mr. Tipton, 5 minutes, please.

Mr. TIPTON. Thank you, Mr. Chairman. And, by the way, Mr. Lopez, that looks like a great field to graze in from the one you have got up there, a lot of feed.

But I would like to start with Mr. Lopez. We have a real issue it seems. The Federal Government keeps trying to acquire more land. And I found it incredibly curious when we have had the Forest Service before us, even the BLM, they do not have the resources to currently manage the lands they have, but are now acquiring more land. Now, they have been acquiring land near your homestead, is that correct?

Mr. LOPEZ. Mr. Chairman and Mr. Tipton, that is correct. In my written testimony, I provided you with a map that was attached there. And basically the BLM has been purchasing small tracts of lands that were parts of old ranches that were around me until the point that I am considered an in-holding.

Mr. TIPTON. Yes.

Mr. LOPEZ. Which they gleefully tell me that I am an in-holding. And to me that means that I am going to be the next willing seller because I am completely surrounded by Federal land now.

Mr. TIPTON. Now, what type of notice did you receive, Mr. Lopez, in regards to the acquisition of that land? Did the BLM notify you that they were making those acquisitions?

Mr. LOPEZ. Mr. Chairman and Mr. Tipton, they did not notify me. It is my understanding in talking to them recently that normally they do not notify the adjoining landowners because when they make agreements with certain nonprofits, like Trust for Public Land and others, it is usually a hush-hush deal. They do not want anybody to know what they are doing. And so when I found out about all these things was after the fact.

Mr. TIPTON. But the fact of the matter is that may have been an economic decision on the BLM's part to be able to get the land at a lower price. But how has that impacted your land price now that you are now labeled as an in-holding?

Mr. LOPEZ. Well, apart from being an in-holding, Mr. Chairman and Mr. Tipton, I also happen to be in what the BLM created a few years ago called an Area of Critical Environmental Concern. The BLM tells me that I am not in that area, although I am surrounded by the area. But since I am not Federal land, it does not impact me. The problem is that it actually does impact me because if I went to use any of my mineral rights or anything else or do any development on my property being inside that zone, I would have a very difficult time getting anything through the county because they recognize the Area of Critical Environmental Concern.

Mr. TIPTON. So effectively this had a negative impact in terms of your holdings, ability to be able to re-sell the property. Do you not believe that adjacent landowners at a very minimum should at least be notified of these acquisitions because of the potential challenges that you are describing?

Mr. LOPEZ. Mr. Chairman and Mr. Tipton, I certainly do. And it would have been nice if they had advised me because now that they have purchased all this land, I have a lot of trespass issues on the property because my property is in between two pieces of BLM land. And so I get trespassed all the time. If I had known about this before this happened, we could have come to some agreement in doing a land exchange or something like that that would have benefited both of us.

Mr. TIPTON. You know, I just introduced some legislation, it was H.R. 5074, the Land Adjacency Notification Disclosure Act, which would actually require that you be notified. Would that be of benefit to you?

Mr. LOPEZ. Mr. Chairman and Mr. Tipton, that certainly would be of benefit, maybe not in my case now but for many others, it certainly would be.

Mr. TIPTON. I thank you for your time and for being here and certainly understand some of the challenges that you are facing.

Mr. Dunn, I would like to be able to visit with you for just a moment if we may in regards to the company that you represent. In their vested private property easement across these Forest Service lands that they have had for 100 years, were they notified that it no longer existed and is now subject to a lengthy NEPA analysis?

Mr. DUNN. Yes, they have been.

Mr. TIPTON. OK. And was the company ever consulted or afforded any opportunity to be able to respond to the Forest Service in regards to these actions?

Mr. DUNN. They did. They had discussions with the Forest Service. They were in negotiations with the Forest Service. Ultimately, what the Forest Service said was, we will issue you a special use permit for that road you have already—well, that they believe that they already hold a vested right to, but we do not recognize, the Forest Service does not recognize vested private property right easements across our ground. So therefore without a special use permit, you have nothing.

Mr. TIPTON. Even with that ability to be able to have that easement, is this effectively a taking?

Mr. DUNN. Yes, it is. One of the things I did disclose is that that is what the company is considering is—and has filed a takings litigation on that basis.

Mr. TIPTON. Right, and no compensation was offered. The Federal Government took it?

Mr. DUNN. No, they just wanted them to give up their easement.

Mr. TIPTON. This puts the company in kind of a difficult position of take it or leave it really, doesn't it, with the Federal Government?

Mr. DUNN. Absolutely. The “take it or leave it” attitude, not only are they potentially losing their right, but they are trying to start a company and reopen a mine, bring people to work, startup, get community—get the community involved, get going. And without that certainty that that road is going to continue to be there, and that they will continue to be able to access that, you are talking about a publicly-traded company that might lose millions of dollars when they get shut down by the Forest Service over a 3/4-mile section of road.

Mr. TIPTON. Thank you. I am out of time, Mr. Chairman. I yield back.

Mr. LAMALFA. Thank you, Mr. Tipton. Votes are up. We have a little time I think for one additional round. Would you like an additional round, Mr. Tipton? OK, alright. Thank you.

I would follow up with one for Mr. VeneKlasen. I was curious, again, you had in your statement that fencing off the particular creek was done in order to protect a trout habitat. According to the Watershed Protection Section of the New Mexico Environmental Department, the only trout present in that stream at that time were brook trout, which are native to the East Coast, and rainbow trout, native to the Northwest. So what is the logic in cutting off access to protect non-native fish as well as non-native elk and even feral pigs that are non-native to that area? It seems that that is an overreach.

Mr. VENEKLASEN. Mr. Chairman, regardless of the species of trout that exists in the particular watershed, and I think we are talking about the Sequoia River because Agua Chiquita does not have trout in it. The trout do have a great deal of economic value because people come and fish for those fish, not only people that live in the area but a lot of out-of-state people come and fish there.

Mr. LAMALFA. But you are using basically environmental law to cut people off with longstanding generational access to that for

someone else's economic benefit. It almost sounds like an imminent domain taking in a way.

Mr. VENEKLASEN. I don't think you are taking away—if we are talking about the Sequoia instance, we are talking about 101,000-acre grazing allotment.

Mr. LAMALFA. I was talking about the Agua Chiquita.

Mr. VENEKLASEN. Agua Chiquita does not have trout in it.

Mr. DUNN. Mr. Chairman?

Mr. LAMALFA. Yes, sir.

Mr. DUNN. I might be able to add to that. Part of why the Agua Chiquita fencing originally started back in the mid-1990s was because there was a hatchery in that area at that point. That hatchery has long since gone away in the last 10 years. It is no longer there. So the reason that Sikes money was used, and I believe a lot of the—we will call it the environmental money was used on those projects was originally because there was a fish hatchery in that area. Since that time, it has gone away. And now they have without going through the NEPA process converted this to mouse habitat. And this riparian area is now about mouse habitat even though they have never actually gone through the NEPA process to study the effects of making it mouse habitat.

Mr. LAMALFA. Good. OK, thank you for the clarification. We have run across this again where we have non-native species that all of a sudden become protected species where they are introduced by other means, mankind, et cetera.

Mr. Lucero, you look like you would like to add to that?

Mr. LUCERO. Yes, I would like to add the fact that Mr.—I'm sorry?

Mr. VENEKLASEN. VeneKlasen.

Mr. LUCERO. VeneKlasen stated that it is only 127 acres out of this allotment. I get that. I have a 2,800-square foot house. My kitchen sink where I drink my water is very small but without that, how am I supposed to use my home?

Mr. LAMALFA. Because that is the water source?

Mr. LUCERO. Yes, sir.

Mr. LAMALFA. Yes, sir. OK. Alright, one final one. Mr. Dunn, I was intrigued by something you were talking about earlier as a type of a civil rights action for people in dealing with their Federal Government there, especially western landowners and those that regulate them. Would you expand upon that a little bit?

Mr. DUNN. Mr. Chairman, I believe an expansion of that would be that while a cause of action already exists against state employees that would harm your property rights, what we are talking about is expanding that to Federal employees that would use the color of authority to infringe upon a person's constitutional and civil rights, namely, to interfere with their constitutionally guaranteed property rights.

For instance, the mining company that I described in my written testimony, where the Forest Service came in and threatened and cajoled them to give up their vested property rights easement and used the color of law to do so, if this language were adopted, it would enable that company to bring a Section 1983 claim in effect against the Forest Service where they have used their authority improperly.

Mr. LAMALFA. Interesting. I am interested in that concept.

So at this point, there are no other further questions from the committee. I would like to thank all of you for your travel, for your patience as we come back and forth from votes, and we have them up right now. So much appreciated that you would take your time and come speak with us and inform us here.

So for those members of the subcommittee that may have additional questions in reviewing this or their staff, we would ask to submit those questions. And then we could ask you to respond to those in writing at a later date.

The hearing record will be open for 10 days to receive those responses. So if there is no further business, as we are lonely here now, without objection, the subcommittee will stand adjourned.

[Whereupon, at 5:15 p.m., the subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF DREW O. PARKIN, ESCALANTE, UTAH, REGARDING A NOVEMBER 2009 INCIDENT AT THE CIRCLER CLIFFS, GARFIELD COUNTY, WITHIN THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

My name is Drew O. Parkin. I am a resident of Escalante, Utah. I am a natural resource policy analyst and planner with 40 years of professional experience in 30 states spanning from Maine to Hawaii. In 2009, I was Assistant Manager for the BLM's Grand Staircase-Escalante National Monument and field station manager for the northern portion of the National Monument, including all of the monument in Garfield County, Utah. In this capacity I had responsibility for overseeing management of field-level management on the northern half of the monument including recreation, wildlife, range, and road management. At the monument I reported to a monument-wide manager named Rene Berkhoudt.

I did not have authority over law enforcement, as that element is managed through a stove-pipe operation where a state-level BLM law enforcement officer directly oversees field-level law enforcement officers (LEOs). However, I did have authority over all of the activities for which an LEO could issue a citation or make an arrest, and for identifying the priorities for LEO involvement within the Escalante Field Station area. Jeffrey Lauersdorf was the LEO assigned to the Escalante Field Station.

In 2009 my office had arranged for the Utah Division of Wildlife Resources (DWR) to hold a special elk hunt in an area called the Circle Cliffs in eastern Garfield County, some 50 miles east of Escalante. We requested the hunt on the advice of the Monument's wildlife biologist to decrease grazing pressure by elk on a large area that had recently been reseeded by the BLM. To participate in the hunt, hunters had to draw a permit. There was high interest in the hunt due to the reputation of the area as a high quality hunting area.

At 4:30 p.m. on November 6, 2009—the day prior to the start of the hunt—I received a telephone call from a DWR manager in Wayne County, Utah. He was concerned because his staff had visited the site of the impending hunt and discovered that carsonite posts with official “no motor vehicles” posters on them had been placed on several spur roads and undeveloped camping areas, allegedly by “someone from the BLM.” I informed him that I had no knowledge of this and committed to investigate. Immediately after I terminated the call I received another call, this one from the Garfield County Engineer, who called with the same concern. He called after hearing complaints from county residents who were planning to participate in the hunt. He was particularly concerned given the county's assertion of RS 2477 rights to several roads in the area in the Circle Cliff area. Again, I promised to investigate. I immediately drove to the area in question. I drove a government-licensed truck and wore an official BLM uniform. When I arrived at the Circle Cliffs I confirmed the accuracy of the DFW and county telephone calls. Most of the side roads were blocked by newly installed carsonite “no motor vehicle” signs. Also signed were many areas historically used as undeveloped vehicle-accessed campsites.

I was also approached by several prospective hunters camped near the main road concerned that they could not access their usual and accustomed hunting and camp-

ing areas. They confirmed that the signs had been placed by a uniformed LEO from the BLM. From their descriptions I concluded that the LEO was Jeff Lauersdorf, an LEO out of the Escalante Field Office, who had a history of rouge enforcement actions, principally aimed at hunters, ranchers, and ATV enthusiasts.

In preparation for this hunt I had given no thought to closing either roads or camping areas. Mr. Lauersdorf had not consulted with me concerning his plan to close roads, and law enforcement officers have no authority to unilaterally close roads. That is a management decision, and I was the field-level management authority for the Circle Cliffs area. At no time did I ask Mr. Lauersdorf to engage with the Circle Cliffs hunt. In fact I had asked staff, including Mr. Lauersdorf, to leave management of the hunt to DWR, as it was their responsibility.

Given the situation I concluded that leaving the road and camping area closure signs in place would be extremely disruptive to the next day's hunt. It was also illegal, and I already knew that both DWR and Garfield County were very concerned. It was now past 6 p.m. and, as this was early November, nighttime was fast approaching. As it would have been impractical to obtain assistance at this time of day I proceeded to remove the signs, which I did by wrapping a chain around the sign, hooking the other end of the chain to my vehicle's trailer hitch, and pulling the signs using my vehicle. I did not count the number of signs that I pulled, but it was certainly over 20. By the time I had finished it was dark and past 10 p.m.

At a location near the Lamp Stand, a prominent rock outcropping at the northeast end of the Circle Cliffs where I had pulled the last sign, I saw headlights coming toward me from the south. I assumed it was a hunter coming to set up camp. When the vehicle reached my location I saw that it was Mr. Lauersdorf, driving his BLM vehicle and wearing his uniform. He stopped his truck abruptly and walked directly to me. He looking in the bed of my truck, saw the signs, and angrily challenged my decision to remove the signs. I informed him of my reason and of the fact that signs are not to be placed in the Escalante Field Station area without my permission. Without comment he proceeded to transfer the signs from my truck to his. I did not intercede as I was aware that (1) we were miles away from the closest person, (2) he was agitated, (3) he was armed with at least three firearms and a knife, and (4) he had a history of impulsive and irrational behavior. In short, I was concerned for my safety. After transferring the signs he came up to me, placed his hand around the handle of his holstered pistol, and, at very close distance, told me the he "was arresting me for destruction of government property."

Fearing for my safety, I pointed my finger at him and told him to back off. He backed up a step or two. I bolted for my vehicle, jumped in, and proceeded to leave by driving through the sage brush to the nearest unimproved road. He followed me, with both of us moving at fairly high speed for this type of road. He followed me for less than a mile and then stopped.

I returned the next morning to observe how the hunt was proceeding. I stopped at the larger camps. I was informed that a BLM LEO had visited the camps earlier in the morning, and that the officer had asked occupants for their hunting and driver's licenses. They questioned why a BLM officer was asking for this information. I met one hunter who informed me that earlier that morning he had been driving his UTV down a Circle Cliffs secondary road and was pulled over by Mr. Lauersdorf, who proceeded to ask for his licenses. After the hunt I spoke with a gentleman from Kanab. The gentleman, who was a disabled hunter participating in the hunt, had been pulled off the road by Mr. Lauersdorf on the morning in question. He told me that the officer had shocked him with his abrupt manner of approach and, as a result, the hunter pulled his vehicle off of the roadway and onto the adjacent sage brush. Mr. Lauersdorf proceeded to threaten to give a ticket for driving off of the road. Mr. Lauersdorf then asked for his hunting permit. After reading it Mr. Lauersdorf told the man that his permit did not cover this hunt and ordered him to leave. He was informed that if he left he would not receive the ticket for being off road. The man left and, after the fact, was informed by DWR that his permit was, in fact valid for this hunt. I was particularly concerned with this situation as the man was disabled, and had gone to considerable effort to participate in the hunt.

The next Monday morning I informed the monument manager, Rene Berkhoudt, of the weekend's events. Concerning the placement of signs, Berkhoudt suggested that he had not spoken to Mr. Lauersdorf before the hunt and had no knowledge of the plan to sign the roads and camping areas. Concerning Mr. Lauersdorf's threat to arrest me, Berkhoudt said, and I quote, "Jeff sometimes gets excited. I will have a talk with him." I was never informed that such a talk took place.

This is a true depiction of the events that took place, to the best of my knowledge. I am quite certain of the date of Friday, November 6 but do not have records to

verify the date. It may have been Friday, November 13. I know that it was a Friday evening in early November 2009.

STATE OF UTAH,
OFFICE OF THE LIEUTENANT GOVERNOR,
JULY 17, 2014.

Hon. ROB BISHOP, *Chairman,*
House Subcommittee on Public Lands and Environmental Regulation,
1324 Longworth House Office Building,
Washington, DC 20515.

DEAR CHAIRMAN BISHOP:

Thank you for convening a committee hearing of the Public Lands and Environmental Regulation Subcommittee to consider issues related to Bureau of Land Management (BLM) law enforcement activities within the State of Utah. Before addressing our concerns, let me state that we enjoy a very positive and productive relationship with the BLM State Director Juan Palma. He has been consistently attentive to matters that interest the state and swift to respond to requests for meetings, phone conferences, or information. We are fortunate to have him at the helm of the agency that manages more than half of Utah's land. Unfortunately, I cannot extend the same compliments to BLM law enforcement operations in Utah that, regrettably, do not fall under Director Palma's supervision.

To give you some background, I came to my position as Lieutenant Governor after having served as Sanpete County commissioner and as an elected representative in the Utah Legislature. I have deep roots in our rural culture; and am proud of the integrity and self-reliance of our local elected officials. Over the past several years, I have heard an increasingly loud chorus of voices expressing concerns on the intrusion of Federal law enforcement officers into matters that fall clearly within the jurisdiction of our county sheriffs and a lack of cooperation in those areas which traditionally have involved common Federal-local concerns. Examples include the issuance of traffic violations on county roads both on and off the BLM lands and confrontation and intimidation of local residents accusing them of minor civil infractions of BLM protocols.

Another matter of concern is how the BLM law enforcement handled the arrest and charges relating to possession of Indian artifacts allegedly taken from BLM lands in southwestern Utah. The BLM law enforcement executed that operation in an unnecessarily aggressive manner. It was an "invasion" of a small town involving an unusually large number of officers. The SWAT team approach to non-violent crimes reflected the arrogance and insensitivity of the law enforcement team involved.

The BLM approach at the Bundy Ranch, in which Utah's BLM Agent in Charge was heavily involved, further demonstrates a lack of judgment. The near disaster at the ranch was brought on by the massive BLM response to a situation involving unlawful grazing and failure to pay fines and fees. This could have been avoided by a reasoned, balanced approach. Yet, overkill seems to be the default response of Utah's BLM Agent in Charge.

Another very troublesome issue is cooperative law enforcement contracts with our county sheriffs. The Federal Land Policy Management Act (FLPMA) states that the Secretary shall contract with local law enforcement to the greatest extent possible for law enforcement services on public lands. Historically, BLM has delegated law enforcement authority to county sheriff departments to enforce state and local BLM's laws on Federal lands. Such contracts are in place on Forest Service (FS) lands in Utah. Yet, recently, these same contracts have been difficult and in some cases impossible to negotiate due to resistance from the BLM Utah Law Enforcement Chief.

In March of this year, I convened a group of county commissioners, sheriffs, legislators, and the law enforcement agents in charge for both the BLM and the FS to discuss these issues and seek resolution. At that time, we explained our concerns and constructively discussed them concluding with a "next steps" proposal. The BLM Agent in Charge stated that he did not approve contracts out of a concern for lack of "deliverables." He agreed to give us a written description of what he meant by deliverables and provide additional documentation explaining his refusal to renew these contracts. Regrettably, he has not provided the requested information, nor have we seen improvement in the attitudes and performance of Federal law enforcement officers working in the state.

I am hopeful that as you consider our concerns in the course of the hearing, the BLM will respond appropriately to ensure that Utah enjoys the same productive partnership with the Federal law enforcement operations within the state that we have with the BLM State Office.

Respectfully,

SPENCER J. COX,
Lieutenant Governor.

STATE OF UTAH,
OFFICE OF THE ATTORNEY GENERAL,
JULY 23, 2014.

Hon. ROB BISHOP, *Chairman,*
House Subcommittee on Public Lands and Environmental Regulation,
Washington, DC 20515.

DEAR CHAIRMAN BISHOP:

I appreciate your convening a committee hearing of the Public Lands and Environmental Regulation Subcommittee regarding law enforcement activities by the Bureau of Land Management ("BLM") within the State of Utah. I have read the letter dated July 17, 2014 submitted by Utah Lieutenant Governor Spencer J. Cox to you. I agree with the both the content and concern expressed by the Lieutenant Governor and incorporate by reference much of what he communicated.

I, too, would underscore the fact that Utah has had a long and often productive relationship with the BLM over decades and that the current approach and implementation of policies under the BLM State Director, Juan Palma, has been both positive and productive. Just recently, on his own initiative, Mr. Palma took me and a member of my staff on an in-depth tour of his office to increase working relationships and understanding between his office and mine. It was educational and helped build further trust between a Federal and state agency. Also, one of the past national directors of the BLM, Kathleen Clarke, is from Utah and works closely with our office daily in her role as head of Utah's Public Lands Office.

In contrast to the relationship with Director Palma and former Director Clark, the level of trust and respect for law enforcement under the BLM, seems marginal at best throughout my state. Like our Lt. Governor, I have heard consistent and repeated concerns from the ranks of well-respected and reasonable county commissioners, county attorneys and sheriffs, among others, from counties across my state, regarding what they perceive to be strong-arm tactics, overstepping of authority and attitudes dismissive of county interests by the BLM.

I understand the difficulties facing the Agent in Charge ("AIC") of law enforcement in Utah. As a fellow law enforcement executive, I manage a state agency with hundreds of employees, including dozens of investigators/peace officers. I understand the complexity and many competing interests at play in making every policy decision. I am loath to judge any other executive without knowing all of the considerations facing that leader. Moreover, the AIC has also demonstrated professionalism in our limited personal interactions and been cordial and responsive to me. Nevertheless, I can judge the effect of his decisions on those in my state and, in this case, his decisions have created a void of trust from too many in Utah.

While I have expressed to him my absolute belief, that despite political or personal differences, law enforcement officers at the Federal, state, county and city level need total solidarity in the field (a philosophy to which I continue to hold strongly), the lack of trust toward the BLM law enforcement arm has deteriorated to such a degree, that I am afraid investigators, agents or other law enforcement from his agency, the Utah Attorney General's Office and other law enforcement agencies are not as safe or effective as they could be in multi-agency situations or cases due to such strained relationships.

I hope this perspective provides some assistance to the committee as it hears testimony and deliberates in this matter.

Respectfully,

SEAN D. REYES,
Utah Attorney General.

MOHAVE COUNTY BOARD OF SUPERVISORS,
LAKE HAVASU CITY, AZ,
JULY 29, 2014.

Hon. ROB BISHOP, *Chairman,*
House Subcommittee on Public Lands and Environmental Regulation,
Washington, DC 20515.

DEAR CHAIRMAN BISHOP:

My name is Buster Johnson and I have been a Supervisor for Mohave County, AZ for 17+ years. I am also retired from Los Angeles County Sheriff's Department. Over the years, I have had a mostly good working relationship with BLM enforcement officers in both jobs. This year is the first time that I have had to question as to how Mohave County will work with BLM officers. It has nothing to do with the officers themselves; it is the leadership in BLM.

The Bundy incident in Nevada, which borders our county, caused us great concern due to the handling of the situation. I believe we saw the incident escalated to a dangerous level by BLM leadership or lack thereof. We teach our local law enforcement people to defuse situations which may arise, not to throw gas on the fire.

The Federal Government is, from time to time, inexplicably guilty of bullying and in the process of serving arrest warrants on some involved in the Bundy incident which we believe will once again flame the fires of discontent. Clearly, Mr. Bundy needs to pay his grazing fees, and I believe the BLM was within their legal right to try to collect grazing fee arrearages. However, no one in their right mind would design and carry out such a heavy handed, ham-boned raid which sets a bad precedent and places the safety people living near public lands in jeopardy. I agree with the pending arrests but believe the issuing of a summons would work better to keep the possible violence to a minimum. Waiting until after the first of 2015 might also help. Mohave County signs an agreement to allow the feds to enforce Arizona state law in our county. To date that agreement has not been signed due to our concerns over BLM's use of its police powers.

I wish to express my empathy for other counties across the Nation trying to work with BLM law enforcement officials—it is crucial that we work this out and the sooner the better.

Sincerely,

BUSTER D. JOHNSON,
Mohave County Supervisor,
District III.

CUSTER BATTLEFIELD MUSEUM,
GARRYOWEN, MONTANA,
JULY 22, 2014.

To Whom It May Concern:

My name is Christopher Kortlander. I own and operate the historic town of Garryowen, Montana, the only town inside the perimeter of the Custer Battlefield. I am also the founding director of the Custer Battlefield Museum in Garryowen.

In 2005 a small army of Federal law enforcement agents descended on Garryowen with drawn fully automatic machine guns. Federal agents pointed guns at Garryowen employees and museum interns while executing a search warrant that was obtained by deceit and the twisting of truth.

This 'raid' was conducted as a military style assault on a domestic terrorist cell. The Federal agents had not received any information stating that the target(s) of their assault were in any way violent. In addition, there were a number of civilians/tourists present who were also put in harm's way during this raid at Garryowen, which was and remains a historic site and popular tourist destination, as well as a state-recognized informational center, housing a U.S. post office, a gas station, convenience store, museum, Subway sandwich shop and a retail trading post selling souvenirs.

For 8 hours, the BLM agents conducting the 'raid' at Garryowen, continually threatened me with never again seeing my special needs son, stating that I was facing decades in a Federal prison. BLM Federal law enforcement agents verbally harassed me, accusing me of being a baby killer, a swindler and a con man, and asserting that I was going to be charged with nine Federal felonies.

After a day terrorizing all the civilians they encountered, and for the following 4-plus years, they continued to threaten me through the U.S. Attorney's office, and retained seized property that was unassociated with any crime whatsoever. I was forced to expend hundreds of thousands of dollars and nearly every waking moment, as well as countless sleepless nights, dealing with the legal threats thrown at me, evidently because I needed to be rolled over to advance an agenda that benefited only the BLM and the Federal agents involved.

When the U.S. Attorney announced that there would be no charges filed against me, I sued the 24 Federal agents involved in prosecuting me, and found that I could not legally engage them because of the quasi-immunity that protects Federal law enforcement agents and prevents them from being held accountable for any wrongs they may commit. These men and women who had persecuted me in the 2005 raid—and those who came to conduct another raid in 2008—were beyond my reach and the reach of any non-agency review. They remained free to harass and attack me and others without any personal accountability or responsibility for their actions. The quasi-immunity enjoyed by BLM and Federal Fish and Wildlife law enforcement agents means that they are not accountable to me, the American public, the U.S. Court system, or the U.S. Congress. They are untouchables, protected no matter what they do.

Following the end of the investigation and the numerous threats of prosecution made against me, I received—anonously—a 52-page document which stated that the BLM raids on Garryowen, Gibson Guitar, and the Four Comers incident in Blanding, Utah, were all connected to the same agency and at least one Federal special agent who were on a mission to enhance their personal status and increase BLM funding from Congress. The actions of the law enforcement agents in the paramilitary raids on Garryowen, the *Operation CERBERUS* Action in Blanding, Utah, and the Gibson Guitar raids served only the political purposes of the BLM.

At Garryowen, Federal machine guns were pointed at the head of a museum intern who had been forced to the ground spread eagle—not for a pat down consistent with the safety of the abusive law enforcement agents, but rather as a show of force to intimidate and threaten this uninvolved young citizen into fearfully accepting the government's 'might makes right' posture.

I was victimized as a criminal although I have no criminal history. I was denied constitutional protections because these apparently do not attach until charges are filed. The same Federal agents who executed search warrants pursued a fruitless investigation that served only to make me appear to be a criminal to family, friends, colleagues, and business associates, in the process destroying my personal reputation, my businesses and business relationships, together with other opportunities that I had spent more than a decade developing.

Despite my obvious efforts to cooperate with the Federal agents involved, during the raid I was accused of being a baby killer, and had my private residence (which was NOT on the search warrant) forced open, entered, and searched. Hundreds of artifacts—personal and private—together with tens of thousands of pages of documentation and other assets were seized, all of which were outside the scope of the search warrant used by the BLM.

No items listed on the search warrant—four buttons and a suspender belt buckle—were taken. After more than 8 hours of scaring and intimidating me, my employees, and volunteer staff, this arrogant assembly of Federal agents departed. My business and philanthropic endeavors were laid to waste and I was left financially destroyed. All that was missing was Federal charges, but despite seizing a mountain of so-called evidence, no charges were ever filed.

What had happened to me can only be described as a non-judicial prosecution, or more correctly, an extra-judicial persecution by BLM Federal agents. Federal charges were threatened for the next several years, but charges were never filed, and nearly 5 years after the 'raid' the U.S. Attorney indicated that the investigation was completed and that NO charges were to be filed against me. Despite that fact, it is unreasonable to say that I had not been abusively prosecuted by the Federal agency involved.

The BLM retained hundreds of artifacts until their so-called investigation had been completed nearly 5 years later, and they continued to hold dozens more after that time, initially alleging that these artifacts were absolute contraband and unlawful to be possessed even by a museum, and later insisting that the artifacts were derivative contraband based upon the manner in which they had been obtained or retained by me and the museum with which I am associated. A Federal claim for the return of these items was filed and just this winter (2014) all of the items sought were finally returned to the Custer Battlefield Museum in Garryowen, MT.

Seized documents had been previously returned, but thrown about in such a manner that it is impossible to restore the organization that existed at the time the

BLM agents carted them away. It is impossible for me to even know if what was returned is in fact ALL of the documentation that was seized. I have been unable to find a number of museum documents I know that I possessed prior to the BLM raid.

It is important to note, once again, that no charges of criminal activity of any sort were ever filed in this matter. That action would have moved the matter into Federal court where constitutional protections against the actions of Federal law enforcement agents and the Federal agency they support would have arisen. However, without Federal court supervision, the “800 pound gorilla” that is the autonomous Federal agent, cloaked with the power and authority of the U.S. Government, remains free to use unrestrained, military-level tactics and weaponry and the threat of force to crush citizens—frequently guilty of nothing—and in the process, destroy the businesses and lives of their victims with impunity.

These Federal agents do not appear to answer to anyone other than possibly their peers—those also in agency law enforcement. Their methods are secret, their endeavors blacked out when pursued through Freedom of Information requests, and protected by judicial quasi-immunity granted to any Federal law enforcement agent from the prying eyes of their victims, the press, and apparently the people’s representatives in Congress. Even though the Supreme Court recognized the right of the citizen to hold the workers of the Federal Government personally accountable for their actions, the hurdle for a victim to get into court is generally impossible with ill-defined rules and standards, especially regarding Federal law enforcement agents.

I remain fearful today—not because I am guilty of any criminal activity—but because the unrestrained power of Federal law enforcement agencies to use force and intimidation to strike fear into the hearts and lives of law-abiding citizens remains in place, allowing these reckless agents and agencies to destroy lives and livelihoods and seize personal possessions without reason or accountability to the citizens of these United States or to the letter and spirit of the laws that regulate their activities.

It is time for the U.S. Congress to reign in this self-serving agency that uses Federal paramilitary force to further its own agenda, and believes itself to be beyond reproach or accountability. Thank you for your consideration and concern regarding this matter.

Sincerely,

CHRISTOPHER KORTLANDER,
Founding Director.

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE
COMMITTEE’S OFFICIAL FILES]

Correspondence dated March 28, 2014 and May 9, 2014 from Jacob S. Lubera, District Ranger, U.S. Department of Agriculture, Forest Service, Santa Fe National Forest, Jemez Ranger District to Friends and Neighbors regarding a proposed riparian improvement project along the upper Rio Cebolla where it crosses Forest Road 376.

Correspondence dated July 9, 2014 from Allan R. Setzer, District Ranger, U.S. Department of Agriculture, Forest Service, Santa Fe National Forest, Cuba Ranger District to Friends and Neighbors regarding a proposed project along the upper Rio Cebolla where it crosses Forest Road 376.

THREATS, INTIMIDATION AND BULLYING BY FEDERAL LAND MANAGING AGENCIES

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS
AND ENVIRONMENTAL REGULATION

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

Tuesday, October 29, 2013

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**OVERSIGHT HEARING ON: THREATS, INTIMI-
DATION AND BULLYING BY FEDERAL LAND
MANAGING AGENCIES**

**Tuesday, October 29, 2013
U.S. House of Representatives
Subcommittee on Public Lands and Environmental Regulation
Committee on Natural Resources
Washington, DC**

The subcommittee met, pursuant to notice, at 10:06 a.m., in room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, Young, McClintock, Lummis, Tipton, Labrador, Amodei, Daines, LaMalfa, Grijalva, Horsford, Garcia, and Huffman.

Mr. BISHOP. The committee will come to order. The Chairman notes the presence of a quorum. And so, the Subcommittee on Public Lands and Environmental Regulation is meeting today to hear testimony on threats, intimidation, and bullying by Federal land managing agencies.

Under the Committee Rules, the opening statements are limited to the Chairman and the Ranking Member of the Subcommittee. However, I ask unanimous consent to include any other Members' opening statements in the hearing record if they are submitted to the clerk by the close of business today.

[No response.]

Mr. BISHOP. And hearing no objections, that is so ordered.

**STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF UTAH**

Mr. BISHOP. Let me begin, if I could, by saying how happy I am to have the witnesses here who will be speaking to us. Today we are going to hear about a number of troubling cases in which Federal land managing agencies have employed abusive tactics to extort rural families into giving up property rights, or to bully farmers and ranchers into making concessions to which the Federal agency had no legal right.

It is not an easy thing for someone to stand up to the government. In fact, in most of the world, that is impossible. But America is different, and it should be different. We should not be afraid to take on the Federal Government when it trespasses on our rights. And the witnesses before us today are doing just that. I am grateful for their courage. In many respects, the word "heroes" or "great Americans" is too overused; but you, indeed, are.

The Supreme Court has called on Congress to fashion a legal remedy, a cause of action, through which the victims of abuse can have the opportunity to seek redress in the courts. This hearing, I hope, is going to be the first step in getting Congress to protect

and strengthen civil rights—and property rights are civil rights—of people whose property the government wants to take without compensation.

Legal scholars tell us that property rights are actually a bundle, and that bundle includes water rights and grazing rights and mineral rights and access to recreation rights. And with one-third of America being owned by the Federal Government, and it being predominantly in the West, it is no coincidence that most of the problems that we have in dealing with those rights and the Federal Government are situated in States found in the West, the so-called “public land States.”

I realize that there are going to be a lot of people that are going to try to make this into a conservative-versus-liberal framework. But that is simply not the case. If you read the two justices who put an opinion on one of these cases before us, you will find it is the so-called “justices from the left,” who are most emphatic about the rights being abused by the Federal Government.

If I could quote Justice Ginsberg from a case that involved Mr. Robbins, who will testify shortly, “The BLM officials mounted a 7-year campaign of relentless harassment and intimidation to force Robbins to give in. They refused to maintain the road providing access to the ranch, trespassed on Robbins’ property, brought unfounded criminal charges against him, canceled his special recreation use permits and grazing privileges, interfered with his business operations, and invaded the privacy of his ranch guests on cattle drives.”

She went on to write, “The case presents this question: Does the Fifth Amendment provide an effective check on Federal officers who abuse their regulatory powers by harassing and punishing property owners who refuse to surrender their property to the United States without fair compensation? The answer should be a resounding Yes.”

Unfortunately, the answer in reality is no, unless we in Congress do something to rectify the situation.

I want to also admit that even though this is happening with this particular administration, it is not limited to this administration. These same type of actions done by land managers in the Forest Service, the BLM, Fish and Wildlife, those same actions took place not only today, in this administration, but they took place under both the Bush administrations, the Clinton administration, and the Reagan administration. Unfortunately, it is a pattern of habit, and a pattern of activity that is far too common and must stop in some way.

Some will say this is simply a carry-on, or a second part to the hearing we had over the barricades being put up during the shut-down. This is more than just Barricade Part II. In fact, it is the reverse. Putting up the barricades in the shut-down was an example of the attitude that has always been used, especially in the West, in making public land decisions that have harmed individuals. So that is what we are trying to go for, the longer picture in some way.

There are three factors that have always been used that are misconceptions from the very beginning of public land management by the Federal Government.

One is some people truly think that only Washington has the common—the overall view to make large decisions for the entire Nation. That is wrong.

Second is, if there is ever a conflict between Washington and local government, Washington should automatically have jurisdiction and sway. That is wrong.

And the third is this constant idea that the West has to be protected from itself by the Federal Government. That is incredibly wrong. Sometimes I think our constituents are justified in viewing the Federal Government as something like a hotel thief who walks down the hallway, checking every doorknob, hoping to find someone or find one of them that is unlocked.

I am eager to hear this panel of witnesses today. I hope Members on both sides of the aisle will listen to their accounts of what happened to them, a consistent pattern of what is happening to them, and that we can work together to fashion a remedy in a bipartisan way of these abuses.

With that, I will yield to the Ranking Member for any opening statement he may have.

STATEMENT OF THE HON. RAÚL GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Chairman Bishop, and thank you for holding this hearing, and for the subtlety of its title.

First, I would like to start by saying that all Federal employees, regardless of rank and position, should uphold the highest standard of professionalism, and to provide the best possible service to the public. And I think that we can all agree that the vast majority do so. Unfortunately, like any company, organization, or government, there will be instances where employees do not live up to that standard, and they must be held accountable.

Today's hearing will be an opportunity to hear from individuals who have had grievances with the Federal land managers in the past. Many of these grievances have been dealt with through litigation. This is a great testament to our American judicial system, which allows these matters to be dealt with accordingly. And I look forward to hearing from our witnesses on the progress and outcome of the litigation.

But as we hear from today's witnesses, I think it is important to remember that these incidents should not be seen as a reflection of all public land management agencies or their employees. Today's witnesses will describe disputes they have had with BLM and the Forest Service over grazing permits and water rights, among other issues. But keep in mind, BLM administers 18,000 grazing permits and leases 155 million acres. And the Forest Service administers nearly 8,000 grazing permits on roughly 90 million acres. The vast majority of these are managed without any complaints.

It is the responsibility of Federal land managing agencies and their employees to protect the land that is property of the American people. With such a broad directive, the opinions on how to do this are endless. In some of these cases, disagreement on policy is perceived as overreach by the authority, and land managers who, under law, carry out these policies are considered threatening and bullying. It is important to see these examples for what they are,

a matter of difference in policy opinion. And we must not lose sight of that.

And I want to say thank you, to the witnesses. With that, I yield the balance of my time to Mr. Horsford, who would like to introduce a witness.

Sir.

Mr. HORSFORD. With your permission, Mr. Chairman, thank you to the Ranking Member, Mr. Grijalva, for yielding time, and for you, Mr. Chairman, for having this morning's hearing.

I want to welcome Wayne Hage, Jr., who is here today from Tonopah, which is a part of my district in Nevada. Mr. Hage and his family have been actively engaged for decades in a quintessential part of life in rural Nevada: ranching. And we really appreciate him traveling all this way to share his story.

I wanted to let him know personally, unfortunately, I am going to have to leave this hearing. I also serve on the Oversight and Government Reform and the Homeland Security Committees, and they are all meeting this morning, and there are votes in those committees, unfortunately. But I want to thank you, sir, for traveling all this way to share your story. And I have read your testimony, and I have asked this committee and our staff to work with you on the issues that you raise. And I look forward to following up with you, as I understand these are issues which have been—your family has been facing in the courts for some 23 years now. **So it clearly is not just this administration, but a systemic problem that needs to be addressed.**

And again, I thank you very much for coming here, and for the legacy that you and your family make to the great State of Nevada. So thank you very much.

Mr. HAGE. Thank you, sir.

Mr. BISHOP. Thank you. I appreciate that introduction.

This is the point where I now ask the panel to come to the table, but you are already there. So let me just introduce who will be our panel, the single panel of witnesses.

Starting on my left is **Karen Budd-Falen from Cheyenne, Wyoming; Frank Robbins, from Thermopolis, Wyoming; Tim Lowry, from Jordan Valley, Oregon; Brenda Richards, from Murphy, Idaho; and then Lorenzo Valdez from Fairview, New Mexico; and, finally, Wayne Hage, Jr., from Tonopah, Nevada.** We welcome all of you.

All our witnesses have had experience dealing with the Federal land managers, which I think will establish a pattern that has, unfortunately, been all too common.

For the witnesses, your written testimony is already in the record. Your oral testimony, for those who have not been here before, is limited to 5 minutes. You will see the clock in front of you. When the light is green on that clock, you are free to go, and your time is ticking down. When it goes yellow, you have 1 minute to finish up, and I would appreciate it if you would actually finish up before it hits the red button, which means your time has expired.

So, with that, Ms. Budd-Falen, welcome back to this committee. It is good to see you again. We are going to start with you, and then we will just work down the table.

STATEMENT OF KAREN BUDD-FALEN, CHEYENNE, WYOMING

Ms. BUDD-FALEN. Thank you, Chairman Bishop and members of the committee.

Over 200 years ago, America's founding fathers rejected the notion that all power in this Nation should come from a king, and that the citizens were servants, or subjects of the king's rule. Rather, this Nation was founded on the principle that each of the three branches of government was to be a check on the other.

Under this carefully crafted and carefully compromised system, this body of elected legislators is to represent the citizens who send them to these hallowed halls. The executive branch is to implement the laws that you pass, and the individual citizen is protected from the abuse of the majority, as well as abuse from other individuals by the courts.

The Bill of Rights was not written and adopted to give the Federal Government power. Rather, the Bill of Rights is a document that guarantees that the inalienable rights of the citizens are protected from the abuse of the Federal Government's power. But this system, where power is to be based in the people, is broken. And so, the checks and balances so carefully and skillfully compromised in the Constitution are broken.

What we have now is a system that bars citizens from litigating against individual Federal employees in court for abuses of power. And what we really turned into is that all-powerful, unelected, and unaccountable bureaucracy has set up a dictatorship over some of the private citizens who actually employ them. This bureaucratic power is wielded simply by some bureaucrats who use the power of Federal regulations and the "color of their office" to take private property and private property rights. And because private citizens are barred from bringing their claims in the courts, we are powerless to stop this.

Now, I am not here to tell you that every Federal bureaucrat—or actually, even a majority of the Federal bureaucrats are tyrants who seek to use the power of their offices to take private property or to eliminate free-market enterprise from rural economies who depend on ranching small businesses. Nor am I here to tell you that the abuses of bureaucratic power are assigned or reserved to a particular political party. But what I am here to tell you today is that, in some cases, the Federal bureaucracy is so big and so far removed from its elected leaders in Washington, DC on both sides of the political aisle, that there are cases of abuse.

Today, if the American citizen believes that an employee of the bureaucracy is abusing his regulatory power given to him simply because of his employment, that citizen has no redress in the courts. And in the Frank Robbins case, although the Wyoming Federal District Court agreed that Frank Robbins should be able to bring his claims in court, and the Tenth Circuit Court of Appeals, in a unanimous panel that refused an en banc review agreed that Mr. Robbins should be able to bring his claims in the Federal court, unfortunately, the Supreme Court, based on a split decision, ruled that only Congress could create a cause of action to allow individual citizens to sue individual employees for abuses of their office.

Justice Ruth Bader Ginsberg, writing for the dissent in that case, offered that there are cases in which bureaucrats go too far, and use the power of their office to harass and take private property rights. But, in the end, the court's majority held that it was up to Congress to create a path to court. And that is why we are here today.

Members of this committee, the ownership and use of private property is the economic backbone of this Nation. The citizens here before you today are the backbones of their rural communities, and these small businesses provide jobs, wages, taxes, and spend their earning to keep their economic communities alive. I am the fifth generation rancher on a family owned ranch in Wyoming. And my ranch is just as important to my town of 570 people as are car-makers in Detroit. We are not asking for a bail-out; we are asking for a path into court.

American citizens have access to the courts when State or local bureaucrats take their constitutionally guaranteed or civil rights, and Federal bureaucrats should be subjected to the same rules. Thank you.

[The prepared statement of Ms. Budd-Falen follows:]

PREPARED STATEMENT OF KAREN BUDD-FALEN, CHEYENNE, WYOMING

My name is Karen Budd Falen. I am attorney and a fifth generation rancher from a family owned ranch, west of Big Piney, Wyoming. I grew up in the same house as my father and we still own the ranch, surviving generations of bad winters, drought, tough cattle markets, devastating wildfires and now wolves. My father, like everyone testifying today, is tough, independent, smart and the proud owner of a small business that is fueling the economy in our town and feeding the Nation.

And while my father, as well as the other ranchers and private property owners, can survive droughts, fires, and low market prices, we cannot survive the heavy hand of the Federal bureaucracy—particularly those within the bureaucracy who use the power of the Federal Government to violate our Constitutionally guaranteed rights. While some may claim that we are here to ask Congress to eliminate the Federal bureaucracy or the Federal agencies, we are not. What we are asking for you to do is open the court house door to individuals who believe that their civil and Constitutional rights are being violated by individual Federal employees, using the power of their offices. While I would absolutely agree that most Federal employees are hard working individuals dedicated to trying to do their jobs to the best of their abilities, that is not always the case. But unlike the case with State and local governmental employees who can be sued under the Civil Rights Act when they use the power of their governmental offices to deprive an individual of his Constitutionally guaranteed rights, there is not a similar option against federally employed individuals. All we want is the chance to go to court to present our facts; Articles I, II, and III of the U.S. Constitution set forth three branches of government and every American citizen should be allowed to access all three branches to redress their grievances, particularly those grievances alleging an abuse of power.

I. BACKGROUND OF *BIVENS* AS APPLIED TO THE PROTECTION OF PRIVATE PROPERTY

In 2007, the United States Supreme Court reversed decisions by the Wyoming Federal District Court and Tenth Circuit Court of Appeals by holding that a private property owner could not avail himself of a *Bivens* common law cause of action to protect his private property rights from “taking” by intimidation and harassment from Federal officials. Neither the Justices voting to affirm nor reverse the lower courts’ decisions seemed to question that there had been a degree of harassment and intimidation against private property owner Frank Robbins because Mr. Robbins would not surrender an easement across his private property to the Federal Government, without due process and just compensation. However, the Justices writing for the Court’s majority, as well as the two concurring Justices, did not believe that the Court should expand its 40-plus year old precedent in *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971), to the Fifth Amendment property protec-

tions. However, the Justices for the Supreme Court suggested that the U.S. Congress could create a *Bivens* “cause of action” to protect private property and property rights from actions outside the mandates of the Fifth Amendment. This testimony urges Congress’ consideration for adopting that type of protection for America’s property owners, and treating the Fifth Amendment private property protections with the “comparative importance of [other Constitutionally guaranteed] classes of legally protected interests.” *Wilkie v. Robbins*, 551 U.S. 537, 577 (2007).

At its simplest, the Supreme Court in *Bivens* allowed a type of Civil Rights Act “Section 1983” claim to lie against Federal officials. The Civil Rights Act of 1871 prohibits governmental employees, “acting under the color of state law,” from proximately causing the deprivation of certain Constitutionally guaranteed rights. The Civil Rights Act however only applies to State officials. In *Bivens*, a private individual (Petitioner) complained that agents of the Federal Bureau of Narcotics, acting under claim of Federal authority, entered his apartment and arrested him for alleged narcotics violations. The agents manacled Petitioner in front of his wife and children, threatened to arrest the entire family, and searched the apartment. Petitioner also alleged that the arrest was conducted with unreasonable force and without probable cause. Petitioner sought monetary damages against the Federal officials. The issue before the Supreme Court was whether “a Federal agent acting under color of his authority” gives rise to a “common law” cause of action for damages based upon his unconstitutional conduct. In *Bivens*, the Supreme Court agreed that it would recognize this type of common law cause of action for this unreasonable action in violation of the U.S. Constitution’s Fourth Amendment protection of an individual from an unreasonable search and seizure. As stated by the Court, it was damages or nothing against the Federal officials causing this harassment. After *Bivens*, the Supreme Court recognized this same cause of action to protect against harassment and intimidation when dealing with Fourteenth Amendment protection of the “due process” of law and the Eighth Amendment’s protection against cruel and unusual punishment.

In its opinion, the Supreme Court held that Robbins had to pass a two-part test for his case to continue. First, the Justices considered whether they believed that Robbins had any alternative remedies for his harassment. Although the Court seemed to recognize that Robbins was suffering “death by a thousand cuts” because of the 6-year span and dozens of administrative charges filed against him, false criminal complaints against which Robbins had to defend, trespass on his private land by Federal officials and other forms of harassment, the Court’s majority opinion believed that Robbins should have administratively challenged or otherwise fought these dozens of actions individually. While the majority opinion seemed to recognize that Congress had never created a “step by step” remedial scheme to remedy this array of harm, the majority believe that each alleged form of harassment had to be considered individually, despite the recognition that:

It is one thing to be threatened with the loss of grazing rights, or to be prosecuted, or to have one’s lodge broken into, but something else to be subjected to this in combination over a period of 6 years by a series of public officials bent on making life difficult. Agency appeals, lawsuits and criminal defense take money, and endless battling depleted the spirit along with the purse. The whole here is greater than the sum of its parts.

551 U.S. at 555.

The next step, which the Court’s majority also found against Robbins, was whether there ‘special circumstances counseling hesitation’ against allowing Robbins to enforce a *Bivens* cause of action. With regard to this element, the majority was concerned that allowing a common law cause of action to protect private property owners from Federal officials’ harassment and intimidation would “open the floodgates of ligation” against Federal officials. The majority also determined that “legitimate zeal of [Federal officials] on the public’s behalf in situations where hard bargaining is to be expected,” was not harassment.

Despite these findings, the Court’s Justices recognized that Congress could correct this deficiency. In this regard, the majority opinion, written by Justice Souter, with Justice Roberts and Justice Kennedy, stated:

We think accordingly that any damages remedy for actions by Government employees who push too hard for the Government’s benefit may come better, if at all, through legislation. “Congress is in a far better position than a court to evaluate the impact of a new species of litigation” against those who act on the public’s behalf. And Congress can tailor the remedy to the problem perceived, thus lessening the risk of a rising tide of suits threatening legitimate initiative on the part of Government’s employees.

551 U.S. at 562. Citations omitted.

The concurring opinion of Justices Thomas and Scalia opined that a *Bivens* common law cause of action should not be extended in any circumstances “by the Court.” 551 U.S. at 568.

Finally, the dissenting opinion, written by Justice Ginsberg with Justice Stevens would have extended a *Bivens* common law cause of action to Robbins. They perceived the question in the Robbins case to be “Does the Fifth Amendment provide an effective check on Federal officers who abuse their regulatory powers by harassing and punishing property owners who refuse to surrender their property to the United States without fair compensation? The answer should be a resounding ‘Yes.’” 551 U.S. at 569.

In addition to placing the creation of a cause of action in the hands of Congress, the Court’s dissenting opinion also suggested a similar statute containing enough checks to bar every complaint of wrong from reaching the courts. As stated by Justice Ginsberg, “Sexual harassment jurisprudence is a helpful guide. Title VII, the Court has held, does not provide a remedy for every epithet or offensive remark.” After citing several cases limiting the situations in which a suit for sexual harassment could be brought, she concluded:

Adopting a similar standard to Fifth Amendment retaliation claims would “lesse[n] the risk of raising a tide of suits threatening initiative on the part of Government’s employees.” Discrete episodes of hard bargaining that might be viewed as oppressive would not entitle a litigant to relief. But where a plaintiff could prove a pattern of severe and pervasive harassment in duration and degree well beyond the ordinary rough-and-tumble one expects in strenuous negotiations, a *Bivens* suits would provide a remedy. Robbins would have no trouble meeting that standard.

551 U.S. at 582. Internal citations omitted.

Based upon this Supreme Court opinion, other private property owners who believe that they are being harassed and intimidated because they refuse to turn over their private property outside the mandates of the Fifth Amendment have no forum in which they can vindicate their claims. The Robbins case now acts as a complete bar to the judicial branch of the government, regardless of the extreme nature of the Federal officials’ actions. That is not to say that every action or decision by a Federal employee should give rise to a judicial cause of action, but there are cases where the harassment and intimidation is so severe that, in the words of the U.S. Supreme Court, “it is damages, or nothing.” However, without the intervention of Congress, now it is “nothing.”

II. TITLE VII OF THE CIVIL RIGHTS ACT

As stated above, one of the stark inequities in current statutes is that while State and local governmental employees can be held personally liable for the violation of an individual’s Constitutional or civil rights, Federal employees acting with the same intention and animus cannot. This contrast is based upon Congress’ adoption of the Civil Rights Act, which does not extend its protections to individuals dealing with the Federal Government. At its core, the Civil Rights Act of 1964 “outlawed discrimination based on race, color, religion, sex, or national origin.” Although originally the Act focused on protection of the rights of black males, the bill was amended to protect the civil rights of all individuals in the United States from abuses of those State and local governmental employees “acting under color of law.”

Title VII of the Civil Rights Act states:

It is unlawful to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of an individual’s race, color, religion, sex, or national origin.

42 U.S.C. § 2000(e)–2(a)(1). The regulations implementing this statute provide:

Harassment on the basis of sex is a violation of section 703 of title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

29 C.F.R. § 1604.11(a).

“For sexual harassment to be actionable, it must be sufficiently severe or persuasive to alter the conditions of the victim’s employment and create an abusive working environment.” *Meritor Savings Bank v. Vinson*, 477 U.S. 57, 67 (1986), citation and quotation omitted. “A hostile work environment claim is composed of a series of separate acts that collectively constitute one unlawful employment practice.” *National Railroad Passenger Corporation v. Morgan*, 536 U.S. 101, 115–117 (2002); 42 U.S.C. § 2000e–5(e)(1), quotations omitted. “In determining whether an actionable hostile work environment claim exists, we look to all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.” 536 U.S. at 115–117 (2002). Citations and quotations omitted.

Using this type of analysis, I believe that a statute could be enacted to protect private property owners from intimidation and harassment from Federal employees acting under color of law. Such statutory language could include the following:

The attempted taking of private property or private property rights by means of governmental employee harassment or intimidation, under color of law, is hereby declared to be a violation of Civil Rights Act. Harassment or intimidation against the owners of private property or private property rights constitutes such violation when (1) a property owner’s relinquishment of his property or property rights is made explicitly or implicitly a term or condition of receipt of a permit or license from a governmental agency, (2) submission to or rejection of such conduct by a property owner is used as the basis for the grant of or conditions included in a permit or license, or (3) the conduct of the governmental employee has the purpose or effect of unreasonably interfering with an individual’s private property or private property rights. An attempted taking of private property or property rights under this section can be composed of a series of separate acts that collectively constitutes a significant deprivation of the ownership or use of private property or property rights. In determining whether the activities of a governmental employee are actionable under this section, consideration can be given to the frequency of the discriminatory conduct, harassment or intimidation, its severity, and whether such governmental action interferes with the ownership, use or legitimate investment backed expectations of the property owner.

III. THE WITNESSES TODAY ARE NOT THE END OF THE STORY

Today, you are going to hear compelling and heartfelt stories of individual families and businesses who are only asking to be able to walk in the doors of the Federal courts to plead their cases. But these are not the only stories in existence. To prepare for this hearing, my office talked to over a dozen other individuals and their representatives who are also willing to tell you their stories and ask your help in getting to the courts for justice. The Constitution created three equal branches of government to provide a system of checks and balances over the actions of each other. Yet today, there is no adequate check over the actions of the Federal governmental individuals who abuse their power against the American property owner. We are not asking to win every case, but simply to be able to make our case. We respectfully request that Congress make the same avenue available to us as it does to other Americans.

Mr. BISHOP. Thank you.

Mr. Robbins. I give you 5 minutes now to go through your story.

STATEMENT OF FRANK ROBBINS, THERMOPOLIS, WYOMING

Mr. ROBBINS. I appreciate the opportunity to be here this morning. I bought a ranch in 1994. And between the time of the signing of the contract and the closing of the ranch, the BLM acquired from the previous owner an easement, or a right of way, through a strategic portion of my ranch. I was unaware of that. After closing, they did not record their easement. The government failed to do that.

A week after our closing, I got a call from Joe Vessels at the BLM office, stating that a mistake had been made and he needed to send me some papers to sign, and so forth. I said, "What is it?" And the more questions I asked, the more irritated he got. But the end result was I said, "I will be glad to look at your easement when I get to Wyoming." And he said, "Well, if you don't mind, I am going to go ahead and survey the right-of-way on this easement." I said, "No, no, I don't want you to do any surveying until we decide whether we are going to allow this easement to take place." And he continued to insist that he was going to. And I told him no, absolutely not. And he actually made me very irritated.

So, anyway, when I returned to Wyoming, I had a meeting with him. As I walked into the office, he was coming down the hall and he smiled and his buddies were there, and he said, "Oh, yes, Mr. Robbins, I went ahead and surveyed that right-of-way in," and walked off.

We ended up, before that day was out, at a meeting about this easement, and he explained it to me this way. And I will repeat it to you the best I can, and you decide if you would like to take this deal or not. He wanted a easement across 8 miles of my private property for a half-mile across public lands. He wanted to restrict my access to my personal use. He wanted his access to be public. And he wanted me to pay for this easement.

And I said, "Based on what you are describing to me, I will turn this down." And I said, "I will be glad to negotiate with you." He said, "No, the Federal Government doesn't negotiate." I said, "OK. It is what it is."

And on July 16, 1995 that right-of-way that I had into my property was taken away. And then, on September 1, 1995—I am kind of giving you a 5-minute synopsis of my situation—Gene Leone, which was a part of the RUP, he decided to take it away—and this is his statement made to Ed Parodi, who was a BLM employee who testified on my behalf—he said, "I think I finally got a way to get his permits and get him out of business." And on October 5, 1995, the SRUP was removed, which my guest ranch business depended on.

In May 1996, Parodi came to my house—and this is sworn testimony—and he said that, "They are out to get you from day one," that it was a shame, the petitioner's treatment of Robbins, that he was sick and tired of doing the dirty work of the petitioners, and that he had had enough of it, he must find a way out if he could. Parodi later testified, "I didn't think I could do the job any longer. It is one thing to go after someone that is willfully busting the regulations and going out of their way to get something from the government. I only saw Mr. Robbins as a man standing up for the rights of his property."

I think that you are crossing a very gray area in the area of trespass. I made these comments when they trespassed me on my own private property. I said, "Nowhere in the AMP am I required to give up property rights."

There is—I see that I am running out of time, and I am not even going to get close to covering this. I would like to make a statement of what a judge said, and I think this kind of gives you—or should

give you—an idea of what the attitude of these people was. It is toward the end, here.

The district court dismissed the case as moot, because they did provide the information to me the day of court. But he said, “I did not condone the Barnes conduct”—Darrell Barnes was the head of the BLM—“This result should not be interpreted as a condoning of the BLM’s conduct in this matter. Arrogance of authority and indifference to citizens’ legitimate interests, even the appearance of such vices, should be avoided by public servants. The BLM’s conduct in this matter is troubling to this court, and will not soon be forgotten. A matter of this nature that involves this agency—should not appear on my desk again.”

One year later I was back in front of the same judge for the same things, and eventually they did settle and pay me in that particular case.

[The prepared statement of Mr. Robbins follows:]

PREPARED STATEMENT OF FRANK ROBBINS, THERMOPOLIS, WYOMING

My name is Frank Robbins and I am the owner of a ranch that includes private land and Bureau of Land Management (“BLM”) and Forest Service livestock grazing permits and preference rights, known as the High Island Ranch, in Hot Springs County, Wyoming. I purchased the High Island Ranch from George Nelson on May 31, 1994 as a cattle ranching and a guest ranch operation. Although I had owned another ranch in Montana prior to purchasing the High Island Ranch, my goal was to move my wife and two children to Thermopolis and make that my home—then pass the ranch on to my children and grandchildren.

Just prior to the sale of the ranch, Mr. Nelson granted a non-exclusive easement to the BLM across the High Island Ranch, on a private road known as the Rock Creek Road. The BLM failed to properly record this easement so when I purchased the ranch, I was unaware of the BLM easement and when I recorded my title to the ranch, the BLM easement was extinguished.

Upon realizing the easement Mr. Nelson had granted to the BLM was no longer valid, BLM employee Assistant Area Manager Joe Vessels contacted me to demand that I sign a new easement across my private lands to the BLM, and to warn me that if I did not give the easement to the BLM, the BLM would deny me access to my private property. Vessels stated to me that there would be no negotiation regarding this easement. Because the BLM would not negotiate to pay compensation or provide due process for the taking of my private property, I declined to just give the BLM one of my property rights. In response to my decision, Vessels told me that the BLM would get the easement “one way or another.”

From that point on, the BLM began engaging in a pattern of intentionally abusive conduct to coerce me to grant my property rights to BLM and to punish me for not immediately capitulating to the BLM’s demands. For example:

Ed Parodi, a BLM employee, was sent to my home to explain what the BLM would do to me if I did not acquiesce to the BLM demands. At that meeting, Parodi stated, “if you keep butting heads, things are going to get pretty ugly” and “[t]hey [the BLM] have more resources, more time and money than you.” “If you keep butting heads with them, it will come to war.” Parodi also stated that the BLM was out to give me a “hardball education.”

In June of 1994, Vessels twice wrote to me requesting permission to survey for the BLM’s desired easement across the private lands of the High Island Ranch. I unequivocally declined to allow the survey. However, Vessels disregarded my clear instructions and orchestrated a survey anyway without my permission, then later bragged to me that I could not stop the BLM.

A policy was also developed by the BLM whereby the terms and conditions of the High Island Ranch Allotment Management Plan (“AMP”) were not followed in good faith. Although the High Island Ranch AMP, signed by both the BLM and my predecessor-in-interest, included significant opportunities for flexibility for my cattle operation, the BLM refused numerous requests for flexibility. Additionally, a BLM employee, Teryl Shryack, made handwritten changes to the AMP without my knowledge and then tried to apply those changes to me.

The BLM also prohibited me from maintaining a portion of the Rock Creek Road, located on BLM land, that was necessary for me to access parts of the Ranch’s pri-

vate property. Eventually the BLM ultimately canceled my access rights across BLM land to my private property.

Under Vessels' direction, the BLM also made trouble for me with my neighbors. In one instance, a BLM officer urged neighbor Pennoyer to file a criminal complaint with the Sheriff against me (although the Sheriff did not follow up on the neighbor's claims.) In another instance, BLM employee Leone provoked an incident between Mrs. Pennoyer and I, whereby Mrs. Pennoyer drove a motor vehicle into and struck me and the horse on which I was riding.

Vessels also charged me with repeated livestock trespass prosecutions, 27 in all. In these prosecutions, the BLM asserted that my cattle were in trespass, even though the livestock were located on my unfenced *private* property. These prosecutions were brought under the theory that the High Island Ranch cattle allegedly could "access" the adjoining and unfenced public lands. This legal theory has been rejected by the court however, I had to appeal each and every one of the decisions individually to try to keep my grazing permit.

Although I was willing to grant to the BLM the right to cross my private land to get to BLM land for lawful purposes, the BLM wanted the complete and unconstrained right to trespass on my private property. Because BLM wanted this complete access, they took an easement which only allowed the BLM to maintain a 276-foot strip of fencing on a remote corner of a parcel owned by me and tried to argue it gave the agency complete and unrestrained access. Using this Fence Easement, BLM employees Shryack and Merrill went onto my private property. When I encountered the BLM trespassing and stopped them to ask what they were doing, Shryack and Merrill showed me the Fence Easement, claiming it allowed them to drive on my private property. In frustration, I tore up the copy of the Fence Easement and told Merrill and Shryack to turn around and leave, which, without any protest, they did. Several days later, after lying to me to get me to come to the BLM office, the BLM, through its law enforcement officers, notified me that I was being criminally charged with "intentional interference with a BLM officer" for telling Shryack and Merrill to leave my private property. Based upon this criminal charge, a lengthy and expensive criminal jury trial was held in the Federal District Court for the District of Wyoming. However, after only 25 minutes of deliberation, the jury acquitted me of all charges, commenting that I could not have been railroaded any more unless I worked for the Union Pacific Railroad.

Due to the BLM employees egregious conduct, I have suffered significant economic injury to my business (both in terms of direct lost revenues for loss of my grazing use and my outfitting business) and personal reputation. I am only running one-half on my cattle numbers I once did and I cannot operate any of my guest ranching business on the Federal lands. I also spent a significant amount of money on legal fees, individually appealing all of the decisions as well as defending myself at a 3-day criminal jury trial. The economic damage to both me and my family—as well as to the local community—are still present today.

Some BLM employees, and based upon the press coverage, some of the public, believe that I deserved to lose much of my ranch, simply because I would not give my private property to the Federal Government. However I have never had the chance to argue my case before a judge and jury. Administratively appealing dozens of trespass decisions before an administrative law judge does not even begin to address the allegations that have been leveled against me. My Supreme Court case was not based upon the facts of the case—rather the question before the Court was simply whether I could even get to court. That is the question before this Congressional Committee. Win or lose, should private individuals and businesses have the chance to prove that they have been harassed, punished and bullied by Federal bureaucrats. There needs to be more accountability of Federal employees and opening the courthouse door is one way to provide for that accountability.

Mr. BISHOP. Thank you, sir.

Mr. ROBBINS. Thank you.

Mr. BISHOP. I appreciate your story. And, obviously, everything that is written there will be part of the record. If you have anything more you want to add to what you submitted to us as the written record, please feel free to do that, as well.

Mr. Lowry, if we can go through your situation in Oregon.

STATEMENT OF TIM LOWRY, JORDAN VALLEY, OREGON

Mr. LOWRY. Chairman Bishop and members of the committee, I ranch in the Pleasant Valley community of Owyhee County, Idaho, with my wife, Rosa, and parents, Bill and Nita. And we want to thank you for the opportunity to describe how the use of threats, intimidation, and bullying are used by Federal land management agencies to take, without just compensation, private property. In this case, namely, privately held water rights.

When the Snake River Basin Adjudication, or SRBA, began, we filed our water rights claims for irrigation, domestic use, and stock watering with documentation of the historic beneficial use by our predecessors in interest. The United States, through the Department of the Interior, filed competing stock water claims to the same water, and objected to ours. This put the issue into the SRBA court.

The SRBA judge ordered a settlement meeting between the United States and us in an attempt to settle the case without a trial. This meeting was held at the Owyhee County courthouse in Murphy, Idaho, and was attended by Justice Department attorneys, BLM personnel, and myself.

The United States insisted that only the United States could hold a water right on Federal land, and that we must withdraw our claims. Knowing that the United States' position was contrary to the Idaho constitution, Idaho and Federal statutes, and Supreme Court decisions, I refused to abandon our vested rights.

When I did not acquiesce to their convoluted legal theories, as they were aptly described by the judge in one decision, the United States changed tactics. I was pointedly told that, to proceed, we would need an attorney. I was also pointedly told that the United States would pursue this case to the Supreme Court, if necessary, that it would be extremely expensive for us, and that we should consider the cost. This began a 10-year litigation battle.

This tactic of a veiled threat of financial ruin must have been effective. Of all the ranchers who filed their vested stock water rights claims, only one other, Paul Nettleton of Joyce Livestock, continued through to the end. The others felt constrained to give up their claims, rather than incurring a debt that could cost them their ranch.

After 10 long years of appeals and delays by the United States, and over \$800,000 of attorney fee debt for us, and a similar amount for Paul Nettleton, the Idaho Supreme Court completely vindicated our position, and utterly rejected that of the United States. The court ruled that the United States cannot hold a stock water right, because it does not put it to beneficial use. The stock water rights belong to the stockmen who do put the water to beneficial use, and that the stock water rights are an appurtenance to the base property of the rancher.

Unfortunately, despite ruling in our favor on every point of law, we were denied being awarded attorney fees under the Equal Access to Justice Act. What is most discouraging to me is that the United States knew that their position was contrary to Western water law and court decisions. This was simply a continued deliberate attempt to overthrow Western water law and to send a message to other private claimants to water on Federal lands.

Sadly, the United States, through its land management agencies, continues to ignore the clear policy regarding water set by Congress. This disdain of Congress is further evidenced by the United States Forest Service's recent actions disregarding State law and attempting to take private water rights, prompting Representatives Mark Amodei and Scott Tipton to introduce the Water Rights Protection Act in order to protect privately held water rights from Federal takings, and uphold long-standing State water law.

The question I would have, however, is that even if the Water Rights Protection Act becomes law, what will prevent these same agencies from ignoring it, as well?

Again, I want to thank you, Mr. Chairman, and the committee, for holding this hearing. I feel it is imperative that Congress rein in these out-of-control Federal agencies.

[The prepared statement of Mr. Lowry follows:]

PREPARED STATEMENT OF TIM LOWRY, JORDAN VALLEY, OREGON

I am Tim Lowry and with my wife, Rosa, and parents, Bill and Nita Lowry, ranch in the Pleasant Valley community of Owyhee County, Idaho. The future of this rural, family ranching community is in jeopardy due to Federal Government actions, policies, and direction.

On June 6, 1994 a public hearing was held in Boise, Idaho on Secretary of the Interior Bruce Babbitt's proposed Rangeland Reform '94 regulations. In preparation for the hearing, the Natural Resources Committee of Owyhee County carefully studied the proposed regulations and identified the areas that were problematic. In order to get all the points into the hearing record given the short amount of time allowed for testimony, the testimony was divided between over 30 individuals. This strategy worked well except for the fact that three of those testifying were World War II veterans, brothers Don and Gene Davis and my father, who were struck by the sad irony that the hearing on regulations that would undermine their rights was being held on the fiftieth anniversary of D-Day.

These veterans used their allotted time to very movingly explain how 50 years ago from that date they never dreamt a time would come when the greatest threat to their rights would be coming from their own government. I will never forget Gene Davis of Bruneau, Idaho who, with tears running down his face, recounted the names of his Army friends who had died around him on the beach that morning to preserve our rights and liberties.

It is with that thought in mind that I would like to thank the Committee for holding this hearing. I appreciate the fact that you, who represent us, are concerned with abuse of power. The issue of preserving and protecting the individual rights and freedoms of the citizens of the United States is not a partisan issue, but one that is vitally important to us all.

There are several examples of abuse by the BLM that could be the topic of my testimony. I shall relate one of them before detailing my main topic of the attempt of the Federal Government to usurp State law and steal a private property right—namely, stockwater rights.

In 1984, our family purchased a ranch with a grazing preference right that lay partially within the newly designated North Fork Wilderness Study Area. This allotment is a common use allotment shared with two other permittees—the Stanfords and the Andersons. Approximately 1 month after purchasing the ranch, a BLM employee told me, off the record, that he wished he had known we were purchasing the ranch so that he could have warned us not to because the grazing allotment in the WSA was targeted in the Boise District BLM Office to "have its head cutoff". I assured him that I was confident that working together we could solve any issues relating to grazing in the WSA.

I was wrong. When some resource concerns were identified by the BLM, we worked with a range consultant to devise a grazing rotation system that would address the resource concerns and also be economically feasible. In order to implement the system, approximately 3 miles of fence needed to be constructed with a little more than a mile of it in the WSA.

The BLM refused to agree to the fence, citing the WSA as the reason, despite the fact that the Interim Management Policy for the WSA and the Wilderness Act al-

lowed for such improvements. The BLM's solution for the perceived resource issues was to drastically reduce grazing.

After a couple of years of meetings and on-the-ground tours with the permittees, range management experts, Congressional staff personnel, and conservation group representatives, the BLM issued a decision to build the fence. However, the decision to allow us to build the fence contained provisions designed to ensure that the fence would never happen.

The national BLM director had issued a directive that any range improvements in a WSA had to be completed by September 30, 1992 when Congress was expected to act on designating wilderness. The Idaho State Director issued an order that improvements in WSA's in Idaho must be completed by September 30, 1991—in order to ensure that the national directive be met. We received word of the decision allowing us to build the fence the afternoon of September 26, 1991. We were told that the fence had to be completely finished by midnight September 30, 1991—including the portion not in the WSA. We were also emphatically informed that if the fence was not completely finished, then the entire fence had to be removed. For three men and their wives to build approximately 3 miles of fence in 3 days was an impossible task in such rough country, and not being able to use motorized vehicles in the WSA portion made it even more impossible. However, neighbors heard of our plight and came from miles away to assist. With the generous help of 32 caring neighbors, the fence was completed by 4:00 p.m., Sunday, September 30, 1991.

On Monday morning, October 1, 1991, a BLM employee called Jeannie Stanford and told her to tell her husband, Mike, and me that we had to stop working on the fence. Jeannie informed him that the fence was completed and that Mike and I were simply gathering up the excess material from the fence line. Jeannie recounted to us that there was a long pause and then he told her to tell us that we could not install the cattle guard because it was considered part of the fence. When Jeannie explained to him again that the fence was done, including the cattle guard, another long pause ensued and then he said he had to tell his supervisor and hung up.

The rotational grazing system was utilized during the 1992 grazing season and monitoring indicated that it was working to meet the resource objectives. However, in 1992 the BLM settled an environmental group's appeal of the fencing decision by agreeing to remove the fence. The fence was removed by the BLM in the fall of 1992 after only one season's use. Incidentally, Jeannie took pictures of the tire tracks the BLM made in the WSA and of materials they left scattered in it after the fence was removed; illustrating that two sets of rules must apply regarding what is allowable in a WSA. Our grazing season was subsequently reduced from 3½ months to 1 month and our AUMs from 666 to 244. The Stanfords and Andersons suffered AUM reductions of the same ratio. Because sound scientifically recognized management tools were denied us, our ranch is greatly devalued and our ability to make a living is a huge challenge.

It was only a few years after receiving this body blow, that the Federal Government forced us into court and massive debt in an attempt to steal our stockwater rights. The United States objected to our stockwater rights claims that were filed pursuant to the Snake River Basin Adjudication and filed its own stockwater rights claims to the same water.

Before this case was to be heard, the Judge scheduled a settlement meeting between the United States and us to see if the case could be settled without a trial. At that meeting, which was attended by Justice Department attorneys, BLM personnel, and me, the United States insisted that only the United States could hold a water right on Federal land and that we must withdraw our claim. I knew that the United States' position was contrary to the Idaho Constitution, Idaho Law, Federal Law, and court decisions, and refused to abandon our vested rights.

When the United States became convinced that we were not going to capitulate, I was told by the United States that we would need to retain an attorney. I was further informed that the United States would pursue the case to the Supreme Court if necessary, that it would become extremely expensive for us, and that we would be wise to consider if the cost would be worth the effort. Knowing that the United States' arguments lacked any basis in law and not willing to give in to the veiled threat of financial ruin, we embarked on a litigation journey that spanned 10 years. Of all the ranchers who filed for their stockwater rights when the adjudication began, only one other rancher, Paul Nettleton of Joyce Livestock, continued through to the end. The others settled with the United States rather than risk incurring a huge debt and losing their ranch.

Despite the fact that the legal theories raised by the United States were contrary to the established law and were rejected by the courts at each step, the United States continued to appeal each loss all the way to the Idaho Supreme Court. The Supreme Court upheld the District Court and ruled that the United States could

not hold a stockwater right because it was not the entity putting the water to beneficial use. It further ruled that stockwater rights belonged to the grazers who put the water to beneficial use and that the water rights were an appurtenance of the permittee's base property. All of the assertions of riparian rights and other contentions of the United States were utterly dismissed by the Court.

With the appeals and delays obtained by the United States, they managed to extend the litigation 10 years and saddle us with attorney fees in excess of \$800,000. Paul Nettleton owes a similar amount. I am convinced that those responsible for pursuing the position that the United States took were intelligent people who were not simply mistaken, but were deliberately attempting to overturn western water law and were sending a message to other claimants that challenging the United States is a costly endeavor. They had to know that water rights are created under State law and confirmed by Federal law, including the Mining Act of 1866, Act of 1870, Desert Land Act of 1877, Taylor Grazing Act, and the Federal Land Policy Management Act. They also had to be aware that courts have consistently held that water rights may be appropriated on Federal lands by private parties and that these rights, once acquired, will be afforded all protection. In spite of the clear and unambiguous policies enacted by Congress and the consistent recognition of those policies by the courts, they pursued their illegitimate theories ignoring Congressional policy and Supreme Court decisions.

During the 10-year litigation ordeal we were worried about the escalating attorney fees that we could not afford, but we were certain that at a successful conclusion, attorney fees would be awarded under the Equal Access to Justice Act. Unfortunately, the Idaho Supreme Court determined that as a State court, it lacked jurisdiction to apply the EAJA to this case and rejected our EAJA claims. They reached this decision despite the fact that the Nevada Supreme Court, in a similar type of case, awarded attorney fees to the prevailing private party litigant, holding that "it would be an injustice to deprive a prevailing party of attorney fees and costs merely because that party chose to litigate in a State court, as specifically authorized by Federal statute."

The EAJA clearly provides at 28 U.S.C. § 2412(b) that "any court having jurisdiction of such action" may award attorney fees and expenses to the prevailing party against the United States. The McCarran Amendment gave jurisdiction to State courts over the United States in water rights adjudications. Therefore, State courts are the "any court having jurisdiction" and thereby should have authorization to award attorney fees under the EAJA.

Because we believed that the Idaho Supreme Court erred in its decision regarding awarding attorney fees, we filed an appeal of that portion of the Supreme Court of Idaho's decision with the Supreme Court of the United States. We had hoped that the United States Supreme Court would take the case in order to resolve the conflicting opinions of the Idaho Supreme Court and the Nevada Supreme Court. Unfortunately, they did not take the case, leaving the conflicting opinions intact.

Congress needs to amend the EAJA to clarify that State courts having jurisdiction over the United States in an action are included in the definition of courts in the EAJA. Failure to do so will act as a deterrent to private parties trying to protect their rights against unwarranted and unjustifiable litigation and actions initiated by the Federal Government. The EAJA was designed to protect the rights of individuals and small businesses in litigation against the United States by leveling the playing field given the extreme disproportionate resources at the disposal of the United States.

Many other instances of abuse could be cited which have led to the present time where a scenario is unfolding in the Owyhee Resource Area of the Boise BLM District that threatens the viability of the family ranches, the economy of Owyhee County, and circumvents provisions of the Owyhee Initiative Agreement which led to designation of wilderness and wild and scenic rivers in Owyhee County. The BLM is under a court order to complete the Environmental Impact Statements on a large number of allotments for the permit renewals by the end of 2013. Although the BLM has known this for several years, they are now at this late date rushing through the process.

This does not allow time for meaningful consultation, cooperation, and coordination with the affected permittees as required. With time rapidly running out, it is questionable if the majority of the decisions will be issued in time for comments, protests, and appeals before the end of 2013. Permittees are wondering how their due process rights are going to be affected. By bunching up all these decisions and issuing them at the last minute, the BLM will effectively negate the science review process of the Owyhee Initiative Agreement which was the foundation for an agreement to designate wilderness and wild and scenic rivers in Owyhee County. There

will simply not be enough time or personnel available to perform a science review of all the decisions.

I want to again thank the Committee for holding this hearing. If family ranches are to remain intact, a functioning un-fragmented landscape maintained, the economy of Owyhee County protected, and access for recreationalists preserved, then this broken, dysfunctional land management must be fixed. More importantly, we all have a sacred obligation to not let the sacrifices of Gene Davis' fallen friends be in vain. We must not allow the rights and freedoms they died for to be lost through bureaucratic tyranny.

Mr. BISHOP. Thank you. I appreciate your testimony. I appreciate your shout out to Tipton and Amodei. It is going to be much more difficult to work with them now in the future. I apologize for that.
[Laughter.]

Mr. BISHOP. Ms. Richards.

STATEMENT OF BRENDA RICHARDS, MURPHY, IDAHO

Ms. RICHARDS. Chairman Bishop and members of the subcommittee, I am here today in my capacity as the Owyhee County Treasurer and tax collector representing Owyhee County, Idaho. I have served in this capacity for the past 8½ years. And, in addition to serving as treasurer, my husband Tony and I ranch in Owyhee County, where our sons are carrying on this business into a fifth generation. I have extensive experience in natural resource issues, and, along with my accounting background, this lends well to my position as treasurer in a county that largely depends on public lands and the ranching communities for its economic backbone.

Owyhee County is comprised of 4.9 million acres, with a population of only about 11,000. The county is 77 percent Federal land, 6 percent State land, leaving only 17 percent privately owned, which comprises the tax base of our county. The communities in the county are rural and small, and the decisions that are made on public lands have direct impacts and effects on these communities, thus affecting the county and the businesses within. Our beef industry in the county produces over 19.76 million pounds of edible meat per year, which is enough to feed 300,000 people, which is the entire population of the city of Boise and our county.

It has become apparent over the past 20 years in our county that threats, intimidation, and bullying do not always present themselves in obvious ways or methods, but that does not make them any less damaging, any less wrong. Nor does it lessen their impact. These quieter, behind-the-scene forms often have more significant impacts and damages over a longer period of time. It would take me several hours to go over the numerous ways the county has been affected over the past years of actions and non-actions by the BLM, but today I will give you several recent examples.

The Gateway West Power Transmission Line is an example of the BLM bullying their way to push through the system to get their end result. After hundreds of hours of meetings involving elected officials, the residents, environmental groups, the power company, and other interested parties, an agreed-upon route was chosen, with everyone signing off on it, and presented. Soon after that was presented, a representative from the BLM in Washington, DC flew out, and that one person was able to negate this entire process, and put the lines back over private land, much to the dis-

trepreneurship of the county and those land owners, as it affects the value of the property, and thus, the tax base.

Grazing permit renewal is another challenge we constantly face in our county. Lack of action by the agency in the early 1990s continues to this day to have direct effects on the county, with legal counsel and consulting fees spent protecting their property rights and grazing rights. Both the county and the individuals have spent hundreds of thousands of dollars to protect these rights, and the costs are still accruing.

However, the cost of losing would be even higher, as it changes the entire dynamic not only of the communities within our county, the county's economic base, but it also eliminates some of the prime wildlife habitat and water resources in the West.

The county also has a county land use plan and a signed coordination agreement between the county commissioners and the Bureau of Land Management outlining protocol and expectations for monthly coordination meetings. Yet, over the past 3 years, our commissioners have had to send over 25 letters to the BLM, asking them why they were not coordinated or communicated with on different issues.

The Owyhee Initiative was developed and designated wilderness and wild and scenic rivers, first in an agreement signed off by all the collaborative groups, and then in legislation. During the past year, we had many meetings where we were working on the wilderness management plan, only to find out that, internally, the BLM was also working on guidelines that negated one of the main principles we had brought forward with the initiative agreement. And, ironically, that factor that is not allowed in the new guidelines is one that the BLM had awarded the permittee an environmental stewardship award on a national level for that practice.

Each of these examples holds either direct or indirect impacts to our county. As treasurer, the economic stability of the county is first and foremost in my mind, as it is of our county commissioners. We still continue to stand up to the threats and intimidation, because we believe in the property rights and doing what is right, and hope that justice will prevail.

We hope that by presenting this information, it may help you to see the need for changes in the law to protect these rights, and not to allow actions by our government to be taken in the matter of threats, intimidation, or bullying, whether first and foremost, or a quieter action, but to be done in the ways that were intended, and in ways that you can hold your head up, be proud of the results, and find success in supporting them.

Thank you for this opportunity.

[The prepared statement of Ms. Richards follows:]

PREPARED STATEMENT OF BRENDA RICHARDS, MURPHY, IDAHO

I am Brenda Richards, and I am here today in my capacity as the Owyhee County Treasurer, representing Owyhee County, Idaho. I have served in this elected position for the past 8½ years. In addition to serving as the Owyhee County Treasurer, my husband, Tony and I ranch in Owyhee County. My extensive experience in natural resource issues, along with my accounting background lend well to my position as treasurer in a county that largely depends on the ranching community for its economic backbone.

Owyhee County is Idaho's oldest county and was established and settled, as many places in the western United States were, around its natural resources. In our coun-

ty those two draws were mining of gold and silver and grass for cattle and sheep grazing. The gold and silver are not nearly as abundant as they once were; the renewable natural resource of grass continues to help sustain the county. Owyhee County is Idaho's oldest county and is the second largest county in the State of Idaho covering 7,639 square miles—or 4.9 million acres. Yet the population of approximately 11,000 in the entire county averages out to 1.2 people per square mile. Owyhee County is 77 percent public lands; 6 percent State land; leaving a mere 17 percent privately owned land. That 17 percent is the tax base of the entire county. Owyhee County does receive PILT (Payment in Lieu of Taxes) for the public lands in our county, but every year the county has to wait and see what will actually be allowed for that payment though we certainly feel this is the Federal Government's duty of paying the property tax owed to the county as those acres cannot be developed or taxed in any other way.

Of the 4.9 million acres in the county, approximately 191,700, or about 4 percent, are agriculture with just a bit over 4.5 million acres in rangeland, and of that approximately 3.7 million of those rangeland acres are Federal lands. With the numbers just given, you can see that a very small amount of the land in our vast county serves as the private, taxable base, yet this privately owned tax base is largely dependent upon the Federal lands for rangeland grazing accompanying their private lands through their BLM permits. In addition, the communities in this county are rural and small, and whatever decisions are made for the public lands have effects on those communities.

Over the past 20 years in this county there is one thing that has become very apparent. Threats, bullying, and intimidation do not always present themselves in obvious ways or methods, but that does not make them any less damaging, any less wrong, nor does it have any less impact. As a matter of fact, these quieter, "behind the scenes" forms of threatening, bullying or intimidating often have huge impacts and significant damages over a longer period of time. I would like to share with you a few examples of the Bureau of Land Management actions that can certainly be seen as threats and intimidation to Owyhee County and the residents that live here.

No matter that the tax base in the county may only be 17 percent, those taxpayers and the county are responsible for providing services within the county, some are mandated by either Federal or State laws, and some are elected county services. Many of those services, such as roads maintenance, law enforcement, safety matters, and search and rescue are provided to all—whether you live in the county, visiting the county's vast area, just passing through. With Owyhee County's close proximity of being not much more than an hour away from the Treasure Valley with its larger urban population, there are many visitors each day that come across the Snake River to enjoy its vast expanses that surround our rural, and some very remote, communities. Owyhee County offers diverse recreational experiences both motorized to non-motorized, hunting, fishing, and sight-seeing, wilderness experiences, white water rafting at the right time of the year, and a host of other activities. Many of these activities are on the public lands, but much of it is either accessed by going through, around, or across the small amounts of private ground. Almost any BLM decision that is made has an effect in some fashion on the county's well-being and that of its rural communities due to the large amount of Federal land around each of these communities. Often the costs of these decisions, both financially, and also to the health of the natural resource are not fully vetted, leaving that expense on the local taxpayer's budget.

One such decision we have recently been dealing with in Owyhee County is the Gateway West transmission line. The county residents, and those of us serving as their elected officials have attended hundreds of hours of public meetings, written pages and pages of comments, and found ways we thought could be used to compromise to and solution. The player in this game that we have found to be playing by their own set of rules—and truly that is a form of bullying when you are aware you can get away with it—is the Bureau of Land Management. Early on in this process the lines were to come across the public land, leaving as much private ground as possible (remember the ratio of private acres to public in Owyhee County) alone as the necessary power lines were to be brought in. This was agreed to by the power company, the diverse interest groups attending these meetings such as conservation and recreational groups, the county elected officials, and the residents. After all this was agreed to over months and months of meetings—some of them even held in Ontario, Oregon that people attended—and all of them documented with minutes, the Washington BLM office, in one person's decision, negated all that time, money, and effort by putting it right across much of the limited private ground in our county. This is one example of costs to the county in attending and participating in the government's dog and pony shows of public meetings for months and months; resources and time spent to have maps made of the outcome of those meet-

ings proposed routes; legal advice on the matter; time invested, only to have that thrown back in the face and put where they wanted it any way. This cost comes down to the county and the taxpayers here in more than one way. The initial investments of time, money, and sincere participation in a process to come up with a viable solution with the other “players” in this process, most who do not even live in the county, but have conservation, recreational, or special interests in the area is the first cost; the second is the cost to the county and the land owners as their property is devalued due to huge transmission lines being placed across their land; and last, this cost goes out to those land owners who have not had the decision directly affect them, but will feel the indirect impact of tax increases as the same services are still required to be met within the county, but the tax base of some property has decreased leaving that hole to be filled by those properties whose value held to absorb the increase that will be required in the county tax levy rate. Does this not pose a direct threat to the county, through a process that surely can be viewed as intimidating?

Ranching has long played a role in Owyhee County and continues to do so today. Since the early 1990s, the challenges from the Bureau of Land Management and their decisions, or lack thereof have had significant impact on the county government and the residents within the county. These impacts have been financially, emotionally, and on the ground. Probably the longest running threat and intimidation within Owyhee County has been that which has come from the BLM neglecting to fulfill their obligations of renewing permits; neglecting to gather necessary information in a consistent, accurate, timely manner lined out in their own guides; not involving the permittees as is required by those same rules and regulations; and the results of all of this is the permittees and the county then end up in court battling on the same side as the BLM to defend their rights, permits, and livelihood. This is at the expense of the county and the permittee as the BLM has the Federal Government to cover their attorney costs and time, which means it costs all taxpayers and those in our county twice.

Prior to 1997 the BLM failed to complete the permit renewal work that necessary to keep 10-year grazing permits current, and as stated before, public lands ranching is the backbone of this vast county that is 77 percent Federal land. Grazing continued for over half the permits by annual authorizations since the permits had been allowed to expire by the BLM. The 1995 changes to the BLM grazing regulations required a valid grazing permit in lack of action by the agency have direct effects on the economic base and also on costs of litigation to challenge these decisions order to graze on public lands, so this immediately put the permittees out of compliance due to BLM lack of doing their job, and brought radical environmental groups to file suit. The lack of action by the agency had, and is still having direct effects on the economic base of the county and the land owners here as the costs of litigation to challenge these decisions continue to be paid. The threat to the economic viability of the county, and the threat to the land owner and permit owner cannot be ignored as this is the backbone of the county. Legal counsel and consulting to protect themselves and their interests can cost an individual hundreds of thousands of dollars, but the cost of losing that is even higher to them and the county, not to mention it is a property right. Costs to defend several of these cases already have come in, with \$100,000 for one allotment to reach a permit renewal; and two others at \$55,000 currently where they are not even half way through defending themselves to get to the end result of the permit being renewed.

As I have mentioned several times, the economic backbone of Owyhee County and the rural communities is largely dependent on the ranching industry and grazing on public lands. The beef industry in Owyhee County accounts for approximately 19,760,000 pounds of edible meat per year—which is enough to feed 300,000 people or the entire population of our county plus the population in the State capitol city of Boise. The total number of acres these ranches occupy is at just over 435,000, and the approximate assessed value for the county is \$28,815,299. Please realize this is the assessed value for county tax purposes, not what the land could be sold for if it was to be parceled out and developed, yet much of this private land is remote, and assures unfragmented habitat and water sources for many forms of wildlife. Many of these ranches are located in small, very rural communities throughout the county that have schools and smaller businesses depending on their success to keep those communities healthy and vibrant. Because of that, and because of the continued unpredictability and up and down relationship the county has had with the Bureau of Land Management, the county developed a county land use plan in the early 1990s in an effort to address matters relating to State and Federal lands and to help protect their interests and assure input in decisions. The plan is reviewed regularly and updated, with most recent update to this plan being 2009, and reviews are more regular.

The county also has a signed Coordination Agreement with the Bureau of Land Management that dates back more than 15 years. This agreement was also established to help assure the county—which in turn represents the residents—is included and involved in decisions the agency makes. As the largest land owner in Owyhee County, these decisions often have significant impacts or effects on or within the county, which in turn can also affect the economic stability and well-being of the county, and have effect on the livelihood of the residents. Over the years the Coordination Agreement has been in effect, the Owyhee County Commissioners spend a tremendous amount of time reminding the BLM of their obligation to coordinate; reinforced by the signed coordination agreement. In the past 3 years over 25 letters have been addressed to the BLM by the commissioners on matters and decisions that have direct effect on the county. Many of letters have been written when the BLM either intentionally, or due to lack of management's attention or new management, ignores the coordination process. The number of times this happens could certainly be seen, not only as a veiled threat to the county in that the BLM does not feel they have to comply, but it also comes across as a form of intimidation trying to get the county to back off of expecting them to follow the law and requirements of including them in decisions and planning processes.

Both of these have taken much time, resource and dedication by the elected officials, those participating in the public meetings to develop these and then keep them updated and reviewed, and the different groups, agencies, and others that use these in their decisionmaking process within Owyhee County. The one agency that has given the county the most problem with these aspects is again, the BLM.

Every one of these examples given have either direct or indirect impact to the county financially. The cost to our county residents on grazing decisions is astronomical, and the county has often weighed in over the years with their own financial contribution to the litigation because it is a vital component of the economic stability within the county. The economic stability of the county is first and foremost in my mind and duty as county treasurer, as it is with the commissioners. The costs to both the individuals and the county have effects on those communities as to dollars that could be spent in schools, business, or other areas having to go to threats and litigation caused by BLM decisions or lack thereof. The permit renewal process continues here in the county under a court ordered mandate now. That mandate came down in 2008, yet the BLM did not start on the 125 out of 150 permits included in that order until 2012 and the deadline is December 31, 2013. If that deadline is not met, the court stated the BLM will be held in contempt. Even though the process was not started in a timely matter, the ones paying the ultimate price, both financially and in emotional duress are the taxpayers. The documents the BLM is putting out to be reviewed and commented on, and ultimately end up having to be challenged are over 500 pages long, and some of them are over 1,000. If that is not intimidating to a common person, I do not know what is. Yet, the county and our land owners will not take it lying down. We will stand up to intimidation and threats and bullying because we believe in our property rights, in doing what is right, and have hope that justice for what is right will prevail. The cost to the county in tax dollars, time, and stress is substantial, but the people of Owyhee County prove to be resourceful, resilient, and show the American grit that settled the West in the first place and continues to capture the trust and wonder of many people not only in the United States but across the world. We only hope that by presenting some of these aspects we have had to fight for years to continue to remain viable, productive and responsible citizens in our county that we love, that the very laws and Federal agencies threatening our existence may be changed to protect those rights and to not allow things to be done in bullying or threatening or intimidating ways, but in ways that you can hold your head up and be proud and successful in supporting.

Thank you for the opportunity to share this testimony with your subcommittee, and I would stand for any questions.

Mr. BISHOP. Thank you, Ms. Richards. So we have heard of problems in Wyoming and Idaho. Now let's go down to Northern New Mexico and see the same situation appearing.

Mr. Valdez.

STATEMENT OF LORENZO VALDEZ, FAIRVIEW, NEW MEXICO

Mr. VALDEZ. Honorable Chairman Bishop and members of the committee, with all due respect, and with your permission, I am a resident of Rio Arriba County, New Mexico, in the north-central part of the State, valleys and pastures that have been used by—

Mr. BISHOP. Mr. Valdez, could I just ask you to move the mic closer to you? I don't know if you can move it physically there, as well. Thank you.

Mr. VALDEZ. I am a descendent of Native American tribal peoples and colonial settlers that came up with the first herd to come into the United States proper, 7,000 head driven by native peoples and families out of Chihuahua Santa Barbara region, 1590. That was the first cattle herd that was brought to the United States, and it actually was brought primarily by Native Americans, including Mexico as America. They settled themselves in the New Mexico mountains, where pastures were cycled in the way that wildlife uses them, upland, lowland cycling, the natural way of using the environment for the purposes of producing beef.

I am here on behalf of two allotments, Jarita Mesa and Alamosa Grazing on the Carson National Forest. I, myself, graze on the Santa Fe National Forest, just across the Chama River from my friends. They were uncomfortable in coming here, because—I believe, because they have suffered so much retaliation from the district ranger, Diana Trujillo.

The Jarita Mesa and Alamosa Grazing Association members are Hispanic stockmen who graze cattle on the Jarita Mesa and Alamosa Forest Service livestock grazing allotments, both of which lie within the El Rito Ranger District on the Carson National Forest. The two allotments are all part of the Vallecitos Sustained Yield Unit, an area of the Carson National Forest designated by an Act of Congress for special treatment, because of the mix of intermingled private land and Federal lands, and its particularized uses. Dating back to before the Treaty of Guadalupe-Hidalgo between Mexico and the United States, the ancestors of the rancher members of the Jarita Mesa and Alamosa Grazing Association have been grazing livestock on these lands for generations. And, in fact, most of these families were grazing livestock in this area before the United States Forest Service existed.

Beginning in the 1920s and accelerating into the 1940s, the Forest Service instituted management practices that were calculated to and did result in a drastic decline in the number of livestock the Hispanic residents within the communities located in or near the Carson National Forest and the Santa Fe National Forest were allowed to graze. These reductions continued into the mid-1960s. Unlike the predominantly Anglo ranchers in other areas of New Mexico and Arizona, the Hispanic ranchers in Northern New Mexico generally ran small herds of livestock, and were dependent on the availability of their former common lands that were within their land grants for survival.

Over the past 7 or 8 years, the permittees and grazing associations in the Jarita Mesa and Alamosa allotments have repeatedly exercised their First Amendment rights to petition their congressional delegation. For this activity, Diana Trujillo, the district ranger, retaliated and desired to punish them for engaging in

speech critical of Forest Service policies. They filed suit eventually, because she refused to reduce the wild horse herd which was 12 to 14 head, and currently runs at about 150 head, severely impairing the ability to provide fodder for the livestock.

They filed suit. And despite adequate proof that retaliation had occurred, the Federal District Court, in a 115-page ruling on January 24, 2013, found that the ranchers had pled sufficient facts to show a possible retaliatory motive, but citing *Wilkie v. Robbins*, they could not sustain a *Bivens* cause of action, even though there was ample evidence that the judge saw regarding bad behavior.

And we are seeking remedy from Congress, which is the only body able to give it to us. Thank you.

[The prepared statement of Mr. Valdez follows:]

PREPARED STATEMENT OF LORENZO VALDEZ, FAIRVIEW, NEW MEXICO

Honorable Committee Chair Representative Hastings, Subcommittee Chair Bishop and all the Members of this Committee. I want to thank the Committee for this opportunity to present testimony on a very serious matter that will take Congressional and Presidential action to remedy. The management of the National Forests and Grasslands falls on shoulders of the staff of the United States Forest Service, who have the very important charge of keeping our public lands productive. The ecosystem services produced by those lands meet the needs of life in a concentric circle, or connectivity, the closer you are to the land, the more dependent you are on the land. Human needs or services are generally grouped into three categories economic, social and cultural. We all understand that the ability of the ecosystem to deliver services depends on the well-being of the whole, including all dependent species, humans included. There is no time in human existence when we have not managed the landscape to serve our needs; some critters do that also to a lesser extent. It has evolved into a very complex management task worldwide with important decisions to be made. Regardless of what stressors you believe or agree with, there is no doubt that to have those services in the future, we have to protect them now. And there lies the dilemma; power dictates management, and the constructs that emerge in the discourse affiliate closely with power emerge as specific actions on the ground. Power differentials in the United States are supposed to be tempered by Justice, a responsibility borne by all branches of our government.

I was asked to come here today to tell a story of how unjust acts in managing Forest lands push people closest to the landscape off of it and create scenarios that are replete with what the esteemed Economist and Nobel Laureate, Dr. Ronald Coase termed "negative externalities." "Mr. Coase's revolutionary insight was that you and I have a shared interest in minimizing the total harm suffered." *"The Problem of Social Cost," Ronald Coase, a Pragmatic Voice for Government's Role; Robert H. Frank.* Victimized folks or creating unmanaged casualties is not an efficient option. That process is inefficient. The Government has a responsibility to mitigate the "negative externalities" to a Federal action. On the ethical or moral plane, I turn to Pope John XXIII's Encyclical for Pacem in Terris, Establishing Universal Peace in Truth, Justice, Charity and Liberty; "when one reflects that it is quite impossible for political leaders to lay aside their natural dignity while acting in their country's name and in its interests they are still bound by the natural law, which is the rule that governs all moral conduct, and they have no authority to depart from its slightest precepts."

My livestock graze on lands in the Santa Fe National Forest, Coyote Ranger District which was titled originally as a Spanish Land Grant to Juan Bautista Valdez in 1807. I do not like the term "Permittee" when referring to indigenous Northern New Mexico Forest users. We were denied U.S. title by the Court of Private Land Claims. My family has been in the Jemez Mountains for thousands of years; I am descended from southwest tribal ancestors as are most Northern New Mexico Villager commonly called Hispanic but most scholars refer to the group as indio-hispano. On the colonial side we have been grazing cattle since 1590; we are the first herders on U.S. soil. We brought 3,000 year old grazing culture to the new world. I run 20 pair and a bull, on an allotment that includes 15 relatives; some of them are near full blood Native American. Together we run 750 pair and 20 bulls. These historical and social elements also apply to the folks that are the focus of this tragic narrative. I agreed to bring their message to you because they couldn't be

here. It is however my story as well, I was intimately involved with these folks as Rio Arriba County Manager. The message is that the “government” has a duty to hold its managers accountable, just like I was as County Manager. All the constitutional protections should be available to those on public lands including the courts as appropriate. There are many good managers in the Forest Service ranks, we have such managers “this year” on the district I’m in; they carried us through to rainfall this year, and they could have done what was done in this story. I have supplied for the record a research document by Dr. David Correa that provides a more painful look at the history of the Vallecitos lands that are at the basis of this story.

Jarita Mesa and Alamosa Grazing Association Ranchers

The Jarita Mesa and Alamosa Grazing Associations’ members are Hispanic stockmen who graze cattle on the Jarita Mesa and Alamosa Forest Service livestock grazing allotments, both of which lie within the El Rito Ranger District of the Carson National Forest. The two allotments also are part of the Vallecitos Federal Sustained Yield Unit (“Unit”), an area of the Carson National Forest designated by an act of Congress for special treatment because of its mix of intermingled private and Federal lands and its particularized use, dating back to before the Guadalupe-Hidalgo Treaty between Mexico and the United States. The ancestors of the rancher members of the Jarita Mesa and Alamosa Grazing Associations have been grazing livestock on these lands for generations, and, in fact, most of these families were grazing stock in this area before the United States Forest Service existed.

Beginning in the 1920s and accelerating in the 1940s, the Forest Service instituted “management” practices that were calculated to and did result in a drastic decline in the number of livestock the Hispanic residents within the communities located in or near the Carson National Forest and the Santa Fe National Forest were allowed to graze. These reductions continued into the mid-1960s. Unlike the predominantly Anglo ranchers in other areas of New Mexico and Arizona, the Hispanic ranchers in Northern New Mexico generally ran small herds of livestock and were dependent on the availability of their former common lands (common lands designated by the King of Spain or Mexico prior to the creation of the National Forest) for survival.

Over the past 7 or 8 years, the permittees and grazing associations in the Jarita Mesa and Alamosa Allotments have repeatedly exercised their First Amendment rights to petition their Congressional delegation and other elected officials for the purpose of protesting what they believe have been unlawful actions by Forest Service officials that have served to destabilize and degrade the private property rights and cultural/social fabric of the communities where these ranchers reside. The lawful conduct of the ranchers has been met by punitive acts by Forest Service officials, particularly Forest Service District Ranger Diana Trujillo, including the reduction of their grazing permits. These ranchers believe that they can prove that many of the decisions by the Forest Service District Ranger were motivated by a desire to punish them for engaging in speech critical of Forest Service practices and by racial animus and a bias against traditional Hispanic culture and its traditional agro-pastoral way of life.¹ Based upon such animus, the Forest Service has made it nearly impossible for these ranchers to sustain their grazing permits which results not only in a loss of their private property but in the slow destruction of their cultural fabric.

For example, the Forest Service understands that wild horses are eliminating forage and damaging the soil, and that any significant increase in the size of the wild horse herds in this area could significantly impact the local Hispanic communities in an adverse manner because it eliminates forage needed for the permitted cattle. Despite this knowledge and the existence of the Forest Service Region 3 Policy, the District Ranger decided to increase the wild horse herd beyond the numbers authorized in its 1982 Management Plan from the 12–14 head to between 20 and 70 head. However, the Forest Service 2002 Decision Notice expressly provided for measures to be taken to reduce the herd if it ever exceeded that number, recognizing that allowing the wild horse herd to increase to even 120 head “may cause some permittees to be forced out of the livestock business by competition for forage from the wild horses.” However, in disregard for the needs of these local ranchers who live within

¹ This bias has subtly existed against this land use and the relationship of these ranchers to the land for many years. For example, in 1935, Roger Morris, a Forest Service grazing assistant, issued a report concerning grazing issues entitled “A Dependency Study of Northern New Mexico,” wherein it was stated that “[Hispanos] are sedentary in character living in the present and with no thought for the future. They accept conditions as they are and make the best of them with no idea of conserving the natural resources much less enhancement of them. They would remain in place to the point of extinction by starvation and disease before they would migrate.”

the Vallecitos Federal Sustained Yield Unit, the Forest Service has now allowed the wild horse herd to increase far beyond the number permitted by the Forest Service's 2002 decision. In fact, Forest Ranger Trujillo has chosen to allow the wild horse herd to grow to over 150 head, rather than attempt to alleviate this problem so as to be responsive to the needs of the Hispanic people in the area.

To deal with these problems, the ranchers sought the assistance of then-U.S. Senator Pete Dominici in May 2006. Senator Dominici took up the issue with one of Ranger Trujillo's supervisors. Upset with ranchers for their having exercised their right to petition the government for redress of grievances, on July 5, 2006, Ranger Trujillo issued a decision ordering all cattle removed from the Jarita Mesa Allotment by July 31, 2006. Her decision was purportedly based on a reported June 22, 2006 inspection of range conditions that found the ocular estimate of forage stubble height was less than 1–2 inches at each of the key areas visited by Forest Service. On July 20, 2006, ranchers Sebedeo Chacon, Gabriel Aldaz, and others appealed Ranger Trujillo's decision based upon the significant rains since June 22, 2006 which greatly improved conditions on the range. In light of these changed circumstances, the ranchers implored the Forest Service to recognize that there was no justification for forcing them to go through the significant economic harm that would accrue as a result of having to remove all their cattle prior to the end of the permitted grazing season in October, 2006. Ranger Trujillo refused but, after Congressional inquiry, was forced to reverse her position.

Ranger Trujillo then tried to force an end to the grazing season in September 2006, instead of on October 31, 2006, based on an allegation that the permittees had failed to meet certain conditions she had imposed. At the end of the grazing season, rancher Chacon was having difficulty locating a small number of cattle that had strayed in the forest. This is a common problem and is due, in part, to the number of hunters and wood haulers who come onto the allotments and leave gates open and the fact that these allotments cover thousands of acres in the mountains. According to Ranger Trujillo, on October 5, Mr. Chacon had 17 cows that needed to be located and removed. On October 6, 2006, only 4 days after her arbitrarily imposed removal "deadline," Ranger Trujillo issued a decision suspending 20 percent of Mr. Chacon's authorized grazing for 2 years, a decision which had a profound economic impact on Mr. Chacon and his family, costing him tens of thousands of dollars. Mr. Chacon believes that he was singled out for disparately harsh punishment by Ranger Trujillo because she perceived him, correctly, as a leader of the permittees in the area due to the letters he had written to government officials protesting Ranger Trujillo's conduct.

On June 1, 2009, Mr. Chacon and Thomas Griego responded to Ranger Trujillo with a letter signed by 26 permittees which criticized her poor management style and her mismanagement of the two allotments. The letter was also sent to the New Mexico Congressional Delegation, Governor Richardson, and Ranger Trujillo's immediate supervisor, Kendall Clark. In the letter, the ranchers' stated that they were insulted by Ranger Trujillo's past letters and accused her of attempting to intimidate them. The ranchers pointed to Ranger Trujillo's unsuccessful effort to force them to remove their cattle from the allotments during July 2006. The ranchers also alleged that Ranger Trujillo and her staff had continually failed to install needed cattle guards or to fix plugged ones, and that Ranger Trujillo then used the fact that cattle would drift from one allotment to another, as a basis to threaten and/or sanction the permittees.

According to the ranchers, in retaliation for these letters, in 2010, District Ranger Trujillo made a decision to reduce the ranchers' use of their allotments by 18 percent—a decision that ignored the scientific analysis in a Forest Service environmental assessment ("EA") that such a reduction was not necessary. Despite the fact that it was a well-established practice and policy of the District Rangers in the different ranger districts within the Carson and Santa Fe National Forests (as well as in other Forests) to adopt the Proposed Action in the EA (the proposed action would have maintained the status quo with regard to permitted use), Ranger Trujillo disregarded the analysis contained in the EA and, making good on her pre-determined decision to punish the ranchers by selecting an alternative calling for a substantial reduction in grazing. The decision of the Forest Service's Interdisciplinary Team contained in the EA did not support the action of Ranger Trujillo. However, Ranger Trujillo was angry with and determined to retaliate against Plaintiffs

for having the temerity to point out her errors and criticize her mismanagement of the two allotments and the entire Sustained Yield Unit.²

Although the ranchers had availed themselves of all known administrative and other remedies, on January 20, 2012, they filed a case in the Federal District Court for the District of New Mexico alleging, among other things, that they were being singled out through harassment and intimidation by Ranger Trujillo under color of law in retaliation for the ranchers' exercise of their First Amendment right of free speech and the right to petition the government for a redress of grievance. The Federal District Court, in a 115-page ruling on January 24, 2013, found that the ranchers had pled sufficient facts to show a possible retaliatory motive against them. However, citing to *Wilkie v. Robbins*, 551 U.S. 537, 550, the court held that the ranchers could not sustain a *Bivens* cause of action against Ranger Trujillo personally for damages sustained due to her acts of intimidation and harassment allegedly undertaken in retaliation for the ranchers exercise of rights guaranteed to them by the First and Fifth Amendment guaranteed rights. See *Jarita Mesa Livestock Grazing Association, et al. v. United States Forest Service, et al.*, Civ. No. 12-69-JB (Memorandum Opinion and Order, Docket 49, filed January 24, 2013). In essence, this meant that the district ranger remains free to engage in further acts of retaliation and the ranchers have no way of deterring her unconstitutional conduct.

Mr. BISHOP. Thank you, I appreciate that. Once again, your full testimony is part of the record. If there is anything additional you have, we will be happy to have that.

OK, Mr. Hage, we will come to you and show that this goes through several generations.

STATEMENT OF WAYNE HAGE, JR., TONOPAH, NEVADA

Mr. HAGE. Chairman Bishop and members of the committee, thank you for having me here today.

Yes, it does go several generations. In fact, my father and my mother were first involved, filed the first action in the court against the Federal Government for takings. We have buried both of them. The case outlasted them. My dad then—before my dad died, he had remarried to Congresswoman Helen Chenoweth of Idaho. We lost her, as well, and buried her, as well. And the second executor of my mother's estate—or, sorry, the first executor of my mother's estate, we also lost him, as well. So we have gone through quite a few people here, and now it fell on my shoulders.

Talking about governmental abuses, for the most part it is all a matter of record in three courts. The takings court, Federal takings court, court of claims, the ninth circuit, and the Federal District Court of the State of Nevada. Most of it is on record. I can highlight some of the abuses that have taken place.

One thing I will say, though, is what Judge Jones talked about in the Federal district court case that is still pending on appeal to

²In order to create the appearance that her decision was based on science rather than an arbitrary determination to punish Plaintiffs for having engaged in conduct protected by the First Amendment, Ranger Trujillo falsely stated that the Forest Service had determined the current level of permitted livestock to be "unsustainable." In fact, the EA had not concluded that the current level of livestock grazing was unsustainable but had proposed that grazing continue at current numbers under Alternative 2. Furthermore, despite the fact that the 2002 Decision Notice on the wild horse herd required the Ranger to attempt to reduce the wild horse herd by taking certain measures set forth in that decision, Ranger Trujillo failed even to consider any alternative that would achieve the required reduction in the wild horse herd prior to reducing the number of Plaintiffs' livestock permits. Instead, Ranger Trujillo claimed the herd contained only 67 horses when 2010 Forest Service documents showed the herd was over estimated the herd was over 100 and, as a 2011 Forest Service survey showed, was close to 150. Ranger Trujillo had to know that the herd had grown well beyond 67, figure from a 2008 estimate, because almost no horses had been removed in the 2½ years since the study. In sum, although the EA proposed action was Alternative 2 (status quo) Ranger Trujillo selected Alternative 3.

the ninth circuit, what he talked about in those few instances—and the record is rich with his language—is very, very few of the instances that actually took place. Because when we went to that court, we were not—we were just trying to defeat the claim that we were trespassing, and we were trying to prove that, no, we were exercising our property rights, and just trying to make an honest assertion of those rights.

The actual abuses that were highlighted was evidence that was presented by the Department of Justice, through their own witnesses, trying to show that I was a bad guy. And it backfired on them, instead. So, I mean, the record is just a small record in front of that court. But in actuality, the abuses were so great I can tell you stories that would make the hair stand on the back of your neck.

But the main thing—and I don't want to say too much here today, because we always get retribution from the Federal employees, and they are never held accountable. Now, in our case, they were supposed to be held accountable. Two of the employees were sent to the U.S. Attorney for prosecution of conspiracy, because the judge found conspiracy between—by the BLM and by the United States Forest Service against our family to deprive us of our water rights and our grazing rights.

Now, nothing has happened so far. The judge even told the U.S. Attorney, he said, "I think you have a problem with this. I think there is a conflict of interest, and I think you need to find a U.S. Attorney from a different district, because your office is involved." So it goes higher up.

During the contempt hearing, the judge found two of the Federal employees—a Mr. Tom Seley and Mr. Steve Williams—in contempt of court for trying to pursue their own action and their own remedy outside the courtroom, even after, as he explained, they brought the case against me, they chose the jurisdiction.

So, when they were held in contempt—and this was, I thought, very revealing—they flew—in the contempt hearing they flew a lot of the Department heads from Washington, DC and the regional office to testify on behalf of the Federal employees, which was very kind of them to make that trip out there. However, the thing that became very apparent, when on the stand and being asked the questions, they said, "We expected this behavior out of the employees." Now, keep in mind, that was the behavior that the court found contemptuous and that the court was outraged with. They said they expected that behavior out of them.

So, this is not just—I mean it is isolated employees, yes. It is not, by any means, every single employee. But these guys were getting their direction, evidently, from the top. Now, I am probably going to get retribution for just being here and talking to you about this. I will take it. I hope they don't—well, I will take it. I am still in court.

But anyway, I do feel that we have a good system of law in the United States. Our court systems are still very good. And there is a reason for all these court rules and the court process. And I have found it to be, actually, very just in many cases.

What I would like to see is a remedy, a remedy to where they would be held accountable to the law, just the same as we are. I

mean we are darn sure held accountable. And thank you very much.

[The prepared statement of Mr. Hage follows:]

PREPARED STATEMENT OF WAYNE N. HAGE, TONOPAH, NEVADA

Since 1978 the employs of these agencies have demonstrated a disregard for my families' property rights and have punished us for making an honest use and assertion of these rights. The reason I accepted the invitation to testify here today is that I believe that it is so important for Congress to be aware of the atrocities that are being committed against my family and countless other ranchers. It is worth the risk or retribution from the agency employees. I would not be surprised if the BLM, USFS, and DOJ try to make my life difficult because I am testifying before this committee.

Many ranchers have a problem with the BLM and USFS. They have conducted themselves in a criminal manner and destroyed many ranchers. I personally have been at the receiving end of this criminal conduct. This problem however does not stop with the Hage family. The number of other ranchers that have suffered like my family is too numerous to count. I know many. In fact you can talk to almost any rancher who has to deal with the BLM and USFS and hear about another incident where a Federal employ has broke the law and was never held accountable. You will only once in a great while hear of minor punishment.

My family has spent over 23 years in the court protecting our property and liberties from these Federal employs. During these 23 years we have had eight published decisions and findings of Takings of our property by the Federal agencies, and findings of Conspiracy by the Federal employs.

Three courts have been witness to and addressed the government threats, intimidation and bullying. The Ninth Circuit Court of Appeals overturned a criminal conviction obtained by the USFS against my father for cleaning out brush from a ditch with hand tools.

The Federal Court of Claims trial Judge realized and found that it would have been futile for the Hage family to comply with all of the demands of the BLM and USFS employs. He thus ruled the Federal Government had taken our water rights. As potential cost to the taxpayer of \$14,000,000 for the criminal acts of employs of the BLM and USFS.

The Chief Judge of the Federal District Court of the District of Nevada was so shocked by their behavior that he had found and ruled that the Federal Government employs engaged in a conspiracy against the Hage family. He also was convinced that the employs of the BLM and USFS would not stop and therefore gave my family a permanent Injunction against the Federal Government. (I pray that the Ninth Circuit Court of Appeals does not overturn the injunction, it is our only protection.)

The employs of the agencies, namely Tom Seley of the BLM and Steve Williams of the USFS were also held in contempt of court for trying to seek their own remedy after they realized the court process was not going their way.

The bosses (agency heads some from Washington DC) of Tom Seley of the BLM, and Steve Williams of the USFS, testified in a show cause hearing for their contempt that they expected Seley and Williams to conduct themselves in this manner that the court found contemptuous and which shocked the conscious of the court. This tells me the problem goes to the agency heads. The conduct, which the court saw as unlawful and vindictive was actually expected out of the Federal employs by the Agency heads.

The Federal District Court of the District of Nevada has referred the Tonopah BLM Field Manager and the Austin Forest Ranger to the U.S. Attorneys office for the District of Nevada, for prosecution of the conspiracy against my family, but then explained that there is a possible conflict of interest. The Court then suggested that a U.S. Attorney from another district handle the case. To this date I am not aware that anything will be done to hold these employs accountable for this conspiracy. I also do not expect that the U.S. attorney will ever hold these employs accountable for their actions. Thus they know they have enough protection from prosecution that they will not be deterred from acting this way in the future. It is for this reason and others that I believe I will be punished by employs of the BLM, USFS and DOJ for testifying before this committee. The dangerous part of this is that now the Federal employs will be braver than ever.

One of the main problems is that the employs of the USFS and BLM have the protection of the DOJ lawyers. They will go to great lengths to protect the employs of the USFS and BLM even to the extent of violating their ethics rules. One exam-

ple; The USFS claimed that we needed a 'special use permit' to maintain a July 6, 1866 Act ditch right of way with heavy equipment. The July 6, 1866 Act ditch right of way is a Congressionally granted and recognized right of way that preexisted the USFS and did not have any requirements or limitations for obtaining any permission for its maintenance and use. The USFS however claimed we could not maintain our July 6, 1866 Act ditch right of way without first obtaining a 'special use permit' from them, or we could only use hand tools. Even though we believe the USFS is incorrect in requiring us to obtain a 'special use permit,' (which supposedly they can deny) for any maintenance, we chose to only use hand tools to remove 'brush' that was obstructing water flow in the ditch. Nonetheless, the USFS prosecuted my father for cleaning this ditch. The prosecution was overturned by the Ninth Circuit court of appeals. However the DOJ lawyer, Elizabeth Ann Peterson, in clear violation of the ethics rules and with no support of the record, represented to the Federal Circuit Court in the case *Hage v. U.S.* that my father was using 'heavy equipment' and a dozer to clean this ditch. She argued that since we did not first seek a 'special use permit' from the USFS and were not denied this permit that our case was not ripe. The Federal Circuit Court based its ruling on these misrepresentations of the facts and partially overturned the decision in *Hage v. U.S.* on the grounds that the case was not ripe because we did not first seek and get denied a 'special use permit' from the USFS. Again the USFS even argued that we did not need this 'special use permit' if we only used hand tools, and the facts are only hand tools were used. Thus one intentional lie from a DOJ lawyer cost my family immeasurable hardship.

I have included some excerpts from the case *U.S. v. Wayne N. Hage, Executor of the Estate of E. Wayne Hage, and Wayne N Hage, Individually*. Case No. 2:07-cv-01154-RCJ-VCF. I find it best to read the Judges own words on this matter.

In the present case, the Government's actions over the past two decades shocks the conscience of the Court, and the burden on the Government of taking a few minutes to realize that the reference to the UCC on the Estate's application was nonsensical and would not affect the terms of the permit was minuscule compared to the private interest affected. The risk of erroneous deprivation is great in such a case, because unless the Government analyzes such a note in the margin, it cannot know if the note would affect the terms of the permit such that the acceptance is in fact a counteroffer.

The Government revoked E. Wayne Hage's grazing permit, despite his signature on a renewal application form, because he had added a reference to the UCC to his signature indicating that he was not waiving any rights thereby. Based upon E. Wayne Hage's declaration that he refused to waive his rights—a declaration that did not purport to change the substance of the grazing permit renewal for which he was applying, and which had no plausible legal effect other than to superfluously assert non-waiver of rights—the Government denied him a renewal grazing permit based upon its frankly nonsensical position that such an assertion of rights meant that the application had not been properly completed. After the BLM denied his renewal grazing permit for this reason by letter, the Hages indicated that they would take the issue to court, and they sued the Government in the CFC. The Government, having already denied the renewal grazing permit arbitrarily, then chose to interpret the initiation of the CFC Case as a refusal to appeal its administrative decision, despite the issuance of further protests by the Estate's attorneys. The Government refuses to consider any applications from Hage at this point. The entire chain of events is the result of the Government's arbitrary denial of E. Wayne Hage's renewal permit for 1993–2003, and the effects of this due process violation are continuing.

In 2007, unsatisfied with the outcome thus far in the CFC, the Government brought the present civil trespass action against Hage and the Estate. The Government did not bring criminal misdemeanor trespass claims, perhaps because it believed it could not satisfy the burden of proof in a criminal trespass action, as a previous criminal action against E. Wayne Hage had been reversed by the Court of Appeals. During the course of the present trial, the Government has: (1) invited others, including Mr. Gary Snow, to apply for grazing permits on allotments where the Hages previously had permits, indicating that Mr. Snow could use water sources on such land in which Hage had water rights, or at least knowing that he would use such sources; (2) applied with the Nevada State Engineer for its own stock watering rights in waters on the land despite that fact that the Government owns no cattle nearby and has never intended to obtain any, but rather for the purpose of obtaining rights for third parties other than Hage in order to interfere with Hage's rights; and (3) issued trespass notices and demands for payment against persons who had cattle pastured with Hage, despite having been notified by these persons and Hage himself that Hage was responsible for these cattle and even issuing such demands for payment to witnesses soon after they testified in this case.

By filing for a public water reserve, the Government in this case sought specifically to transfer to others water rights belonging to the Hages. The Government also explicitly solicited and granted temporary grazing rights to parties who had no preferences under the TGA, such as Mr. Snow, in areas where the Hages had preferences under the TGA. After the filing of this action, the Government sent trespass notices to people who leased or sold cattle to the Hages, notwithstanding the Hages' admitted and known control over that cattle, in order to pressure other parties not to do business with the Hages, and even to discourage or punish testimony in the present case. For this reason, the Court has held certain government officials in contempt and referred the matter to the U.S. Attorney's Office. In summary, government officials, and perhaps also Mr. Snow, entered into a literal, intentional conspiracy to deprive the Hages not only of their permits but also of their vested water rights. This behavior shocks the conscience of the Court and provides a sufficient basis for a finding of irreparable harm to support the injunction described at the end of this Order.

The Court will not award punitive damages under State law, because there is not "clear and convincing" evidence of "oppression, fraud, or malice, express or implied" on behalf of Defendants. See Nev. Rev. Stat. § 42.005(1). Defendants clearly had a good faith belief in their right to use the land as they did and had no intention to disregard the right of others. This does not prevent a trespass claim, but it does prevent punitive damages.

Defendants are also entitled to an injunction, as outlined, *infra*. There is a great probability that the Government will continue to cite Defendants and potentially impound Defendants' cattle in the future in derogation of their water rights and those statutory privileges of which the Government has arbitrarily and vindictively stripped them.

IT IS FURTHER ORDERED that to the extent not inconsistent with this Order, the Court adopts Defendants' Proposed Findings of Fact and Conclusions of Law (ECF No. 392).

The conspiracy ruling was much more limited than what it could have been. Had we presented all of our evidence the court would still be trying to write its decision.

It is warming to know that with regard to the Courts that we still have the Rule of Law. Although as I have found out it is nearly impossible to defend a persons property and rights in the courts due to the financial burdens and the length of time involved. (My Mother and Father filed the original case and were not able to live long enough to see the end of the litigation. My stepmother died before there was an end to the litigation and it is looking like my siblings and I may be in old age before this is concluded.) However, there it is becoming very apparent that there is no rule of law with regard to the employs of the BLM, USFS and perhaps the DOJ, there we have the rule of man. I remind Congress that Aristotle explained that the difference between a correct form of government and perverse form of government is that the former is the Rule of Law and the latter is the rule of man.

What solution may I offer?

The Citizens of this great country need to have the means to hold the employs of these agencies accountable for their actions. I believe that only if they are held accountable will they stop the Threats, Intimidation and Bullying. To accomplish this we need at least two things from Congress:

1. We need harsh penalties to be placed upon the employs who break the law and violate a persons rights. They are using the color of law in the performance of their actions, and they have the force of the Federal Government to protect them.
2. There must be an easier way to be able to hold them accountable. One of the biggest problems is that they claim their actions are actions of the Federal Government and thus they claim sovereign immunity. The individual is then forced to go up against the full force and might of the Federal Government and prove that it was not an action of the government in order to proceed. This is a very difficult to do. We need to take the sovereign immunity away from Federal employs who break the Law.

Thank you for allowing me to testify before this committee

Mr. BISHOP. Thank you. I appreciate your testimony. You could have gone on to the hair-raising stories; I had my hair cut specifically for this.

[Laughter.]

Mr. BISHOP. Representative Grijalva hasn't done that, but I did.

For a questioning period, we will turn to the members of the committee. You have 5 minutes, again, for questioning.

I am going to yield my time originally to Mr. Tipton—I think you were here first—if you have questions for this panel.

Mr. TIPTON. Thank you, Mr. Chairman. And I would like to thank all the panel for taking the time to be able to be here.

Mr. Chairman, you are probably like me. I am a little disturbed when I am hearing Mr. Lowry talk about intimidation when it comes to being able to protect those private property rights, when I hear Mr. Hage talk about being worried about retribution for simply coming here to be able to tell your story about being able to protect a private property right.

Mr. Hage, could you maybe expand just a little bit more for us? Your family spent 23 years, you have gone through both your folks passing away, 8 different court cases, in terms of trying to be able to protect your private property rights. And that is part of the reason we appreciate Mr. Lowry pointing out, as well, the water rights protection bill that Mr. Amodei and I have introduced.

Do you believe it is important that the Federal Government—that Congress, specifically—finally address this, and tell those agencies that it is your water, and it needs to be protected as a private property right?

Mr. HAGE. Oh, for sure, it is very important. I mean, even Aristotle will tell us, you know, the difference between the correct form of government and a perverse form of government is whether we have the rule of law or the rule of man. And we don't have the rule of law with some of these agencies, with some of the individuals in some of the agencies. I am not going to just say agency only. I am going to say, you know, certain individuals in some of these agencies. And when that rule of law breaks down, well, then there is nothing protecting us.

Now, you can tell the agency to stop doing what you are doing, but unless you give the actual people the power to hold them accountable, they are not going to hold each other accountable. In other words, the bosses are not going to hold them accountable. I am convinced of that. I have seen that in the past.

So, it is a matter of great importance, in my opinion. We have got some great decisions out of the courts. But still, there is no remedy for us, no guarantee that our property rights are going to be held sacred or valid.

Mr. TIPTON. Under Equal Access to Justice have you ever been reimbursed for your financial costs?

Mr. HAGE. No, no, I have not. Now, there is a reason for that, too. It is still on appeal, so the time has not told. So in the court process that has not completely gone through. When the appeal is over, there is a certain time period afterwards that we get to submit our bill. And, supposedly, under the Equal Access to Justice Act, we will get reimbursed for the cost.

However, myself personally, I won't. I represented myself pro se in the court. And the Equal Access to Justice Act does not apply to me. The lawyer that I hired to represent my father's estate, that will get reimbursed. But myself, personally, I devoted 3 years and studied the law myself to try to defend myself in these courts. We got a really great decision, but I am out every penny of it.

Mr. TIPTON. Yes. Mr. Valdez, your family has been here since the 1500s. Did you put that water to beneficial use when you described bringing in those first cattle herds, before the Forest Service even existed? Did your family feel that they were putting that water to good beneficial use?

Mr. VALDEZ. Absolutely. In fact, we engaged with the people that were already there in expanding on irrigation infrastructure to enhance production of fodder for winter use, and we improved springs, and continued to improve water supply sources on Federal public lands.

Mr. TIPTON. Would you concur that it is important at this time that we do pass that message, we do pass through Congress the—what is just your right, to be able to hang on to that private property water right that is so dear to the West?

Mr. VALDEZ. Absolutely. Water is everything,

Mr. TIPTON. Great. Mr. Lowry, you talked about compiling better than \$800,000, I believe it was, in terms of costs, just to be able to protect your private property rights. How is your family going to be able to sustain that? You had mentioned about intimidation, and many people just dropping out and giving up under the threat of Federal intimidation. How is your family dealing with that?

Mr. LOWRY. Well, we are surviving. I would say one thing, that I do want to give compliments to our attorneys who fought that case. They have not been pressuring us to get that paid. They are giving us a very generous amount of leeway on that. Otherwise, we would be out of business right now. And not to put too fine a point on it, \$888,440.07 was the last bill.

And, if I could address the question you posted to the other two gentlemen on the importance of passing the Water Rights Protection Act, I would concur with that. And I think, in addition to that, I do not believe that the agencies are going to give up, because it has been an ongoing policy for decades to obtain the water.

I read a transcript of a speech that Secretary—

Mr. BISHOP. We are out of time, I am sorry. We will come back to those questions again, as well. And I will ask how you came up with \$.07, too.

But, Mr. Grijalva, do you have questions?

Mr. GRIJALVA. Yes. Thank you, Mr. Chairman. A long question, and hopefully some—for the panelists, all of them.

The Federal Land Policy and Management Act of 1976 requires that BLM manage public lands “in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values that, where appropriate, will preserve and protect certain public lands in their natural condition that will provide food and habitat for fish and wildlife and domestic animals, and that will provide for outdoor recreation and human occupancy land use.”

I understand, from all the testimony of the witnesses, that there are grievances with Federal land management agencies over specific cases. But, correct me if I am wrong, and from what I understand you are not saying that BLM or the Forest Service never has a legitimate reason to restrict grazing and other uses to protect land that is the property of the entire American people. Am I correct in that assumption, from the witnesses, that there is a—just go down—

Ms. BUDD-FALEN. Yes, you are correct.

Mr. GRIJALVA. Sir? Do you feel—

Mr. ROBBINS. I would say that they do have a management right. And I don't think any of us would disagree with that.

Mr. GRIJALVA. OK, thank you. Sir?

Mr. LOWRY. Yes, Congressman, I agree with that. They have the right and a duty and the responsibility to manage, and manage according to the law and to the Constitution, sir.

Mr. GRIJALVA. And the law we are referencing is the 1976 law that I am referencing.

Mr. LOWRY. Yes, and I believe not only FLPMA, but all laws pertaining—

Mr. GRIJALVA. Ms. Richards?

Ms. RICHARDS. I would also agree that the land management agencies have the charge to manage correctly.

I would also add to what you have stated with the laws. They also require that economic analysis is done on their decisions, allow for multiple use and—

Mr. GRIJALVA. OK.

Ms. RICHARDS [continuing]. That sound science is used to make those decisions.

Mr. GRIJALVA. Sir?

Mr. VALDEZ. I agree that FLPMA generally outlines the responsibilities of land management. In our particular area, we dispute that the government legitimately acquired the lands that they are managing; that is a separate issue. And I think they have to manage in the—

Mr. GRIJALVA. That is the land grant issue that—

Mr. VALDEZ. Yes.

Mr. GRIJALVA. Historic—yes. Sir?

Mr. HAGE. Yes, sir. Thank you. I do agree with your statement about FLPMA concerning public lands. The one thing that I will highlight, though, is they can manage those lands, but even with the savings clauses in FLPMA, they cannot do so with—and destroy property—

Mr. GRIJALVA. OK.

Mr. HAGE [continuing]. Private property in that respect.

Mr. GRIJALVA. One more follow-up question for all the witnesses. In 2000, the *Public Lands Council v. Babbitt*, the Supreme Court looked at the language in the Taylor Grazing Act of 1934, which was intended to address the deterioration of Western range lands due to over-grazing them. Ranchers argued that new regulations infringed on their rights to graze. The Supreme Court unanimously ruled that there was no right to graze. Land management decisions should be guided by broader public interests.

I would like our witnesses' view on this case. Do you believe it was correctly decided? Do you believe the Federal Government has a duty to protect those grasslands, forests, and wildlife for future generations? And, when ranching activities threaten these natural resources, that these activities should be regulated? And I will just go down.

Counsel.

Ms. BUDD-FALEN. Your Honor, actually, what the United States Supreme Court said is that a challenge to the Bruce Babbitt regulations as a whole was incorrect. But if you read the concurring opinions, particularly that of Justice O'Connor, she said that, absolutely, individual instances of abuse, or individual instances of challenge to the grazing regulations based on—

Mr. GRIJALVA. But the fundamental issue of no absolute right to graze, and the land management decisions must be guided by a broader public interest, that is the crux of that decision.

Ms. BUDD-FALEN. But she didn't—they didn't say that, blanket, there was no absolute right to graze. What they said was that the Taylor Grazing Act was in full force and effect, and they upheld the tenth circuit's ban on saving the land or creating the land for—

Mr. GRIJALVA. Yes, but—

Ms. BUDD-FALEN [continuing]. Use.

Mr. GRIJALVA. You have me at an advantage or disadvantage, depending on your point of—on your frame of reference. I didn't go to law school, but that is kind of the text that I looked at.

Sir.

Mr. ROBBINS. Well, when we bought these ranches, we bought a preference right and we paid for a permit. And these go back before there was even a State. My ranch goes back to 1871, before the State of Wyoming was even incorporated. And those rights have been with the ranch since then. I lost—

Mr. GRIJALVA. Yes, you don't agree with the decision.

Mr. ROBBINS. I don't agree with it, and I say that since 2004 I have not had those grazing privileges. OK?

Mr. GRIJALVA. Thank you.

Mr. BISHOP. Mr. Daines, do you have questions?

Mr. DAINES. Thank you, Mr. Chairman. I represent the State of Montana, so we are very familiar with the issue of public lands, Federal lands, and private property rights.

I have to tell you that the title of this hearing is "Threats, Intimidation, and Bullying by Federal Land Managing Agencies." Boy, the last few weeks out in Montana we have had hunters trying to walk across public lands to be shut out, trying to access State lands to be shut out and closed to the public. And I have had many, many hunters come to me and say, "Steve, for the first time we realized these aren't public lands, they are government lands." And the government is shutting out these lands to their own people, and it is outrageous.

Well, let me pivot back over to the panelists here, and thanks for the testimony. Some of my constituents have had similar experiences with the Federal Government operating near public lands in Montana. I will tell you the Federal Government must be a better steward of public resources, and must become a better neighbor of the private landholders.

It is interesting to hear many of you talk about the cost of litigation you have had to endure with the Federal Government. In Montana we witnessed that firsthand with these fringe extreme groups that fight our Forest Service in court, holding up and stopping important timber sales. In fact, I think region one has one of the worst trends, worst records of habitual litigants of any region. And to make this situation worse, adding insult to injury is when these groups receive compensation from the Federal taxpayers when they prevail for the Equal Access to Justice Act.

Now, it is my understanding that EAJA was intended to help citizens who are directly harmed by the Federal Government. That is the small business owner, the private rancher, many of you who have testified here today. However, I also understand you are having a hard time maybe getting compensated for your—for the work that you have done fighting on behalf of your rights.

First of all, Mr. Lowry, do you think we should have some reforms to the Equal Access to Justice Act that might facilitate helping the people it was originally intended to help, which was the little guy, not the habitual litigant?

Mr. LOWRY. Yes, Congressman. Thank you. In our particular case—you have probably seen in the written testimony—the Idaho Supreme Court denied awarding EAJA claims on their belief that it was—State court did not fall under the jurisdiction of that. And there is a Nevada Supreme Court that takes a different view. And I think that could be resolved by amending EAJA. And I would suggest, in the definition section on “court,” that it would state that court includes State courts having jurisdiction over the subject matter.

They had to do that with veterans’ courts. I read the Congressional Record on why veterans’ courts is listed under “court,” and it was because veterans’ courts were not awarding EAJA fees. And so it was amended to redress that problem. So I think it could be handled the same way.

Mr. DAINES. I appreciate that input. And I am a cosponsor of Representative Lummis of Wyoming’s—her Government Litigation Savings Act, which is going to help improve this law. And I look forward to working with her and the team here to that end.

Perhaps—could you also expand—we talked a bit about looking out for the little guy, which was the intent of EAJA in the first place, the private land owner, the little guy who was taking on the Federal Government? Could you also maybe expand on the needs for Equal Access to Justice Act reforms that might address the habitual obstructionist lawsuits that are a big problem in many of the Western States? Yes, please.

Ms. BUDD-FALEN. Thank you. That is actually one of the problems that the Governmental Litigation Savings Act is supposed to take care of, are these habitual litigants.

One of the problems that you have under the Equal Access to Justice Act is that the statutory cap on your net worth only applies to businesses and individuals, because the Act was truly meant to help protect small businesses and individuals. So there is a \$7 million net worth cap. But that doesn’t apply to litigant environmental groups, such as the Sierra Club, whose net worth is \$56 million. They can get attorney’s fees. Center for Biological Diversity’s net

worth is \$10 million. But because they are “non-profit public interest,” they can be awarded attorney’s fees.

And so, often what you have is not just awards, but simply the Justice Department willing to settle these cases with these groups, some of which, for undefined amounts that are not noticed to the public, and so at this point, without any transparency, this Congress and members of the public have—absolutely have no idea how much in attorneys’ fees are going to groups that are worth \$56 million, and could certainly afford their attorney, whereas these individuals who are fighting for their livelihoods cannot get that same money, because they own land.

Mr. BISHOP. Thank you. I am sorry, I am going to have to cut you off there. I appreciate it.

Mr. HUFFMAN, do you have questions?

Mr. HUFFMAN. Thank you, Mr. Chair, and thanks very much for the witnesses.

You know, I think our Federal Government, our Federal land managers, should always be good neighbors. They should always comply with the law. And so, I am always concerned when I hear where a court has actually found wrongful conduct. I appreciate your testimony, Mr. Hage.

But I do think it is important also to acknowledge that BLM administers 18,000 grazing permits in this country, that the U.S. Forest Service administers 8,000 such permits. And if we could stipulate that we should be concerned when there is a violation of law and when there is bad conduct, and if it were approached in that manner there would be a spirit of great bipartisanship in trying to make sure there is accountability and lessons learned and better conduct from that.

But when we title hearings with loaded terms, such as today, when we bring forward not only cases that have been validated by courts, but cases that are unsubstantiated hearsay, all manner of allegations, when we characterize the Federal Government as a hotel thief, going room to room, trying to find who they can fleece, things quickly rise to the level of caricature. And, unfortunately, that is what I am afraid we are talking about here today.

So, I just want to express my dismay that, instead of what could be a bipartisan serious oversight approach to incidents that I don’t think anyone on this panel would tolerate, regardless of their party, that we are once again trying to stage a whole bunch of mini-sagebrush rebellions because we don’t like the Federal Government. And that is just not a constructive place to be.

If we want to look at habitual litigation and that problem, I sure hope that scrutiny includes groups like the Pacific Legal Foundation, Cause of Action, the Competitive Enterprise Institute, who I see ever-present in these proceedings, who simply troll around, looking for opportunities to bring property rights cases against the government, often unsuccessfully. And we could certainly take a good, hard look at some of the frivolous litigation that is constantly being asserted in the name of property rights. But, again, we don’t see that kind of balanced approach. And I just want to express my concern.

With that, I will yield the balance of my time to the Ranking Member, Mr. Grijalva.

Mr. GRIJALVA. I appreciate it. Ms. Richards, the Gateway West Transmission Line, a route that you suggest would go through the heart of the specially designated public land, the Birds of Prey National Conservation Area, which Congress established 20 years ago. And last year, on behalf of the county initiative, you wrote to Secretary Salazar saying, "Let's pause the permitting process, convene a collaborative effort to address that." Obviously, more local work needed to be done on the route.

When the BLM released their final Environmental Impact Statement for public comment in April, the Agency said it might delay making a decision on parts of the line in your area in order to continue to work with local stakeholders. Do you support that BLM decision?

Ms. RICHARDS. The BLM decision that we have right now we currently do not support. There was a totally collaborative effort that took part, including former BLM employees that worked at the Birds of Prey that have the history and the scientific background to—for the county on this matter.

Mr. GRIJALVA. So the decision to hold in abeyance any final decision on the route in those areas that you raised as concerns in your letter, you don't agree with that decision by the BLM?

Ms. RICHARDS. I am sorry. I am not understanding what you are asking.

Mr. GRIJALVA. When the BLM released that final Environmental Impact Statement in April, the Agency said it might delay making a decision on parts of the line in your area that were raised to Secretary Salazar in order to continue to work collaboratively with local stakeholders to find the best solution. My question is, do you support that decision by the—

Ms. RICHARDS. I support the decision to delay that, but I would also, with due respect, say that we have gotten a letter since, in September, that shows the lines still coming across our private ground. That came from the BLM, from the Washington, DC level.

Mr. GRIJALVA. So, in response to the request for collaboration, there is a pause in the permitting process. The statement itself says, "We are not going to go forward with that route until we have more involvement." You support at least that part of the involvement. It kind of seems opposite of bullying and threatening at this point, doesn't it?

Ms. RICHARDS. I do support that part of the involvement, as long as it is upheld by both parties, the agencies and those that are in the county.

Mr. GRIJALVA. OK, thank you.

Mr. BISHOP. Thank you. You all should have seen what I wanted to call this hearing. This is a soft version of it.

[Laughter.]

Mr. BISHOP. Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman.

You have been an excellent panel. I represent northeast California, the top of the State where it borders Nevada and Oregon. So we feel a great kinship to you folks from the other Western States. Indeed, we feel like all of us in the West are targeted by urban areas, the East Coast, people that—understand what we do

or seem to have an appreciation for it in agriculture, in ranching, in resource management and extraction.

And to the idea that somehow farming and ranching are harmful to the Federal lands, the public lands, I have never seen any really good evidence of normal practices, good, sound stewardship, having it be harmful. It seems to be a shift in opinion by those that govern or regulate us, a different type of people in government these days than what maybe previous generations—that look at it not as just public lands, but their lands, or government lands, as was asserted a while ago.

So, to hear that—what you all go through, it really breaks my heart, what you have to do to defend things that have been practices of your families or your neighbors or your neighborhoods for decades or, in the case of Mr. Valdez, even centuries of what you have done in good faith as good stewards.

And so, I appreciate greatly your willingness to fight back. Because, again, like in the area where I represent, the area of Siskiyou County, places like that, they do feel like they are being abused and that people show up with more ideas or more visions for how they should manage their land, or a reintroduction of the gray wolf to their area. Now, if you have ever seen what those creatures do to livestock, to game, they are not happy with more government intervention thinking that, oh, wouldn't it be nice to introduce these species, et cetera.

So, to get to Mr. Lowry there, you talked about a \$888,000 bill so far that maybe your legal team is working with you on that. If you have already been rejected—well, is that the final answer under Equal Access to Justice there, or do you have any other recourse, as that was, again, brought on by a Federal action that you were even in that court?

Mr. LOWRY. No, we have no other recourse. We applied to the U.S. Supreme Court concerning the Idaho Supreme Court's decision on that issue, on the awarding of attorney fees. And we were hoping that perhaps, with the differing opinions between the Idaho and the Nevada Supreme Courts, that they would take that case, but they did not. So, as I understand it, we have exhausted our abilities in that arena.

Mr. LAMALFA. So, to a farmer or rancher at my level, our level, that is real money. How does a person come up with that at the end of the day?

You know, Mr. Hage, you have been through—I have known your family name for many years before I have been in this role here, and I don't want to ask you personally what your numbers are, but I imagine they are pretty extensive, as well.

And one more side question, too. Did you grow up with the idea that you were going to become—you are an attorney, correct?

Mr. HAGE. I am not a licensed attorney; I am a pro se litigant.

Mr. LAMALFA. OK.

Mr. HAGE. Yes.

Mr. LAMALFA. But you have done much—is that what you grew up to do?

Mr. HAGE. No, sir, your Honor. I grew up on the back of a horse in the middle of the sagebrush. But it is what I had to do in order to protect our rights.

Talking about numbers, I mean, our number is just about as—well, it is outrageous. It is about—4.3 million is what I currently owe on one attorney bill, and quite a bit on another attorney bill. How do we get compensation? We are hoping that the court will give us compensation in the court of claims. And the trial court certainly awarded it to us, but the appeals process has been years and years. And—

Mr. LAMALFA. Does anybody on this panel feel like—that your access to justice, when you have to bring lawsuits to defend yourself, that these are frivolous?

Mr. ROBBINS. I have spent around a million dollars myself, and it is absolutely not frivolous. And I would be glad to meet with Mr. Huffman and discuss what he considers frivolous.

And when they try to put you in jail for 2 years, when they audit you within 3 weeks of winning that decision, and all the economic losses from the guest ranch business to running 50 percent for the last 10 or 12 years, it is \$20 or \$30 million worth of losses to us and to that community, 15 jobs, just in the guest ranch business, that went away. It is huge for a small community of 4,000 in the whole county. We are the largest ranch there, the largest agricultural enterprise there, even at 50 percent. So, it is huge for us, and we would like some relief.

Mr. LAMALFA. Thank you all for coming the distance you have come here today, and for fighting back, and for not just taking it sitting down. So we all appreciate it, and we will be with you.

I yield back.

Mr. BISHOP. Thank you. Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Mr. Chairman. You have all told heartrending stories of threats by your own government, of everything from jail time to financial ruin. My colleague from California says that this is caricature. Caricature is defined as exaggerations by means of often ludicrous distortion. Do any of you—would any of you want to make a reply to that charge?

Mr. ROBBINS. I will make a reply. I had a meeting in—with the Department of the Interior and the BLM in Washington, DC. I brought to that meeting—there were 12 people in the room. I was sitting at the end of this table with Department of Justice microphones here, Department of Justice lady here, on the right. I brought the transcript from the trials. I proved perjury against the number two man in the organization. I read the transcripts, turned to the Department of Justice lady and said, “What are you going to do?”

She said “Oh, well”—I said, “Let me tell you, folks. If they had just proved perjury on me, they would be hauling me out of here right now.” And everybody in that room didn’t say a word. You could have dropped a pin in that room. Every one of them in that room went just like this. They know the power of the Federal Government. And that has been back in 2004. Nothing has been done to any of them for perjury.

The reason I didn’t get to go to court is because I had so much perjury involved in the case that they were going to lose, and that is why it went to the Supreme Court. It is ridiculous that somebody that is abused the way I have been abused cannot get his day in court. That is all I wanted, give me my day in court.

Mr. MCCLINTOCK. Anyone else want to respond?

Ms. RICHARDS. If I could respond on behalf of our county and the county residents, we are plagued right now with a permit renewal process that is 150 out of—or 125 out of 150 allotments in our county, which, as I stated, is 77 percent Federal land.

It is not caricature when those small rural communities are affected. We have schools, we have small businesses that are dependent upon that. And when we have agency people that are making decisions that are not coordinating as they are charged with on the county level, and those citizens do not have any recourse, it is time for a change in the law.

So, I would say that when you go out to these small rural communities and see these people and how it affects their lives—Tim Lowry is from Owyhee County. We know how that has affected him. We have many others in there. We have got current cases right now where one is only a third of the way into the process, and they are at \$55,000.

And so, I would say that it definitely has effect, and we definitely need a change, and it is definitely something that needs to be heard, because it is out there.

Ms. BUDD-FALEN. Your Honor, the other thing that I would say is that we are only asking to be able to go to court. I am not telling you that all these people would win, I am not telling you that every Federal employee is bad, that every employee has an agenda. But each of these people here have suffered through individual employees.

When we were called for this hearing, I personally just did some research, because I don't represent a group. We found 12 additional stories of people that have these kind of stories, but we don't have a recourse. We don't have a way to go to court and plead our facts.

Mr. MCCLINTOCK. Well, let me ask you this.

Ms. BUDD-FALEN. That is what this is.

Mr. MCCLINTOCK. What would you have Congress do? How much of this requires changes in law, and how much of it extends to the attitude of public officials?

Ms. BUDD-FALEN. You can't legislate the attitude of public officials any more than you can legislate the attitude of the citizens here. But right now it is up to Congress to waive the sovereign immunity of individuals, so that we have a cause of action in court. If we bring a frivolous case, a Federal judge has all the power under the Federal rules of civil procedure to dismiss the case. You can bring sanctions against the attorney.

We are not asking to be able to bring all sorts of frivolous cases against general policy. We need Congress to waive the immunity of Federal officials, just like Congress did with State officials and local officials under the Federal Civil Rights Act, so that we can bring our individual cases to a Federal court and have a Federal judge look at the rule of law and make a determination.

Mr. MCCLINTOCK. Sovereign immunity, I think, is itself a puzzling concept in a republic like America. In the European countries, sovereignty flows from the government. America has a very different foundation, and that is its sovereignty flows from the people. The people are sovereign, the government is their servant. And it seems to me that we are moving more and more toward a Euro-

pean model vision of sovereignty, where your rights are derived not from what the founders call the laws of nature and of nature's God, but rather, from the government, itself.

And, as the French discovered when they tried to mimic the American Revolution, if you place that source of rights within the government, you have a very, very unstable situation. And maybe that is something we need to consider.

Mr. BISHOP. Thank you. Mr. Amodei? Happy to have you come back. Do you have questions for this panel?

Mr. AMODEI. Just briefly. Mr. Hage, thank you for your testimony. You used to be in my district, but obviously you didn't like the representation. So you fixed that.

[Laughter.]

Mr. AMODEI. Can you tell me if the folks in your statement that are with the Federal land management agencies in Nevada—does Mr. Seley still work for BLM in Nevada?

Mr. HAGE. He retired—talking about Mr. Seley, Congressman. Mr. Seley retired, I believe it was, right at the end of May. And I think it was right about the time the decision in my case came down.

Mr. AMODEI. OK.

Mr. HAGE. He retired at the same time—

Mr. AMODEI. Was he headquartered out of the Ely office, the Tonopah District?

Mr. HAGE. No, he was—

Mr. AMODEI. Where was he?

Mr. HAGE. He was right there in the Town of Tonopah. He was in the Tonopah field office, as they call it, in the Battle Mountain Grazing District.

Mr. AMODEI. The Battle Mountain District, OK. And what about Mr. Williams? Still employed by the Forest Service?

Mr. HAGE. I assume he is. I have no idea. Now, my correspondence with the Federal agency no longer has Mr. Williams's signature on it. It was another individual. I do believe he is still there. I haven't heard that he is retired. I believe I would have heard that—

Mr. AMODEI. But he is out of the Austin Ranger District?

Mr. HAGE. Austin Ranger District in the Toiyabe National Forest, yes.

Mr. AMODEI. Thank you. Thank you, Mr. Chairman, I yield back.

Mr. BISHOP. Thank you. Mr. Labrador.

Mr. LABRADOR. Thank you, Mr. Chairman. I have a quick question for Ms. Budd. You got into a little exchange about a Supreme Court decision with the Ranking Member, and you seemed to have a different interpretation. The Ranking Member seemed to be interpreting the Supreme Court decision as there is no right to grazing. And I kind of heard you going back and forth.

Can you explain that decision, in your opinion, what you think it means? It seems like it was being mischaracterized a little bit by the Ranking Member, so I just want to make sure that we understand that Supreme Court decision better.

Ms. BUDD-FALEN. Certainly, sir. The case is *Public Lands Council v. Babbitt*. It was a case that was brought as a general challenge to the regulations that Bruce Babbitt put into place when he

was Secretary of the Interior that, in the Public Lands Council's view, actually changed the focus of grazing under the Taylor Grazing Act.

If you look at the Federal Land Policy and Management Act, it does not repeal the Taylor Grazing Act. It adds additional things to be considered, but it never repealed that Act. The case was brought in the Federal District Court in Wyoming. It went to the Tenth Circuit Court of Appeals. The Tenth Circuit Court of Appeals actually rejected some of the range land reform regulations and accepted others, but it did so only on the basis that, because the regulations were changed as a whole, and not considering specific fact situations, that certain portions of those regulations could go forward.

The Supreme Court, and particularly the concurring opinions, said that, "When we view these regulations as a whole, they may or may not be valid. But you are free to bring individual factual situations challenging these regulations in individual places." And that concurring opinion was by Sandra O'Connor.

Mr. LABRADOR. All right, thank you. Ms. Richards, welcome. It is good to have you here again.

How has the BLM's management of the Gateway West project negatively impacted Owyhee County, which is in my district, by the way?

Ms. RICHARDS. Yes. I guess—and thank you for allowing us to be here today—some of the negative impacts have been, as I indicate in my testimony, there have been hundreds of hours that have been spent not only from residents of the county, but we have environmental groups, many of the environmental groups that are participants on the Owyhee Initiative. And, as Mr. Grijalva alluded to, we also—the initiative wrote a letter of concern about the steps that were being taken.

The county has produced numerous maps to help in this coordination. They have gone out and ground-truthed a lot of the paths. And we have actually hired people to look at the Birds of Prey aspect and make sound, science-based resolutions about the project that we could have, going forward.

Mr. LABRADOR. And I think you testified that the Birds of Prey experts are actually disagreeing with the Federal authorities over here. Isn't that correct?

Ms. RICHARDS. Actually, on the local level they are, and we have former employees that are retired now that are in consulting that have also wrote opinions of that.

Mr. LABRADOR. OK. And I think you were just recently quoting the Idaho statesman speaking favorably about the collaborative process. Isn't that correct?

Ms. RICHARDS. You are correct. Rocky Barker did come out to an event that was held in the Owyhee. And yes, we are still in favor of collaborative processes, inviting all—

Mr. LABRADOR. So you are not here testifying against the collaborative process.

Ms. RICHARDS. Absolutely not.

Mr. LABRADOR. Which—it seems like that was what was trying to be implied by Mr. Grijalva.

Ms. RICHARDS. Correct.

Mr. LABRADOR. So, tell me why you think the collaborative process works, and why you think, in this case, the Federal agencies are actually not complying with the collaborative process?

Ms. RICHARDS. I am going to make a clarifying statement there. The collaborative processes work, as I indicated in response to Mr. Grijalva's question, when both sides are playing by the same rules. What we see as veiled threats or possibly, I would say, intimidation is when the Federal agency goes along, leads everybody to believe that they are playing by the same rules, and then oversteps their boundaries by changing the rules in the middle as, I would say, of a card game.

Mr. LABRADOR. Can you give an example of how that happened in Owyhee County?

Ms. RICHARDS. Actually, there have been two of them. One of them was in a wilderness management plan, where the BLM wrote new guidelines after legislation was passed on something they already agreed on.

The other would be in the Gateway West Transmission and what came forward from a collaborative effort, and then what came down as the preferred alternative.

Mr. LABRADOR. Thank you. And I want to welcome Mr. Robbins and Mr. Hage, Jr. Mr. Hage, Jr. was actually the stepson of my predecessor, who was a very fine congresswoman from the State of Idaho. So thank you very much for all of you being here, and thank you for your service. And I think it is a shame that anybody would imply that anything that you do is a caricature. And I think it is a pretty shameful statement, and I hope someone can retract that.

Thank you very much, and I yield back my time.

Mr. BISHOP. Thank you. Mrs. Lummis.

Mrs. LUMMIS. Thank you, Mr. Chairman. I want to thank all of our witnesses for being here, especially our witnesses from my home State of Wyoming. And I want to thank Mr. Robbins and Karen Budd-Falen for making this long trip.

Now, let me get this straight, Mr. Robbins. I just came out of a different hearing, so I want to make sure I understand the facts. You own a ranch in Hot Springs County. The BLM reduced your grazing allotment, canceled your right of access across BLM land to your own property, charged you with 27 livestock trespasses on to BLM, brought criminal charges against you which were dismissed by a jury after only 25 minutes of deliberation. Is my memo correct? Is that what happened to you?

Mr. ROBBINS. You left—well, they did reduce, but they have eliminated—I haven't had a grazing permit since 2004. So—

Mrs. LUMMIS. And most of these actions stemmed, as I understand it, from your refusal to grant the BLM an easement across your own property. Is that true?

Mr. ROBBINS. I discussed that in the beginning. And they—I know it is hard for a lot of people to believe, that they would be so intent on doing something like this. But it really comes down to an attitude that you have to understand, that is when they ask you something they expect you to say yes.

Mrs. LUMMIS. Yes.

Mr. ROBBINS. And when you say no, then it creates an atmosphere that led to the intimidation that has been 19 years and

going. And that intimidation included trying to put me in jail for 2 years, and also, you know, within 3 weeks I got an IRS audit, and it was a direct tie between the——

Mrs. LUMMIS. Did you ever meet a woman by the name of Lois Lerner?

[Laughter.]

Mr. ROBBINS. No, but——

Mrs. LUMMIS. I digress.

Mr. ROBBINS [continuing]. She is probably calling right now.

Mrs. LUMMIS. I apologize for that. Hey, Mr. Robbins, were you aware of the BLM's expired easement when you bought the property?

Mr. ROBBINS. No, I was not. It was a conspiracy of sorts. And, really, what I would have to say to you is that the previous owner was under the threat of blackmail. He was in a very bad financial position. He could not resist this, because they would not have transferred the permits, and it would have killed the deal. He kept it quiet until after—and I wouldn't have known about it until after the event, unless they called and didn't have their recorded easement. That is the only way——

Mrs. LUMMIS. Yes, because, as I understand it, they failed to record it under Wyoming law when the ranch was sold to you, so you had no knowledge of this easement. Am I correct about that understanding?

Mr. ROBBINS. That is right, yes.

Mrs. LUMMIS. OK. Did the BLM ever give you any consideration to your offers to sell them an easement?

Mr. ROBBINS. Well, you know, I explained that earlier. The 8 miles to their half-mile, and public versus private, and then I get to pay them for that privilege, I told them then that I would have been willing to negotiate something. But under the circumstances, I was not willing to do that. And they said——

Mrs. LUMMIS. Ms. Budd-Falen——

Mr. ROBBINS. They said to me that the Federal Government does not negotiate.

Mrs. LUMMIS. Only with terrorists, apparently. OK.

Ms. Budd-Falen, did the BLM have any other options at their disposal to get the easement that they didn't pursue?

Ms. BUDD-FALEN. Absolutely. The Fifth Amendment provides that the Federal Government can take private property, but it has to be for a public purpose with due process and just compensation. But, rather than going through those requirements, the BLM—specific employees, in this instance—simply believed that they could harass and blackmail Mr. Robbins into just giving up an easement outside of the Fifth Amendment protections.

Mrs. LUMMIS. Mr. Robbins, these dozens of legal actions against you, you won a few of those on the merits. Isn't that correct?

Mr. ROBBINS. I did. Actually, I began a process—I actually believed that the system was not broken at the time, and I began to fight these trespasses. I fought three of them, \$111 worth of trespass fees. I spent \$250,000 to defend myself there. I proved in that hearing perjury was—the second guy in there was impeached by the court, and I still lost. OK? I lost.

Mrs. LUMMIS. At any point during this nearly decades-long harassment campaign against you, did you ever consider just giving in to the BLM, just to make it go away?

Mr. ROBBINS. I wish I could say yes to that, but I just—you know, what is right is right, and what is wrong and wrong.

Mrs. LUMMIS. Yes.

Mr. ROBBINS. And if I had to give up everything, I was willing.

Mrs. LUMMIS. Ms. Budd-Falen, back to the legal side. While a majority of the Supreme Court declined to recognize that Mr. Robbins had a claim against the BLM for the entire course of conduct, they did, nonetheless, recognize the need for an effective remedy for people in Mr. Robbins' situation. Is that correct?

Ms. BUDD-FALEN. Yes, both the majority opinion written by Justice Roberts, as well as a very strong dissent written by Justice Ginsberg, both recognize that Congress should give us a path to the Federal court.

Mrs. LUMMIS. I want to apologize to you for what you have been through, and thank you for your tenacity in upholding the constitutional rights of Americans.

Mr. Chairman, I yield back.

Mr. ROBBINS. Thank you.

Mr. BISHOP. Thank you. Allow me to ask a couple of questions. Let me follow up on where Mrs. Lummis was, originally.

Ms. Budd-Falen, if Congress fails in some way to take up the court's challenge to find a legislative remedy, is there any way that a poor rancher—which is our ranchers here, land rich and money poor—or a modest means rancher, could they ever survive the kind of assaults we have heard about today?

Ms. BUDD-FALEN. Mr. Chairman, I honestly do not believe that is possible. I represent ranchers all over the West. And when you go against the Federal Government, represented by the Justice Department that has all of the money and resources in the world, it is very difficult, if not impossible, to be able to win these cases.

Mr. BISHOP. All right.

Ms. BUDD-FALEN. Additionally, because we are not as easily accessed—Equal Access to Justice Act for judgment fund monies, we don't even have the chance to get our money back. None of these people have received payment for their work.

Mr. BISHOP. For all of you, keep in touch with Mrs. Lummis. We will be talking about EAJA later on, as well.

Let me—Mr. Robbins, let me follow up with the kind of approach that Mr. Amodei was starting with Mr. Hage. The ones—the BLM people that were egregious in their conduct, were they ever punished administratively by the agency, to your knowledge?

Mr. ROBBINS. No, there wasn't ever any—some of them got promotions, OK? And a few retired. And I don't know the—

Mr. BISHOP. But none were demoted or fired.

Mr. ROBBINS. No, nobody was fired.

Mr. BISHOP. What about the one guy who basically came to your aid and would not push the attack, admitted some of his colleagues were out to get you? What did his honesty get him with the agency?

Mr. ROBBINS. He had to—he retired and left the agency and moved completely out of the area to protect himself, basically,

from—there was a lot of animosity. I have to admit, though, that there were a lot of people within that organization down there that were actually on my side.

When I rode a mule around that office for 21 days in the middle of the winter, I created a lot of friends inside the organization. And they would feed me lunch and different things and say, “Don’t tell anyone what is going on here.” But there were a lot of people inside the organization that were not agreeing with what was going on besides Ed Parodi.

Mr. BISHOP. I appreciate that. And telling me about riding a mule is too much of a straight line, but I am going to resist it.

Let me ask two other questions of you. Justice Ginsberg said that the BLM officials invaded the privacy of your ranch guests during a cattle drive. To what was she referring?

Mr. ROBBINS. They followed our guests and videotaped us. And this particular time, they were on a hill and the ladies that were on the drive with us only had sagebrush to do their—to go to the bathroom. And the positioning of the BLM, they were videotaped in that process of going to the restroom. And it created such a hostility, you know, that our guests, you know, “We get this kind of treatment back in New York City; we don’t need to come to Wyoming to have to go through this,” so it really put us out of business, was a part of putting us out of business, because of that, those threats.

It was every day. Every day they were there, videotaping us, sitting there watching, creating all sorts of hindrances—

Mr. BISHOP. I hope they got copyrights on it. Listen, I have one last question for you. How, in heaven’s name, did you come up with \$.07 that you owed? Was there a tax added to it or something?

Mr. LOWRY. I would have to defer that to the billing department of the attorneys.

Mr. BISHOP. All right. Thank you, Mr. Lowry.

Mr. Valdez, do you think that the problems you faced were directed at you personally in New Mexico, or other Hispanic ranchers who were similarly situated by the people who were in authority and showed some hostility? Was this personal?

Mr. VALDEZ. This one individual who was dealing with the folks on Jarita Mesa and Alamosa definitely made it personal, and it was personal attacks. And it is a lot of people, it is not a few. I, myself, am not on those allotments, but I work closely with them.

Mr. BISHOP. Then if, indeed, you face something that is—what you think is vindictive and retaliatory, what response do you have? What options do you have in that situation?

Mr. VALDEZ. Well, there is a case filed in Federal District Court, the first case filed by traditional villagers in Northern New Mexico, by the way, against the Forest Service in this type of environment.

Mr. BISHOP. So, court access, going back to what Ms. Budd-Falen said, is really the only thing we have to deal with, and we have to make sure that that has a fair access, which is what the Supreme Court told Congress it needed to do. Not going through the court system, but that Congress had to make sure there was a judicial remedy for that.

I have a couple other questions, but my time is almost up here. Let me—

Mr. VALDEZ. May I just say that is what the judge in this case recommended. That was the only remedy.

Mr. BISHOP. OK, thank you. I appreciate that. Mr. Grijalva, do you have other questions?

Mr. GRIJALVA. Yes, a couple. In the Babbitt opinion, I think it is stated pretty clearly, just for the record, so that it is not misconstrued, what I was trying to say, it says that there is no absolute security for grazing permits. And I think it is—I think that sets the tone of that decision, and that is why I was following up with other questions.

Also, the—again, to set the record a little bit straight, when I was commenting on the Gateway, the reason I asked the questions about the collaborative effort, and the fact that there was a positive response on behalf of BLM and the Secretary to allow more time for route examination which—that was being opposed by the area, I wanted to make sure that we understood that, in some instances—because today we are hearing a lot of individual issues, and rightfully so—that that was an effort to kind of avoid litigation, avoid a lawsuit, avoid bringing that whole project to a halt. And so, I think that has to also be noted, to try to come to consensus and avoid a lawsuit.

The other point is that even though this hearing is entitled, “Threats, Intimidation, and Bullying by the Federal Land Management Agencies,” and we have had some instances, this hearing is not about policy disputes, but it is about those kinds of actions that my colleague, Mr. Huffman, pointed out that should not be tolerated at a professional level at any place. And I appreciate people bringing that to light.

Because we are not having policy disputes, Ms. Richards, have there been any instances in which a BLM employee has personally threatened, intimidated you, bullied you? And, if so, can you identify that BLM employee involved, and describe how he or she threatened, intimidated, or bullied you?

Ms. RICHARDS. Mr. Grijalva, I am here on behalf of Owyhee County, and we do have situations like that. We do have incidents that are on the record, they are in the court case in the grazing permit renewal process. In respect to those individuals and possible retaliation for the names, I am choosing not to bring that forward, because I do not want to put those individuals into that capacity.

However, I am going to ask to clarify two things here. The Gateway West may very well end up in litigation, not from the predatory environmental groups, possibly, but from our county aspect, due to the county is the only one—the individuals cannot file a lawsuit, but the county government can file for the economic aspect.

Second, in the *PLC v. Babbitt*, one of the things that the county advocates for is that it did affirm the property right interest of preference as a grazing right in there.

So, again, I am not going to go into—we do have specifics, there have been employees. That started clear back in the 1990s. Those employees, a couple of them, now work in the Oregon BLM offices. They are in court records back in Idaho. And just to protect those interests that are still in litigation, I am not going to bring that forward at this time.

Mr. GRIJALVA. I appreciate that. And I think there is a balance to be sought here that—I am not going to sit here and say that what you provided to us under oath is not the truth, but I think there are other stories dealing with collaboration, communities working together, solving problems before they become bigger problems that I think also is part of a fair hearing.

And thank you for the hearing, Mr. Chairman.

With Mr. Valdez, I kind of—you know, I think we could solve a lot of the problems, sir—and being a student of all that stuff—that we just implement the Treaty of Guadalupe-Hidalgo, and we wouldn't be having this hearing, and some of us would be better off, and some wouldn't. But that is a whole other story.

[Laughter.]

Mr. GRIJALVA. Thank you, Mr. Chairman.

Mr. BISHOP. I am assuming that was a yield back, then, right?

Mr. GRIJALVA. I yield back, sir.

Mr. BISHOP. Fine, good, good. Do you have other questions? Mr. Tipton.

Mr. TIPTON. I just have, really, one more, Mr. Chairman. And I would like to follow up, really, on my good friend, the Ranking Member's question, in regards to feeling threatened, intimidated, and bullied.

Mr. Lowry, when the BLM came to you and said that only the United States can hold a water right on Federal land, and that you must withdraw your claim, did you feel a little bullied, intimidated, and threatened?

Mr. LOWRY. I felt intimidated walking into that room, a room full of Justice Department attorneys, BLM personnel, who had been dedicated to the—trying to obtain those water rights in the adjudication, and being told that we had no position, no legal position to hold a water right, that we were mere permittees there at the permission of the U.S. Government, and had no rights.

The only thing is I didn't feel too intimidated, because I knew what my rights were, I knew what the congressional policy had been since the mid-1860s, and I knew what the court decisions, including the *U.S. v. New Mexico*, had said. So, I knew going in what my rights were. But the pressure was applied.

Mr. TIPTON. That is the good part about being a Westerner, a little harder to be able to intimidate. I saw Mr. Valdez nodding his head up and down, as well.

Just for clarification, private property rights, water rights in the Western United States, you own them. How much was the Federal Government willing to compensate you for those water rights?

Mr. LOWRY. They were not willing to compensate anything.

Mr. TIPTON. So the Federal Government can just jump in, take your private property rights, take your water rights that you paid for, you have developed, with no compensation. That is their opinion?

Mr. LOWRY. That was the course they were taking, and what was being attempted, yes.

Mr. TIPTON. OK. Mr. Robbins, how intimidated, bullied—well, you aren't intimidated, I can tell—but bullied and threatened have you felt?

Mr. ROBBINS. Well, actually, I came from Alabama, originally, and I really thought that the government—I had worked with the farmer services. I thought they were looking out for my best interest. I learned differently, when I got to Wyoming, that that was not the case.

Let me just say as far as intimidation, I have got the actual quotes from sworn testimony from two employees: Leone, saying, “I think I finally got a way to get this permit, get his permits and get him out of business”; and Parodi, which testified on my behalf, states that—he was a BLM employee, also—states that this statement became a daily admission of Leone, and an attitude shared by the other defendants in the case.

So they—when they make their mind up to go after someone, they can certainly intimidate you, and it comes from every area and every power within government.

Mr. TIPTON. Well, thank you. And, Mr. Chairman, again, thank you for holding this hearing. I think that, from the testimony that we have heard today—yes, sir, Mr. Lowry, do you have one more comment?

Mr. LOWRY. If I could, Congressman, I would like to add seriously that it was quite intimidating, and that is evidenced by the fact that, of all the ranchers that filed for their stock water rights in the Snake River Basin adjudication, as I mentioned in my testimony, only two of us went through to the end. The rest could not, or felt they could not, because of the overwhelming disparity in the resources between themselves and the U.S. Government to defend their rights. And they have lost their rights in the Snake River Basin adjudication because they could not and would not—and I understand their position.

Mr. TIPTON. Mr. Lowry, I think that is ultimately very important to be able to note, because this is just not a Forest Service water grab, it is a BLM water grab in the West. That is the lifeblood of the Western United States. And I will certainly take issue with anyone who feels that—our ranchers who have those BLM permits on Forest Service lands, they are some of the best custodians, actually, of our public lands, going in and supporting those who value the environment. Nobody but our farmers and ranchers value it more.

So I thank you again for holding this hearing, and I thank all of you for taking the time to be able to be here. I yield back.

Mr. BISHOP. Thank you. Mr. Huffman, do you have other questions?

Mr. HUFFMAN. Just very quickly, Mr. Chair. I appreciate the witnesses, once again. I will just close with what I said at the outset in my remarks. Our Federal Government should always be a good neighbor, should always comply with the law, and all of us should be concerned when there are incidents that suggest misconduct by Federal employees.

So, I appreciate the testimony. I am sorry that some of those experiences occurred in this—in the situation of these witnesses. And there is a way of having the conversation about holding our government to high standards and making sure there is accountability that could be constructive. And I hope that we can perhaps, at an-

other time, have that more constructive conversation about how to do that. Thank you for your testimony.

Mr. BISHOP. Mr. Amodei, do you have other questions?

Mr. AMODEI. Just briefly, Mr. Chairman. Ms. Budd-Falen, are you aware of any draft legislation to kind of deal with—I mean in Mr. Hage’s testimony he says, “Hey, we need to do a couple things.” Is there any—and I am sorry if there was testimony to that while I was gone, but is there anything out there that has been drafted in terms of speaking about governmental immunity or things like that in extraordinary cases where, in sum, where a judge finds people in contempt, and finds that they have perjured themselves? Are you aware of anything?

Ms. BUDD-FALEN. No, I have never seen any draft legislation. But I can tell you that we would be happy to work with both sides of the aisle to come up with a solution.

Mr. AMODEI. And then, just finally—and this may be something for staff—but have any of you or the organizations you are affiliated with done a litigation study to say, you know, of all these times, like the Hage deal, and whoever else’s, when these go to court, how often does the Department of Justice prevail, versus the permittee? I know it doesn’t go very often. It is phenomenally expensive, and that.

But have we done anything to kind of say, hey, when people finally get to the point where they are saying, “You know what, I am tossing it all in and I am going to court, even though that is expensive and time consuming,” what the likelihood is that they prevail, or if they come out in some sort of a stipulated agreement? Is there any track record of that?

Ms. BUDD-FALEN. The problem is, Mr. Amodei, that we can’t affirmatively bring those kind of cases. Frank Robbins tried to affirmatively bring a case. The Jarita Mesa permittee is trying to affirmatively bring a case, and they lost those cases.

Mr. AMODEI. Well, I am talking about the permitting cases, not the—

Ms. BUDD-FALEN. Oh, the grazing cases?

Mr. AMODEI. So it is like when you say, “Hey, I am suing you because you don’t have an easement across my land.” I am talking about the substance, not the abuse of discretion.

Ms. BUDD-FALEN. Actually, your Honor, the problem is that the Federal Government, because the Administrative Procedures Act requires only an administrative record review, the only thing the Court ever sees is the record that the agency creates and the agency wants the Court to see. So, while there are cases where we are successful, we are starting so far behind the Federal agency in terms of litigation strategy and information, we can’t depose Federal witnesses, we can’t get in our own information.

And so, I would tell you that the court system right now is stacked against us, and that we do not prevail near as much as the Federal Government prevails.

Mr. AMODEI. OK. Finally, if you went to one area first, would you go to the Administrative Procedures Act first and make changes in that that are specific to land use things, or would you try to go in an overall global thing for all Federal employees?

Ms. BUDD-FALEN. I think that they are apples and oranges. The Administrative Procedures Act only applies to Federal agency decisions and policies made based on an administrative record, and that is not what we are talking about. Those are the tools that are brought against these individuals to force them into compliance.

Mr. AMODEI. Well, but I am thinking, if I may, that if the Administrative Procedures Act was made to allow you the ability to depose and create more due process and change that administrative procedure, that it may be more fruitful, in terms of providing a quicker, cheaper, rather than marching to Federal court to make the administrative processes more user-friendly.

And you don't have to answer that today, but you can get back to me and say, you know—

Ms. BUDD-FALEN. I would be happy to do that. My initial thought, quite honestly, is what we need to do is to actually tie this to the Civil Rights Act, because that Act already waives sovereign immunity for State employees and local employees. And if you read Justice Ginsberg's dissent, that is actually where she believed that a cause of action should be placed, as part of the Civil Rights Act.

Mr. AMODEI. OK, thank you. Thank you, Mr. Chair. I yield back.

Mr. BISHOP. Thank you. Or just empowering States.

Mr. LaMalfa, do you have other questions?

Mr. LAMALFA. Oh, just a quick follow-up. You know, the idea that this isn't threatening or bullying, I mean, just ask an elderly ranching lady up in my area what it feels like to have two agents show up with badges and a gun on the hip and wearing the boss, shiny sunglasses, like that, saying, "You need to sign this form that has to do with your water rights, or you could be subject to arrest and have your rights read to you," you know, when her husband is not home. And so—no, that is not threatening or bullying in any way.

So, when you have abuse after abuse, and people that are normally just productive people that are good citizens, that are paying their taxes and part of the community having to get wrenched out of the farms and ranches and homes to go to Sacramento in California, or come back here to Washington, DC, this is really not what you prefer to be doing. And so, for anybody who had the notion that it is anything different than that, then they are way out of touch, because your traditions—our traditions, I am a farmer, too—go back hundreds of years, thousands of years, even.

And for us to not take action here with, you know, Mrs. Lummis's bill or other efforts that are—we want to be effective in letting you feel like you don't need to use legal remedies to just do what you do. If we do anything short of that, then I think we are falling down on our jobs. And so, that is what I am back here to try and do and trying to help you with. So I really, really want to encourage you to keep fighting the battle with your neighbors.

And I am sorry, sir, for your neighbors that couldn't do the battle, because I don't know how you afford \$800,000 or millions of dollars to do this, knowing how it is for many ranchers and farmers and timber operators. Maybe you should all apply for non-profit status, too, and then you will be eligible, like those \$56 million organizations, to get compensated for something you didn't bring upon yourself.

So, I greatly appreciate, and God bless all of you. So, thank you.
Ms. BUDD-FALEN. Thank you.

Mr. BISHOP. Mrs. Lummis, do you have more questions?

Mrs. LUMMIS. I do, Mr. Chairman. I would like to follow up a little bit with Ms. Budd-Falen about the line of questioning Mr. Amodei was pursuing about a congressional remedy. Certainly the Supreme Court declined to recognize Mr. Robbins' claim against the BLM for the entire course of conduct, but they did recognize the need for an effective remedy. They just thought it should come from Congress, and not be fashioned by the court. So, that is what I want to pursue, Ms. Budd-Falen.

You took a cue from Justice Ginsberg's dissent, which would have expanded the Bivens Doctrine, as I understand it. So that would suggest a remedy similar to that for sexual harassment. I would like you to expound on, if you were crafting some legislation, taking a cue from Justice Ginsberg, what kind of parameters would you put around this to make sure that there is not a flood of challenges to any and all Federal decisions a property owner might not like, but is narrowly targeted to the type of egregious conduct that we have seen here, as was applied to Mr. Robbins?

Ms. BUDD-FALEN. I think that the first thing that I would do is look at the pattern or practice of the individuals. I think one bad agency decision is something that we can remedy, or at least we can challenge under the Administrative Procedures Act. But these people didn't suffer just one bad decision; it was truly an animus by the Federal individuals, that they can name, against their rights.

One of the things that Justice Ginsberg also talked about was that the Fifth Amendment protections for private property were not receiving equal consideration under the laws, as were the Eighth Amendment protection against cruel and unusual punishment, or Fourth Amendment protection against unwanted search and seizure. And she argued that we need to raise the Fifth Amendment's protections for property rights to the same level as the other constitutional guarantees.

Mrs. LUMMIS. Does that include access to the courts that right now is not as—Federal courts?

Ms. BUDD-FALEN. Yes, that includes that. Because, right now, the only way you can get a "Bivens cause of action" is if you bring a cruel and unusual punishment case or an unwanted search and seizure case, and it has to be a physical search, not the kind that Frank Robbins had to endure, where Federal officials actually broke into his private guest lodge on his private land to search through things.

Mrs. LUMMIS. Mr. Chairman, if I might ask, I know that Ms. Budd-Falen, based on her representation of clients with regard to these specific types of cases, has a unique area of expertise. I wonder if I might ask that you give us some suggested language that you think could be narrowly tailored to address these "death by 1,000 cuts" situations that amount to a course of conduct that constitutes harassment that could be narrowly construed by the court to prevent a bevy of litigation, but nevertheless protects American citizens' Fifth Amendment rights appropriately, and provides them, at times when appropriate, access to the Federal courts.

Obviously, I am asking you to do something pro bono from Congress—

Ms. BUDD-FALEN. I would be pleased to help you. These citizens need a path to court. They need some relief. Other Fifth Amendment—and American citizens don't have the push and the backbone, because they are afraid and because they have permits that, if the Federal Government decides they don't like you, they can punish you. And I would be happy to work on legislation to try to protect these citizens and their neighbors from this abuse.

Mrs. LUMMIS. I would be most grateful for that help, because I do think that we need the assistance of someone who can help narrowly construe such a cause of action that will address these types of really egregious courses of conduct by Federal agencies that even, you know, our colleagues in the Minority recognize are entirely inappropriate, given our constitutional rights and Fifth Amendment rights.

So, thank you all, once again. Mr. Chairman, I yield back.

Mr. BISHOP. Thank you. Ms. Budd-Falen, would you take Representative Lummis' request, verbal request, as an actual question that would ask for a written response to come back to the committee?

Ms. BUDD-FALEN. Yes. Yes, I would.

Mr. BISHOP. Thank you. I appreciate that.

We have had four people here talking to us about—these are questions—four people talking to us about situations that have happened to them. These are not isolated situations, unfortunately. I think these are simply the tip of the iceberg that is going down there. And I appreciate your willingness to come and share, even though all of you have mentioned that there is some trepidation in doing so, because you still actually have fear of retribution, intimidation, just by being here at this particular time. It also does go to some kind of policy issue. It is not just access, it is policy.

Ms. Richards, you mentioned, in talking about the collaboration process that was done in Idaho, that you had made a decision that was supposedly done on your wilderness areas, and then the wilderness management plan was changed that contradicted the collaboration that had been agreed, and also had been passed in legislation. Is that accurate, then?

Ms. RICHARDS. Correct, Mr. Chairman.

Mr. BISHOP. What recourse did you have for that?

Ms. RICHARDS. Right now, the recourse that we have, the Owyhee Initiative concept started in 2000. In 2009 we signed an agreement with the Tribes, the county, and diverse collaborative groups. And that agreement is quite extensive, and I will ask to send that within this time period so you have that for the record. Within that, the wilderness management took a lot of time on designating the boundaries, and also activities that would be grandfathered in. Those are in recorded minutes that are signed off by the committee.

After the legislation was passed in 2009, about 2011 we started working, we were brought into the process of making comments on the draft wilderness management plan for the Owyhee Wilderness Area. BLM has been at the table, we are actually assigned a BLM person that participates in all of our meetings, is supposed to bring

information, help us in making our decisions, and the collaborative effort came forward on that.

And just earlier this year, we were to the process where we thought we were done with our comments to go forward. And, lo and behold, we found out that, at the same time we were working on this, the BLM had issued new guidelines that were internally drafted for internal guidelines on wilderness management, and those were issued in July of 2013. And, as I stated in my testimony, they go contrary to one of our permittees who had won a national award, and that was supposed to be taken care of in that wilderness policy as an allowed practice.

Mr. BISHOP. So what your testimony is telling us is also a deeper systemic problem, that issues may be settled, but then within the agencies they are making internal regulations that change what had been settled, that even change what had been legislatively decided at the same time.

Ms. RICHARDS. Correct. And the effects upon this permittee, again, he has no initial recourse to come back and challenge it. On the county level, though, we are challenging, because it was an agreement that we went into. The goal of the Owyhee Initiative is the economic stability of our county livestock grazing system.

Mr. BISHOP. All right.

Ms. RICHARDS. So I would agree with your statement.

Mr. BISHOP. That is one of the things extremely troubling for us.

Mr. HAGE, I think I will—let me end with you, if we could. You mentioned that what treatment you received was supposedly—the local officials were supposed to expect that behavior. What, in reality, is at stake in this issue in your case, beyond the effect on you, personally?

Mr. HAGE. What is at stake is my family's property, our water rights, range rights, whatever you want to call them. But more than that, I mean, it is other people. If they can get away with what they have done to us, then hold on. They will go after other people, as well.

Mr. BISHOP. And so we are really talking about what we deal with—private property rights, what we deal with—

Mr. HAGE. Yes, our whole issue is private property rights.

Mr. BISHOP [continuing]. The entire bundle, for everyone.

Mr. HAGE. Yes. And to make something clear, I mean, I don't know—myself, as the judge explained it, and as I understand it, he said, "Look, the Federal Government cannot break the law. The Constitution does not allow for it. If there is any law-breaking going on, it has to be done by the individual in the agency, not the agency itself, not the Federal Government, but the individual."

So, what we are talking about is law-breaking, not something in general that would be just bad government or bad agency. We have got to get down to the heart of the matter and only punish that which was done wrong.

Mr. BISHOP. Thank you, I appreciate that.

Are there any other questions we have?

[No response.]

Mr. BISHOP. If not, I want to thank the witnesses for your testimony, for you coming here today. As I said, unfortunately, these are not the only isolated examples we can find. I think your exam-

ples show a deeper problem, and truly a systemic problem that we need to address as best we can, not only in access, but in how policies are originated.

Members of the subcommittee may have additional questions for the witnesses, including the verbal one, and we would ask that you would be able to respond to those in writing. The hearing record is going to be open for 10 days to receive responses.

If there is no further business, without objection, we stand adjourned.

[Whereupon, at 12:08 p.m., the subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF GEORGE MATELICH, SWEET GRASS COUNTY, MONTANA

THE SAGA OF THE CHERRY CREEK "ROAD"

The Black Butte Ranch was purchased by George Matelich and Michael Goldberg (the "Owners") in May of 1997. The ranch is located in Sweet Grass County, Montana, adjacent to property owned by descendants of the original homesteaders. Prior to purchasing the property, the Owners did "due diligence" in examining the title, and checking on what appeared to be an old jeep trail on the property. After finding no easements recorded, and no documentation suggesting that the jeep trail was a public road, they closed on the purchase and took possession of the property. Upon taking possession of the land the Owners closed a gate through which people had reportedly occasionally used the jeep trail to access the Gallatin National Forest. This trail extends from the Boulder Road through the adjacent property and the Black Butte Ranch to the National Forest boundary. In January of 1999 the Owners were sued by the Public Lands Access Association, Inc. ("PLAAI") who claimed that Cherry Creek "Road" was a public road, notwithstanding the fact that the County did not claim the road, and refused to claim it under R.S. 2477. In defense of the suit, the Owners filed a quiet title action, naming the PLAAI, the United States Forest Service ("USFS") and the public at large as defendants. A FOIA request disclosed that the USFS was engaged with PLAAI in planning the litigation and strategic options for opening the road, including condemnation. Nevertheless, rather than litigate the issue on its merits, the USFS filed a Disclaimer of Interest, disclaiming any interest in Cherry Creek "Road".

The PLAAI litigation was resolved by a settlement agreement in which the Owners agreed to allow limited public access on the Cherry Creek "Road" for a period of 10 years, after which the parties all agreed the owners could shut the gate and permanently discontinue the access. The quiet title action proceeded to judgment, which was entered in favor of the Owners. The decree included a finding that the use of the Cherry Creek "Road" for the past 60 years had been permissive, no prescriptive easement existed, R.S. 2477 did not provide for access under the circumstances and that Congress did not envision rights of way for hunting, fishing, snowmobiling and similar activities when enacting R.S. 2477. Additionally, the easement granted to the public for a 10-year period could be extinguished after August 3, 2009, and the Owners' interest in the property was free and clear of any and all estate, right, title, lien, encumbrance, interest or claim by any third-party defendants. No appeal was filed after judgment was entered. Following the conclusion of the litigation, and after the court had entered the judgment in the quiet title case, the USFS revised its Travel Management Plan for Gallatin Forest. As part of that process, the USFS closed other existing roads and area access into the forest, and labeled all but the pipestem of land through the Owners' property for the Cherry Creek "Road" as "roadless." The USFS essentially limited the travel access alternatives to the one that had been litigated, and in which they had disclaimed all interest.

Pursuant to the settlement agreement, after the 10-year period had run in 2009, the Owners exercised their rights as contained in the agreement and closed the gate to the jeep trail (Cherry Creek "Road") traversing their property.

Shortly before the end of the 10-year period, the USFS made an attempt to reach an agreement with the Owners for access to this area, including a potential land

exchange, as well as pursuing the purchase of an easement over the Owners property. The Owners declined to sell an easement to the USFS which would have had the effect of splitting their property, but did offer to engage in a land exchange, even offering at their own expense to build the new road on USFS administered lands. The USFS rejected all offers for limited access, and in a Letter to the Editor published on June 17, 2010 in the Big Timber Pioneer, made it clear that the only alternative the USFS was willing to consider was a road with unlimited vehicular access across the Owner's property.

Sometime in 2010 the USFS notified Congress of their intent to pursue acquisition of the Cherry Creek "Road" through eminent domain. The Owners followed, bringing their story before the Montana Congressional Delegation and other relevant Federal parties. After the expenditure of countless hours and hundreds of thousands of dollars over the course of 3+ years, the matter was finally settled; the Owners are building a road at their own expense on their own land and will be granting a perpetual easement to the public as the settlement required.

The Owners were fortunate in that they had the resources to fight the USFS and ultimately build a road at their own expense that did not result in the splitting of their property. That they had to do this at all is a matter of public policy which cries out for a systemic remedy. The Owners were forced into this situation only through the USFS wielding the cudgel of eminent domain authority. The USFS did not pursue this road access because they needed to, rather the USFS did so because they wanted to, and because by their own actions in closing all other access and designating the entire area as "roadless" they created a lack of public access. The record is clear that numerous other access points to this area of the Gallatin existed. The record is equally clear that in the ensuing decade following the litigation in which they professed no interest, the USFS took actions which had the obvious impact of vitiating the court decision. In all likelihood they behaved in such a fashion because they were confident that they had the unfettered power to simply take property they wanted, regardless of need. This crude and purposeful abuse of the Federal Government's power of eminent domain must be remedied.

The Government's power of eminent domain has always been viewed as one that should be used sparingly and with great restraint. Preservation of private property rights is a fundamental right of our constitution, subject to taking only when there is a public need that has been proven and when appropriate compensation is provided.

However, there is no sufficient compensation to assuage disingenuous behavior of the Government in purposefully turning a want into a need to justify condemnation.

Thank you for this opportunity to tell our story and express our opinions.



5 House Hearing, 113th Congress
From the U.S. Government Printing Office

THREATS, INTIMIDATION AND BULLYING BY FEDERAL LAND MANAGING AGENCIES

10 OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS
AND ENVIRONMENT REGULATION

15 OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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Prepared Statement of Hon. Steve Pearce
A Representative in Congress from the State of New Mexico

Chairman Bishop, Ranking Member Grijalva, members of the subcommittee: thank you for conducting this hearing today on Federal agencies' intimidation and bullying tactics of private citizens. I asked the
35 Natural Resources Committee in May to conduct a hearing on this topic as it relates to Otero County,
New Mexico. I appreciate the subcommittee looking into these issues, as well as inviting the people on
the ground, who deal with the Forest Service every day. I am proud to call Otero County Commissioner
Ronnie Rardin a personal friend. I'd also like to thank Jose Varela Lopez of the New Mexico Cattle
40 Growers' Association, Attorney Blair Dunn and Rancher Mike Lucero for making the journey all the way
from the Land of Enchantment to our Nation's capital for today's hearing.

Our National Forests are a real treasure to the people of New Mexico. We in southern New Mexico know
conservation better than any outside special interest group or bureaucrats in Washington. Sportsmen
require access to public lands to hunt and fish. Tourists need the ability to move their vehicles along
roads, and recreational enthusiasts must be able to bring boats and OHVs to truly enjoy everything that
45 our forests have to offer. And our ranchers, often surrounded by Federal lands and checker boarding,
require rights of way and grazing permits that they pay for. Allowing such varied forms of access helps to
achieve the necessary balance that protects our lands and economic interests.

However, in recent years, we've seen a sharp turn for the worse from Federal land management agencies.
Balance is not the order of the day, but instead agencies look to implement a narrow special interest-led
50 agenda. BLM is slow-walking oil and gas drilling applications. The Forest Service only puts up minimal
acreage for necessary thinning projects. Grazing is abruptly stopped because of faulty science. Public
access to public lands and resources is being cut off.

The situation in Otero County began this spring when the U.S. Forest Service began construction of a
pipe fence that directly impacted the water rights of ranchers in the Agua Chiquita riparian area of the
55 Lincoln National Forest. This was done to maintain the habitat of the meadow jumping mouse – before
the mouse was even listed as endangered. The Service claims that the construction of this fence would not
impact ranchers who own the water because their cattle can move through two small fence openings.
Imagine trying to herd a large number of cattle through a 10 foot-wide opening in a fence. Bureaucrats
and interest groups treat that as a solution – I believe it's a shell game.

60 Had the Forest Service actually consulted the Office of the State Engineer, the agency which oversees
water rights in New Mexico, the Forest Service would have learned what my office learned within 24
hours of contacting the State Engineer: the Goss family has adjudicated water rights in the Agua Chiquita
dating back to the 1880s. The fact that an agency would make the claim that water rights do not exist
65 when they clearly do is an example of the Federal Government's arrogance and an attempt to bully our
local ranchers into submission.

The Forest Service also claims to accommodate ranchers by saying that trenches near the Agua Chiquita
allow water to flow under the fences. New Mexico has been in a drought since 2011, and water does not
flow through these trenches unless a heavy downpour occurs. The New Mexico State Supreme Court has
70 ruled that an individual with water rights has the ability to move the water to their cattle. The Court of
Federal Claims sided with the Goss ranch in a similar case 4 years ago. The actions of the Forest Service
have made it nearly impossible to move the water to the cattle, violating state law.

Despite the bullying by the Federal Government, the county attempted to mediate this dispute with the
U.S. Attorney's Office. When my office asked to attend this meeting, the U.S. Attorney and Forest
Service threatened to cancel it, leaving one to wonder why an elected official is being excluded. At this

75 meeting, the Forest Service and U.S. Attorney refused to compromise. They would not even agree to not lock the gates on the fence until this issue could be discussed more thoroughly, and resolved.

I am afraid that this is only the opening salvo from Federal agencies attempting to further restrict access to water and other vital resources in the West. The Environmental Protection Agency is attempting to regulate virtually every ditch in the United States under the Clean Water Act. The Forest Service believes
80 it has the right to regulate groundwater it does not own, including groundwater underneath lands it does not own, as well as the power to review state water rights applications. The arrogance and bullying by Federal agencies must stop.

This is not some theoretical argument. This is about our culture and livelihood. This is about the economy of southern New Mexico and the West as a whole.

85 Chairman Bishop, Ranking Member Grijalva and members of the subcommittee, I would like to once again thank you for holding this hearing today. The legislative branch exists in part to conduct oversight of executive agencies. It is time to exercise that power, and rein them in.

Prepared Statement of Sheriff James D. Perkins Jr., Garfield County, Utah

90 Thank you Chairman Bishop, Ranking Member Grijalva, and members of the subcommittee for this opportunity to testify in this oversight hearing. My name is James D. Perkins, Jr., Sheriff of Garfield County, Utah. I have worked in law enforcement for more than 27 years and have significant experience in working with many different Federal law enforcement agencies. I would like to focus my testimony today on what I see as a system-wide failure by the Bureau of Land Management (BLM) law enforcement
95 to accomplish its mission.

If we had the time, I could take all afternoon giving the subcommittee example after example of problems that I have experienced with BLM law enforcement and its lack of coordination with local law enforcement. I've included several examples in this testimony that will give the subcommittee an idea of some of the difficulties that BLM law enforcement has created for Garfield County – examples that affect
100 not only the Sheriff's Office, but also our first responders, residents, and visitors.

Need and History of Local and Federal Law Enforcement Coordination in Garfield County

Before I begin, I would like to give you some background on Garfield County to explain why coordinating law enforcement activities with Federal agencies is so critical. Garfield County is more than
105 85 times the size of the District of Columbia. Including me, the Sheriff's Office employs only six full-time deputies across the county to cover more than 3.3 million acres. Our law enforcement activities on public lands create a significant strain on our manpower and resources as we routinely are required to conduct emergency search and rescue operations and narcotic interdictions. We are often required to enlist the help of local volunteers, state police, and multi-county task force personnel.

Our law enforcement mission is made significantly more difficult because of the composition of the land
110 ownership in our county and the number of people from home and around the world that come to see the beautiful landscape. About 93 percent of the area within Garfield County is managed by Federal agencies. We are home to three national parks, the Glen Canyon National Recreational Area, Dixie National Forest, and the Grand Staircase-Escalante National Monument. Combined, these areas receive more than 1.5 million visitors each year. With this number of people and overlapping jurisdictions, coordinating with
115 Federal agencies is not optional.

120 Accordingly, we have a long record of working hand-in-hand with Federal agencies like the Federal
Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), Immigration and Customs
Enforcement (ICE), the Forest Service, and the National Park Service. I am proud of the many successful
joint operations and investigations that we have done. I have battled the Mexican Cartel as they moved
their illegal marijuana growing operations into my county. I have worked with the FBI on a kidnapping
case where I arrested the suspect in my jurisdiction. I have worked alongside DEA and FBI agents on an
attempted assassination case where one of our local Adult Probation and Parole Officers was the target.
125 While exercising a search warrant on this investigation, one of the suspects was shot. Because of the
coordinated efforts of all the agencies involved, including Federal agencies, no law enforcement officers
were injured during this operation.

130 As these examples show, I absolutely recognize the critical role that Federal law enforcement agencies
play in my county. While we do not agree on everything, we are able to work together because our
relationships are based on mutual respect. I respect the role of each of these agencies to enforce Federal
law within their jurisdictions, and they respect my role as sheriff and the chief state law enforcement
officer of the county.

Notably absent from these examples is any joint work with law enforcement from the BLM. It's because
there is none. And that is what I want to focus on today, because I see this lack of coordination – rather,
their refusal to coordinate – as a system-wide failure that needs to urgently be addressed.

Lack of Coordination and Inappropriate Behaviors of BLM Law Enforcement

135 BLM's attitude toward coordinating with local law enforcement is summed up best by a conversation I
had with a BLM law enforcement officer while we were attending a drug task force meeting in Cedar
City, Utah. He told me point blank that he really didn't care about any authority that I thought I had as the
Garfield County Sheriff, and that he did not feel like he had to coordinate anything through my office.
140 This statement left me speechless at the time, and, in my experience, it is representative of the lack of
respect that BLM law enforcement has for local law enforcement. This lack of respect and choice to
ignore the Garfield County Sheriff's Office makes my job significantly more difficult because the BLM is
the largest land manager in Garfield County.

145 This refusal to coordinate, coupled with a lack of any meaningful oversight, has created a perfect
environment where the abuse of Federal law enforcement powers can occur. We have had complaints of
BLM law enforcement stopping people under the pretext of enforcing state law, and they have refused to
provide me with documentation of their authority or jurisdiction to do so. They have detained people
completely outside of BLM's jurisdiction on land managed by the Forest Service, illegally closed roads,
and interfered with county emergency medical technicians, wasting time and resources. Local residents
and visitors who feel they have been wronged by BLM law enforcement have little recourse but to come
150 talk to me. The following examples are from a cross-section of these complaints, and I can assure that
they are not isolated incidents. They happen all the time, and not only in Garfield County. I would note
that the first is from a complaint that I received, not from a visitor or resident, but rather from a local
BLM field manager.

155 I received a complaint from a BLM field manager located in Escalante, Utah. On the night before the
mule deer hunt was to open, a BLM Law Enforcement Officer posted road closed signs on roads that
were actually open to the public. The BLM field manager received complaints about the illegal road
closures so he went to the area to investigate and remove the signs. The BLM law enforcement officer
confronted the field manager as he was removing the signs and threatened to arrest him. The BLM Law
Enforcement Officer stepped back and placed his hand on his duty weapon. The BLM Field Manager
160 stated that he felt like his life was in danger.

- Several visitors to Garfield County told me that they would never return because of the way they were treated by BLM law enforcement. These tourists were visiting the Grand Staircase-Escalante National Monument and wanted to see a rock formation that was off the road. They parked their motorcycles off the roadway, within the county right-of-way, which is perfectly legal. When they returned, they were met by a BLM law enforcement officer, who threatened them with a citation and the impoundment of their bikes for not leaving them in the roadway.
- I have received complaints from citizens that live in Escalante, Utah. They reported that while they were on Forest Service property, a BLM law enforcement officer pulled them over for no apparent reason. The officer questioned them about what they were doing and they felt like they were being bullied. I contacted the District Forest Service Ranger in charge of the area and asked him if he had requested that the BLM law enforcement patrol on Forest Service property. He advised me that he had not and that he was also upset because he had received other complaints of similar activity. I contacted the BLM sergeant in law enforcement that is responsible for this area. This sergeant made excuses for the BLM law enforcement officer's actions and stated that they would get back to me. The sergeant eventually got back with me and advised me that the alleged allegations had taken place prior to her attaining the rank of sergeant, therefore they would not investigate. This didn't make any sense to me but that was the answer they provided.
- Garfield County Emergency Medical Service Director, Tammy Barton, reported to me that on three different occasions, a BLM law enforcement officer showed up on the scene of medical and search and rescue emergencies. The BLM officer refused to check in or sign the sign in sheet at the Incident Command, as is normal protocol. He took it upon himself to walk through the scene where an airplane accident was located within a State of Utah right of way. On another occasion, it was required to carry a patient out of a remote area to a landing zone where a medical helicopter could land to pick up this patient. The Incident Commander knew that carrying out the patient would take several hours. The BLM officer demanded that a helicopter be called immediately. Not only did the BLM officer again refuse to check in with the Incident Command, but he also took it upon himself to dispatch a helicopter to the scene after being told by the Incident Commander to wait until the patient could be carried out and was closer to the landing zone area. The medical helicopter arrived at the landing zone and sat there idling for approximately 4 hours. This resulted in the pilot having to return back to his station, get fuel, switch out pilots and then return to the scene. This not only wasted time and money but further endangered the patient.
- I received reports from local ranchers that BLM law enforcement officers were seizing their empty protein supplement tubs as soon as the cattle had emptied them. The BLM law enforcement officer would take possession of the tubs and threaten the local ranchers with littering citations. I contacted the BLM's Special Agent in Charge and expressed my concern over the officer confiscating the tubs. I explained that the ranchers used these tubs for many different purposes after they were empty and certain types of tubs were returnable for a rebate when purchasing more of the protein. I told him that it was improper for the officer to remove these tubs and that the ranchers were not abandoning them. The Special Agent in Charge uncaringly laughed it off.
- It was reported to my office that additional roads had been illegally closed in the Spencer Flat area on the Grand Staircase-Escalante National Monument. I proceeded to this area and found a large pile of limbs, logs, and rocks blocking access to this road. I received a report that a BLM law enforcement officer was seen with limbs and logs in the back of his vehicle in the area. The Monument's manager was contacted and he advised me that this road had been illegally closed. I questioned the local BLM law enforcement officer that was implicated and he denied any involvement. However, to date there have been no other road closures of this nature.

These examples trouble me a great deal, especially where tourism is affected. Tourism is the lifeblood of Garfield County's economy. While we have received many similar reports from visitors, I have to wonder how many others have simply chosen to leave the county and not return.

210 Another area where a lack of coordination is very evident is in search and rescue operations on the Grand Staircase-Escalante National Monument. In recent history, we have had a number of fatalities for a lot of different reasons. I honestly cannot remember the number of people I have witnessed whose lives were nearly ended and then saved by Garfield County Sheriff's Office, Garfield County Search and Rescue, and use of the Utah Department of Public Safety (DPS) helicopter.

215 But these efforts are costly both in manpower and financial resources. From April 13, 2013 to March 11, 2014, I have spent a total of 469.75 hours of search and rescue time rescuing individuals. This does not count any training time for search and rescue – this is actual time spent on searches. From July 2, 2013 to April 29, 2014, I have 38.6 hours of use on the DPS helicopter. The helicopter's rate is \$1,700 an hour, which means the cost during that period for the helicopter is \$65,620. Yet I have not received a single
220 minute of help or assistance from any BLM officer, nor have I received one penny of assistance for search and rescue reimbursements from the BLM. Although search and rescue is primarily the sheriff's responsibility, the BLM does have an obligation to assist when requested. I think that it is time that the Bureau of Land Management stepped up and helped with these responsibilities. They also need to help with manpower and financially for the individuals that visit the Grand Staircase-Escalante National
225 Monument and other BLM grounds.

Although my dispatchers have attempted to contact BLM law enforcement for assistance in search and rescue operations, there always seems to be an excuse for why they can't help. It has risen to the point where my dispatchers have become completely frustrated with BLM law enforcement. Recently, we received a call that a party was overdue and a search and rescue team needed to be sent. In these kinds of
230 life and death emergencies, time is often of the essence, and we needed as much help as we could get to locate the vehicle to give us a starting point for the search. I asked one of my dispatchers to call the BLM law enforcement officer that is located in the middle of our county to help with the search. The frustrated dispatcher told me, "Sheriff, it's a waste of time! If he will answer his phone or we do get in touch with him, all he is going to tell us is that he is out of hours or he is off duty."

235 **Resolving the Problem**

I mentioned in the beginning that my office has excellent working relationships with other Federal law enforcement agencies. This has not always been the case, but we have always been able to work through these issues so we can do our jobs effectively. For example, several years ago we had incidents, similar to those I've discussed above, happening with the Forest Service Law Enforcement from our area. Dave Ferrell, Director of Law Enforcement for the Forest Service, took the time to fly from Washington, DC to personally meet with me in Garfield County. Our discussions resulted in both a change of attitude and personnel, and the problems have resolved themselves. In fact, I am in the process of deputizing two
240 Forest Service law enforcement officers, in addition to the three Bryce Canyon National Park Rangers I have deputized since I became sheriff in 2007.

245 I am confident that if we had the opportunity to engage with the BLM constructively, in a spirit of working together, we could resolve the problems. We are open to any opportunity to work toward resolution with the BLM, and would appreciate any help the subcommittee could provide in our efforts. Oversight hearings like this give us a voice that is often overlooked, and the evidence that has been submitted to the subcommittee without doubt provides sufficient justification for a change in the status
250 quo.

Again, Mr. Chairman, I would like to thank the subcommittee for this opportunity to testify before you, and would be happy to answer any questions.

Prepared Statement of Leland F. Pollock, Garfield County, Utah Commissioner

255 Chairman Bishop, Ranking Member Grijalva and members of the committee: my name is Leland Pollock, and I am a County Commissioner from Garfield County, Utah. I also serve as a member of the National Association of Counties Public Lands Committee and have been designated by my fellow commissioners in Utah as the Chairman of the Utah Association of Counties Public Land Steering Committee.

260 Garfield County is a scenic rural area roughly the size of Connecticut. Ninety-three percent (93%) of the land base is under Federal ownership, and I believe we are the only U.S. county that contains portions of three National Parks (Bryce Canyon, Capitol Reef and Canyonlands). We are also home to significant portions of the Glen Canyon National Recreation Area, the Dixie National Forest, the Grand Staircase-Escalante National Monument, two BLM field offices, and a small segment of the Fish Lake National Forest.

265 I grew up cherishing the lands in Garfield County as the son of a Park Service employee. An ex-marine, my father worked for Bryce Canyon National Park. My father's employment was outside strict law enforcement responsibilities, but because of his military experience, he was often called upon to assist NPS officers – especially in the most volatile situations. I observed with my own eyes proper methods for protecting and serving the people of the United States.

270 I am here today to testify on two issues regarding BLM law enforcement activities that have moved away from a public service philosophy: (1) polarization of BLM law enforcement personnel/bullying; and (2) cancellation of cooperative law enforcement agreements between BLM and local governments.

As a preface to my remarks I want to inform you that Garfield County has a cooperative and productive relationship with National Park Service and U.S. Forest Service law enforcement personnel. Things are not always perfect, but we work with them within the confines of the law and with honest consideration for the public. I also want to let you know we enjoy a very positive and productive relationship with Juan Palma, Utah's State BLM Director. We meet and talk on the phone frequently; and he has been attentive to our requests and has responded expeditiously and appropriately within his authority. Unfortunately, we cannot make the same statement regarding BLM law enforcement personnel. Discussing BLM law enforcement operations is my purpose today.

280 This is not our first attempt to resolve issues of bullying, intimidation and the lack of integrity exhibited by BLM law enforcement agents. We have tried locally, and earlier this spring Utah's Lieutenant Governor convened an executive level meeting to discuss law enforcement on Federal lands in Utah. The meeting was attended by the Lieutenant Governor Spencer Cox, Utah's Attorney General Sean Reyes, the Regional Forester, Regional Chief of Law Enforcement for the Forest Service, Utah's State BLM Director, BLM's Chief of Law Enforcement, and numerous Federal, state and local leaders. The meeting was open, cooperative and productive, except for the participation of the BLM's Chief of Law Enforcement. The Lieutenant Governor of Utah caught BLM's Chief of Law Enforcement in a lie and exposed in his deception. His arrogant behavior lacked integrity and was illustrative of his department's unacceptable culture.

290 Our concerns/complaints are not just a matter of hurt feelings. The policies of BLM's Chief of Law Enforcement have cost Garfield County real dollars. Last year Garfield County and the Utah State BLM Director worked out a cooperative agreement providing Garfield County Sheriff's office a contract for

295 law enforcement on BLM land. The BLM was to reimburse the county a set amount that would have
resulted in significant savings to the Federal Government. The County – with BLM concurrence – hired
law enforcement staff, acquired vehicles and equipment, provided training and proceeded with
implementation of the agreement. Contrary to the State BLM Director’s orders and without concurrence,
BLM’s Chief of Law Enforcement canceled the agreement leaving Garfield County with a significant
300 budget shortfall and staff operating in an area without an agreement. We are befuddled how one
individual can override a State Director and negatively impact an entire county with impunity.

We need your help to correct these serious problems. Let me address the two issues cited above:

Polarization of BLM Law Enforcement Personnel

305 Over the past decade or so we have observed and experienced an increasing hostility from BLM’s
officers. I am confident you are aware of recent, highly publicized actions involving BLM agents. But
you may not be aware that much of the frustration by everyday citizens has resulted from lack of
professionalism by local BLM officers. Some equate BLM’s law enforcement operations to bullying and
intimidation.

Submitted under separate cover is a list of actions that illustrate BLM’s heavy-handed authority. Three
additional examples from only one BLM unit in Garfield County illustrate the problem.

310 *Example 1:* BLM law enforcement officers have been known to block open public roads asserted under
Revised Statute 2477 and maintained by Garfield County with rocks, logs and debris. Such actions
constitute a Class B Misdemeanor under Utah law.

315 *Example 2:* Immediately prior to a big game hunt authorized under Utah Law by the Utah Division of
Wildlife resources, a BLM agent placed road closed signs in several county roads that accessed the
hunting area. The BLM land manager heard about the problem and took a field trip to investigate. The
land manager reports that during the investigation he was harassed and intimidated by the law
enforcement officer. At one point the officer put his hand on his gun in an effort to discourage the land
manager from continuing. This was a direct threat to an individual with management authority in the
officer’s own agency.

320 *Example 3:* BLM requested the county’s help to install an underground waterline to serve wildlife,
livestock, recreation and other public interests. The county offered to put the waterline in a county road to
minimize any disturbance on Federal land. A BLM back country ranger observed county equipment being
transported to the jobsite and followed county crews for more than 20 miles. When the county crews
stopped the BLM officer got out of his vehicle and walked behind crew members harassing and
325 interrogating them. Some crew members became so upset they returned to their vehicle to cool down.
This occurred on a project where the county was donating thousands of dollars of equipment time and a
road easement just to help BLM.

330 The cumulative effect of BLM law enforcement is disheartening, especially when I know we have good
relationships with other agencies. Dispatchers have been rebuffed so many times by BLM agents that the
county only contacts them as a last resort and with little hope for assistance.

Cancellation of Cooperative Law Enforcement Agreements between BLM and Local Governments

As mentioned above, we have a positive and healthy relationship with many Federal agencies and
especially with Juan Palma, Utah BLM State Director. We have worked with Mr. Palma to develop a
cooperative law enforcement agreement similar to those executed for neighboring counties; and he is

335 supportive of moving forward in accordance with Federal law. However the Chief of Law Enforcement
for BLM has unilaterally canceled contracts which has reduced coverage and increased costs.

The Federal Land Policy Management Act (FLPMA) states that the Secretary of the Interior shall contract
with local law enforcement *to the greatest extent possible* for law enforcement services on public lands.
Typically, BLM has cooperated with local county sheriff departments to enforce state, local, local BLM
340 laws on Federal land. Yet lately, BLM has refused to enter into such contracts due to resistance from
BLM's Chief of Law Enforcement.

Earlier this spring Utah's Lieutenant Governor took steps to develop cooperative agreements and
contracts in accordance with Federal law. The BLM agent in charge opposed such contracts but agreed to
provide some additional information. However, to date – 4 months later, no communication has been
345 received from him and no improvement has occurred in BLM's heavy handed actions.

This testimony is not intended to only document complaints. We offer a simple solution: comply with
FLPMA by contracting with local law enforcement to the greatest extent possible for law enforcement
services on public lands. This may require direction to BLM's Chief Law Enforcement Officer, but it is
compliant with Federal law and is supported by local BLM leadership. Such contracts will also cut
350 Federal administrative costs, provide better service and increase public safety at a time when fiscal
constraints demand more efficiency. This may require Congress clarifying the authority of BLM State
Directors.

We are hopeful that after careful consideration, the BLM will take appropriate steps to better coordinate
law enforcement with local governments in Utah and BLM law enforcement will enter into contracts as
355 directed by Federal law. Thank you for the opportunity of speaking today.

NACO Sheriff's Resolution 2013

Issue: Local Law Enforcement on Public Lands

Proposed Policy: NACO urges all federal land management agencies to recognize and respect sheriffs
360 (or the chief local law enforcement officer) in public land counties as the primary and chief law
enforcement officer of the entire county. Federal agencies should execute cooperative agreements with
counties to ensure fair and prompt federal payment of compensation for additional local law enforcement
activities desired of sheriffs, and federal agencies submit their agents for deputization and accountability
under local sheriff authority and control.

Background: Federal land counties are frequently impacted by lack of coordination from federal law
enforcement officers. Federal officials fail to recognize the County Sheriff's role as the chief law
enforcement officer within his/her jurisdiction; and, often, federal officers undermine local law
enforcement efforts by usurping local authority in violation of established law. Counties are also forced to
expend limited local funds to perform uncompensated law enforcement functions on federal land. This
370 resolution is needed to encourage federal agencies to: a) recognize the sheriff's role as the chief law
enforcement officer; b) work cooperatively with local government to coordinate law enforcement
functions on federal land in accordance with established law; and c) develop cooperative agreements to
compensate local government for services provided on federal land and to establish clear lines of
authority.

Fiscal/Urban/Rural Impact: There will be limited fiscal impact for urban areas. Rural areas, especially
public land counties, can expect greater coordination with federal law enforcement officials, reduced
duplication of effort, and increased funding resulting from cooperative agreements and clearly defined

roles. Citizens will reap the benefits of more efficient responses to problems, reduced cost by eliminating duplication, a streamlined approach to law enforcement issues, and greater efficiency of all levels of government.

Prepared Statement of A. Grant Gerber, Commissioner, Elko County, Nevada

My name is Grant Gerber. I am an Elko County Commissioner and a fourth generation descendant of ranchers that settled in Elko County, Nevada in the mid-1800s.

385 For over 35 years I have been serving as an attorney working on Federal Land issues.

A major change has been occurring in Elko County. When I was a boy and as I grew the few Federal Agents were mainly local or from rural areas and fit in well with the local area. They knew the people and worked cooperatively. Now the Federal Agents are predominantly from outside the area and do not develop connections with the locals as was done previously. Many start off with a belligerent attitude, even a commanding presence. They are especially offended if anyone opposes any Federal Government actions. The worst are the Federal Law Enforcement Agents that arrogantly announce that they are not governed by Nevada law, but can enforce it if they choose. Now we have been informed that, without notice or hearings, the BLM has determined that two more BLM Law Enforcement Agents are necessary to control the people in the Elko area. All of this is resulting in less use of Federal Lands by citizens as the citizens become afraid of being accosted and berated.

That has to change. Following are the most recent egregious examples in northern Nevada.

In the fall of 2012, three miners, on their days off, drove their pickups onto Spruce Mountain to cut winter wood. When they drove off of the mountain with the wood they cut they stopped to adjust their load. Suddenly, a pickup came flying down the road after them. One of the miners said it was coming so fast that it was catching air over the bumps in the road. The pickup slid to a stop and a man jumped out with two guns, flak vest, radio, tazer, handcuffs and with his pants tucked into jump boots. He belligerently announced that he was giving them a citation for cutting wood on a BLM Wilderness Study Area. When the miners told the agent that they had permits to cut and that they did not cut on a Wilderness Study Area, he would not listen. The agent told them that it was a Federal offense and not to contest the citation because the Federal Government always won. He gave each of the miners tickets of \$275. A boy was in one of the pickups and he was so intimidated that it made him cry.

The miners knew that they had not been on a Wilderness Study Area but it was going to cost them thousands to drive to Reno 300 miles away to Federal Court twice and hire an attorney to defend themselves. Additionally, they would miss at least 3 days of work. For these reasons, they decided to pay the fees and cut their losses. I heard about the situation and met with the miners. I told them that I had a criminal attorney friend in Reno and we would represent them for free. We reviewed the maps of the area and confirmed that the agent, Mr. Brad Sone, did not know where he was. *He was on the wrong mountain!* He cited the miners for cutting wood in a Wilderness Study Area on a mountain that was over 7 miles away down, across a valley and up the other side.

415 Before the preliminary hearing Mr. Sone called the miners and told them the date of the hearing had been changed. One of the miners called the court and learned that Mr. Sone had not told them the truth, that the date had not been changed. Then the agent called the miners again before the trial and told them the case had been dismissed. Again the miner called and learned that the case had not been dismissed. I do not practice criminal law, but criminal attorneys have told me that Sone's calls were illegal at worst, and if

420 not illegal it was inappropriate for the arresting officer to contact the cited citizens. The agent had already intimidated them and now was continuing to intimidate and mislead them.

In Battle Mountain, Nevada the Battle Mountain BLM Manager Douglas Furtado has been “*threatening, intimidating and bullying.*” He has used BLM Law Enforcement to attempt to intimidate people from exercising their First Amendment rights of petition, speech, assembly, press and prayer. The Battle Mountain District over which Mr. Furtado presides is huge. It covers from Clark County in the south to I-80 in the north covering Nye County, (the largest county in the Nation), Eureka County, Lander County and Esmeralda County. Mr. Furtado has been eliminating much of the grazing in the Battle Mountain BLM District. Over 10,000 cattle have been removed in just the last 3 years. On one area alone, in June 2013, Furtado removed all 900 cattle that had been grazing each year for over 140 years. And in 2014 he did not allow any of those 900 cattle to graze even though the grass was over 2 feet high on much of the range. Because of these drastic grazing reductions the fire danger is excessive. Millions of animals have burned because of the management practices of the BLM and these actions by Mr. Furtado will result in the burning of millions more. Before the huge BLM reductions in grazing there were few fires. If Mr. Furtado succeeds in eliminating all the cattle in his district he will join the Clark County BLM District as “cattle free”. In the 1980s there were over 50 ranchers with grazing rights in the Clark County District. Now there are no cattle authorized to graze on that district.

In March of 2014 I volunteered, for free, to help the ranchers in the Battle Mountain District reverse the unfair, illegal and morally corrupt practices of Douglas Furtado that were threatening millions of animals, destroying the lives of ranch families, harming the mining industry, hurting hunting and recreation and causing great harm to the economy. In working on this project I have learned many things about Mr. Furtado. He is vindictive and conniving. He has developed one tactic to an art form—“*voluntary non-use.*”

In April a petition was created and passed throughout northern Nevada to have Mr. Furtado removed. Mr. Furtado sent a BLM law enforcement officer to the local hardware store where there was a petition to have him remove it from the counter. The BLM Agent informed the store owner that it was a Federal offense to threaten or harass a BLM official. He then left the store for a few minutes, but then went back in and took photos of the petition. Steve P. Seldin, the store owner stated, “The officer appeared to be dressed as though he were going to war over seas, with black jacket, guns, etc. Only thing he may have needed to complete the uniform would be a steel helmet.”

450 **A Grass March and Cowboy Express** was then organized to take the petition asking for Mr. Furtado to be removed to Governor Sandoval 320 miles on horseback. At the end of the ride the BLM had an agent there taking pictures of the participants. Many of those participants were intimidated because they rely on Federal Grazing Rights that Mr. Furtado controls.

455 Following are some issues that I am investigating as a result of my work with the ranchers in the Battle Mountain District. This investigation is ongoing and far from complete. I will supplement my testimony at this hearing with the results of this investigation.

Voluntary Non-Use

460 That phrase is supposed to mean that the holder of the grazing right has voluntarily decided not to graze an area. Mr. Furtado has gone to ranchers to ask them to take “*voluntary non-use*” for part of their grazing. If they refuse or argue he then tells them that he will give them 100 percent cuts. So they then agree to the “*voluntary non-use.*” Other districts in Nevada use this tactic, but are much more subtle when doing it. The rancher that is intimidated into taking “*voluntary non-use*” is then afraid to complain about it because they did it “*voluntarily.*”

465 One rancher is reported to have asked Mr. Furtado if the BLM would please remove some of the horses that were overrunning the range as required by Congress. Mr. Furtado is reported to have told him that he would not remove any horses until he had removed all the cattle from the Battle Mountain District.

In February of 2014 Mr. Furtado announced to six extended ranching families, the Tomera, Filippini and Mariluch families that they would not be allowed to turn any cattle out on Mount Lewis during 2014. Their 10-year grazing licenses authorized them to turn out over 2,000 head of cattle in March. They argued with Mr. Furtado, but he refused to budge. I prepared a petition demanding that Mr. Furtado be removed from his position as the Battle Mountain BLM Manager. That petition now has many signatures and is continuing to gain signatures. Some of the ranchers have refused to sign because of fear of retaliation by Mr. Furtado.

475 On May 17 a GRASS TOUR of Mount Lewis was conducted with Nevada State Senator Pete Goicoechea, Assemblymen John Ellison and Ira Hansen, the Lander County and Elko County Commissions. There were over 200 citizens on the tour that saw the grass that was over 2 feet high. This information was published in the newspapers along with the announcement that a GRASS MARCH would go from Elko to Battle Mountain on May 26 and a COWBOY EXPRESS would then go from Battle Mountain to the Capital in Carson City to deliver petitions to Governor Sandoval requesting that Mr. Furtado be removed. The Washington BLM office sent a representative to review the condition of the range and immediately after he came Mr. Furtado met with the ranchers and agreed to let them graze their cattle in 2014. So finally 2-1/2 months after they should have had their cattle out on the mountain they began turning cattle out. But Mr. Furtado's actions had caused them hundreds of thousands of dollars of loss. And because the low country was not grazed off when it should have been there is a tremendous amount of fuel that has now turned brown and is ripe to burn threatening the lives of tens of thousands of animals and the rancher's cattle.

485 It is to the credit of the Washington BLM that Mr. Furtado was required to turn the cattle out, but immediately he began a program of intimidation to justify his earlier decision to not allow any cattle to graze on Mount Lewis in 2014. I am researching that intimidation and will supplement this testimony with that information. As a part of that intimidation Mr. Furtado took Ms. Fite of Western Watersheds on a tour of Mount Lewis and refused to allow any of the ranchers to participate.

To shed further light on the tactics of Mr. Furtado and help the public to understand the great threat to wildlife because of the increased fire danger and the great harm he has caused and is causing to the ranchers, miners, hunters, recreationist and the economy a GRASS MARCH/COWBOY EXPRESS will leave Carson City to Washington, DC on September 29, 2014 crossing the continent in approximately 20 days. It will be the fastest crossing of the Nation on horseback in history. A horse and rider will lope 5 miles and then pass the petitions asking for the removal of Mr. Furtado to another rider who will then lope 5 miles.

500 If everyone in Nevada, all County Commissions, the Nevada State Legislature and the Governor and even all of Congress wanted to remove Mr. Furtado it could not be done without an impeachment proceeding. Mr. Furtado works for the Executive Department and the Executive Department is the only entity that can remove him. That is an intolerable situation. There has to be local control and the only way that can be accomplished is for the Federal Government to transfer the BLM lands to the states. If Mr. Furtado was an employee of the State of Nevada he would have been removed in 2012 or 2013 and certainly by this time in 2014.

The BLM law enforcement agents in Nevada report to Salt Lake City and there is no local input. And the BLM is very reluctant to investigate stories of abuse. When the Elko County Commission considered the woodcutting incident the BLM was outraged and said the miners should have taken their complaint to the

510 BLM. At an Elko County Commission meeting in the spring of 2013 the BLM said they would investigate the incident. But the investigation was not begun until the spring of 2014 and is proceeding very slowly. The investigator from California is starting to ask the right questions, but so much time has passed, over 14 months, that when the report does come out it will be an old story. Contrast that with what would have occurred if the citation had been issued by an Elko County Sheriff's Deputy. Because the Elko County Sheriff is an elected official and answers to the citizens of Elko County the Sheriff would have done an immediate investigation and taken appropriate action. If he found the officer had acted improperly he would have either disciplined him or fired him and that information would have been public. There is no corresponding accountability within the BLM. Even if the BLM, after this delayed investigation, finds that the agent acted improperly the BLM will keep any actions it takes secret to protect the reputation of the BLM.

520 On January 9, 2013 a delegation of the leadership of BLM law enforcement from Salt Lake City came to the Elko County Commission meeting and proposed a Memorandum of Understanding that would give the BLM Law Enforcement Agents the ability to cite for Elko County ordinances and Nevada State law. The Commission was opposed. The delegation then went on to explain that it really did not matter what Elko County did the BLM was going to enforce Elko County and Nevada State Law if the BLM decided to do so, including citing drivers on Elko County roads, Nevada State Highways and I-80 because those roads and highways passed through BLM lands.

530 In 1930 Gandhi began the Salt March that eventually gained freedom for the citizens of India. He said that it was the unalienable right of Indian citizens to have freedom and enjoy the fruits of their toil. Likewise the citizens of Nevada have the unalienable right to freedom and the fruits of their toil. The combined might of the BLM, especially BLM law enforcement and BLM Managers like Mr. Furtado are depriving Nevadans of their freedom and the fruits of their toil.

Congress must act to restore freedom.

Prepared Statement of Ronny Rardin, Commissioner, Otero County, New Mexico

535 Chairman Hastings, Subcommittee Chairman Bishop, and members of the committee: I am an elected official at the county level and have been elected and reelected by my constituents 10 different times with an opponent in each race. When I finish my term in 2016, I will have had the privilege of serving the public for a total of 16 years.

540 I remember a time when the BLM and Forest Service worked together with local officials and parties of interest to use the current laws and regulations to make Otero County and this country a better and safer place to live. Today I long for those days to come again.

545 Sadly I am here today to testify of what I have witnessed over the past 20 years. Instead of growing together under the current laws such as FLPMA, those laws have had the opposite effect. The Federal Government agencies (BLM, FS) have evolved into the problem we face today, instead of the solution we can turn to.

The 1976 FLPMA was passed and introduced to America and since then it has been many things to many people.

550 FLPMA, when followed correctly, can be a useful tool to assure local government and groups a part of management of their lands within their said county. However, let me assure you that what FLPMA has become is a tool for the agencies to use and hide behind with no oversight from any elected officials,

Congress included. This has become the normal day-to-day way the bureaucracies control and devastate the local government's ability to do our job, destroy the very Customs and Cultures of the people who elect us, and in the name of "Preservation" cause total devastation. If this is not corrected soon, there will be irreversible damage to this country as a whole.

555 Here are two examples of what has happened in Otero County in just the past 4 years:

1. **Southern Otero County:** We are blessed with minerals, oil and gas, resources that have never been developed in Otero because we have always had plenty in the logging, cattle and agriculture industry.

During my first 8 years in office, (1992–2000) the Board of County Commissioners never had the need to ask one time for a tax increase.

560 During my second 8 years in office (2008–2016) the Board of County Commissioners has had to raise taxes twice to just maintain the services we have to the public.

Approximately 2 years ago, a company called Gulf Coast Mining came to the Commission and laid out a plan that would create 150 jobs by re-opening an existing Oro Grande mine. All they planned to do was to clean up the tailing of Oro Grande that was left over from the mining done at this site in the 1800s.

565 David Davidson, an owner of Gulf Coast Mining Company, has produced an 1897 grant signed by the President giving this mine, Iron Duke, a right of way to cross Territorial Property. This grant has been shown to the BLM with no resolve. BLM refuses to recognize any grant to this day.

570 Furthermore, the leadership of BLM, State Director Jesse Juen and the District Manager Bill Childress, as well as other employees of the agency, not only refused to allow this company access to their private property, but to this day has refused to settle with them and allow Gulf Coast to use a "DIRT" road that had existed 80 years before FLPMA became law.

BLM is currently in a lawsuit with Gulf Coast for an alleged trespass that occurred on vested private property right of way owned by both the county and the mine.

575 At first BLM stated that if Gulf Coast paid a \$250,000 trespass fee, then they would allow a permit to be issued to allow them to use this road. When Gulf Coast chose to challenge their decision, the BLM tried to coerce Gulf Coast by raising the trespass fine to \$750,000 if they lose.

580 Otero County took a bold stand and we forced the BLM to give us a permit for the road recognizing and preserving our existing vested rights. However, it wasn't until we took heavy equipment out to the road and started to fix our road that BLM decided to made a deal where Otero County could allow whoever they wanted to cross the road, but not without restriction from BLM. True to form, the first time the county went to maintain the road, BLM stopped the crew and changed the rules again.

I have some maps of the area if the committee would like to see and get a better understanding of the situation they can be supplied later.

585 The bullying did not stop there. There is a section of land in this area, which the road crosses also, that is managed by the State Land office. The BLM seemed to have settled down, but the State Land office refused to issue a permit for their area until Gulf Coast paid the BLM the \$750,000 in fines. BLM claims they knew nothing about this, but it fits in with what these agencies have become and what we have to deal with every day.

590 Had FLPMA been followed, Gulf Coast would have been exempt and we would now have 150 new high paying jobs in Otero County. Instead we have no jobs and Otero County tax payers are out thousands of

dollars spent on attorneys trying to resolve an issue that should have been handled at the local level within 30 days.

2. **Forest Service:** the Forest Service has evolved into a machine that is totally controlled by Washington and they use the Endangered Species Act to force an “agenda” that has obviously taken an attack on the ranching community in our country.

They have ignored the voice of the local people to force on us a management scheme that has cost the people of New Mexico and this country dearly. In the name of FLPMA and ESA, they have taken away thousands of jobs, burned millions of acres, become one of the biggest contributors of pollution in our country, and killed millions of animals in forest fires, some which are on the ESA list, all the while calling this good government.

Now they are taking private water rights away from local citizens by fencing off their water and calling it conservation for wildlife. However, the FS was never given any authority to manage wildlife, and in doing so, they are going against our Constitution and the very rights this Nation has fought to protect.

Agua Chiquita is a small area in the Sacramento Mountains where ranchers have grazed since before the 1900s. This small spring, called the Barrel Springs, has served the cattle and animals for hundreds of years. There are times it runs dry and times it has plenty, and for years there has been a wire fence around it, which had gates that could be closed if need be, but have always been reopened to allow all animals to use the waters.

Recently the Forest Service went up and fenced off the area with metal pipe fence and the only animals unable to obtain any water is the cattle of the local rancher who have used this water for years and years.

Please understand that we have over 10,000 head of non-indigenous elk in the area, thousands of mule deer, bears, and feral hogs, and hundreds of species of smaller animals who all water at places like these. The rancher in this area only has, at the most, 180 head of cattle.

Elk will easily jump 6 feet, as will deer, and the hogs can go through the fence, but the cattle are fenced out of water that rightfully belongs to the rancher according to the history and laws of this Nation.

When the elk and deer jump into this protected area, they now will destroy much more than by simply being able to walk in and walk out. The FS says they are protecting the habitat for the New Mexico jumping mouse, but this makes no sense.

Now, before the New Mexico jumping mouse was even listed, the FS was being funded by the NM Game and Fish to put this fence up, but the NM Game and Fish decided to withdraw on this issue and they pulled their funding. So the FS went out and solicited private money to build this fence and it is now a reality. The New Mexico jumping mouse was listed and the gates were shut by the FS. All of this is unconstitutional and should never have been what the FS spends their time on.

The County Commission became involved and tried to find a solution to this situation. After running into a brick wall with Travis Mosley, the local supervisor, we were invited to meet with the U.S. attorney’s office.

We hoped to solve this by simply allowing the gates to open until the local rancher could go into the “protected area” and pipe their water out so both sides could be served. However, all the U.S. attorney wanted from the county was for us to go back and settle down the people and make sure the Federal Government employees were protected while they did their job. We asked if they could just open the gates for 30 days until we could get this water piped outside the fenced area and the answer was NO.

Further, they also made it a point to exclude Congressman Pearce from the meeting stating that there would be no meeting if the Congressman chose to try to attend. The reason for the meeting was simple, they wanted to threaten the county and its sheriff not take action or we would be facing criminal prosecution and lawsuits for any action to allow a private citizen to access their private property.

After this I decided to break all working ties with any Federal agency. I made that in form of a motion at our regular County Commission meeting this July and only part of it passed, but my point is we have a broken system. I truly don't believe it started off that way nor was FLPMA or the ESA ever intended to do what it has done to this Nation, but it has devastated us in its present form. Unless and until we can receive proper oversight from Congress for these Federal employees that act maliciously or our citizens can be given the tools to stand up to the bullying themselves we are fighting a losing battle.

Mr. Chairman and members of the committee, you have the power and the duty within your elected offices to hear the citizens of this country and to take action and fix what is an obvious problem that is plaguing our Great Nation. This will certainly be the destruction of the greatest Nation on earth if you don't act now.

I pray you will take this testimony to heart and act accordingly. I look forward to working with you to resolve this and put this Nation back on track.

Thank you.

Prepared Statement of A. Blair Dunn, Esq., Attorney, Albuquerque, New Mexico

Chairman Hastings, Subcommittee Chairman Bishop, and members of the committee: my name is A. Blair Dunn. I am an attorney and a fifth generation agriculturist in southern New Mexico. My family, to this day, raises cattle and horses on a ranch that includes private land, Bureau of Land Management ("BLM") land and New Mexico State Land. My law practice focuses on assisting those involved in agriculture, natural resource use, and conservation. My family has long been involved in the legislative process and active in government. My grandfather, a long time legislative finance chairman for New Mexico, would have told you that the business of government is much like the business of tending to the apple orchard, where I and many of my family were raised. Growing apples consists of watching out for the good and the bad, and getting rid of the bad apples so the good ones don't spoil; government should consist of watching for the good ideas by getting rid of the bad ones, allowing the good employees to thrive while getting rid of the rotten ones that destroy the whole bushel.

This applies to what we are here today to discuss, overseeing the business of Federal agencies and their employees. One of my clients is Otero County in New Mexico. You just heard from one of their commissioners regarding the trouble that their county is subjected to as a result of those within the Federal bureaucracy that would use their power in a heavy handed or malicious way that violates civil and constitutionally guaranteed rights. Otero County has sent pleas to this very committee for congressional inquiry and oversight into what is happening in their county, and what is happening in their county is far from an isolated incident.

Otero County, like many others, is crying out for congressional oversight into the harms caused by those bad apples that misuse the power of the executive in a way that harms or interferes with private property rights. Such oversight of executive agencies is a crucial component of ensuring a well-run government. Such oversight has long been held to be an implied authority of Congress derived from the rest of the legislative functions of Congress, as delegated by the U.S. Constitution.

675 To say that our Federal Government is large and extensive, is an understatement; and, would not do
justice to the state of our affairs. To that end congressional oversight into the activities of the few bad
apples runs counterintuitive to reality. Without a doubt, it must be agreed that the majority of Federal
employees are dedicated and hardworking individuals that are trying to do their jobs to the best of their
abilities in keeping with the direction and mandates of U.S. Constitution and Federal laws. However, a
680 well-crafted tool to assist Congress in overseeing and addressing those that would abuse their power to
violate the civil and constitutional rights of the citizens of the United States is sorely missing. Some
would say that such a tool does already exist, and has existed for many decades, in the form of The Civil
Rights Act of 1871, which prohibits governmental employees, “acting under the color of state law”, from
proximately causing the deprivation of certain constitutionally guaranteed rights. However, The Civil
Rights Act of 1871 only applies to state officials.

685 **I. Background on Case History and Effects of Previous Decisions on Current
Interactions between the Public and Federal Employees**

This committee has previously heard testimony from Ms. Karen Budd-Falen. I have reviewed her
testimony and the cases to which she cites. I concur with her analysis of both *Bivens v. Six Unknown
Federal Narcotics Agents*, 403 U.S. 388 (1971) and its role in *Wilkie v. Robbins*, 551 U.S. 537, 577
690 (2007). For purposes of this testimony I will not belabor the important work of this committee by again
reciting that analysis, but would respectfully offer that I incorporate her legal analysis in my testimony
and adopt her legal opinion as concurring with my legal opinion.

Ms. Budd-Falen offered in her testimony that the *Robbins* case “now acts as a complete bar to the judicial
branch of government, regardless of the extreme nature of the Federal officials actions”, and I would for
695 the most part agree, certainly inasmuch as it does act as a complete bar to actions seeking to address
conduct by Federal employees using the authority of their offices to violate private property rights outside
of the mandates of the Fifth Amendment. But I would respectfully offer to the committee that her analysis
falls short of the full effect of the decision without the subsequent action that the Court offered Congress
should undertake:

700 We think accordingly that any damages remedy for actions by Government employees
who push too hard for the Government’s benefit may come better, if at all, through
legislation. “Congress is in a far better position than a court to evaluate the impact of a
new species of litigation” against those who act on the public’s behalf. And Congress can
tailor the remedy to the problem perceived, thus lessening the risk of a rising tide of suits
705 threatening legitimate initiative on the part of Government’s employees.

551 U.S. at 562: Citations omitted.

Thus, instead of acting as a complete bar, such precedent now serves to embolden Federal employees to
reach even further in abusing their power to violate private property rights absent oversight and
legislation from Congress. An overreaching or maliciously acting employee runs little risk of retribution
710 from their acts. Behaviors of threatening or cajoling, as you have heard about from others here testifying
today, are allowed to proceed under a stronger cloak of immunity.

For example, one of my clients, El Capitan Precious Metals, Inc., a mining company in southern New
Mexico that is seeking to utilize new technology to create industry and jobs in the local communities, has
been subjected to threats and cajoling by the U.S. Forest Service employees. El Capitan is seeking to
715 rework and reopen the mining claims on private property that they now own, some of which are hundreds
of years old. Incidental to the claims to patented lands are vested rights of ingress and egress to their fee
simple property that is surrounded by National Forest lands. Pursuant to the laws of this country, their

720 predecessors owned a vested private property easement across forest service lands to access their private
property. Now after 100 years of use on the 3/4-mile road, upon which their vested easement runs, they
are being told that they have no right, that they must go thru the NEPA process and they must purchase a
725 special use permit to use the road. The road has literally been in use since 1914 and the Forest Service is
telling them they must go through a lengthy and expensive NEPA process to continue use of the 3/4- mile
road from the highway to their mine. At one point they were threatened with charges of criminal trespass
for mine employees utilizing their private property easement. They have repeatedly been cajoled to
730 abandon their private property rights and just take a special use permit for the road. Such actions, if done
by a state employee, would certainly have prompted a civil rights claim for the attempt to deprive them of
their private property right. Instead, they are left seeking other less immediate remedies of pursuing
Federal litigation for a taking and hopefully a short term remedy to provide them continued access to their
private property, but in the meantime they run the risk of the loss of their business or even criminal
735 prosecution for using their vested easement. I can point to other examples from clients seeking Federal
grants of inspection harassed only because the Federal employee disagreed with the species of animal
they intended to harvest. All of these types of actions harm not only the specific individual or companies,
but also harm local rural economies and cost communities much needed jobs.

735 The public trust in government should be a sacred thing to Federal employees. I think that to most of
them it is. But for those that would abuse the power they have been given, the public deserves an avenue
to provide oversight, the public deserves a ticket to the door of the court house to seek a remedy for their
damages. As has been previously cited, the *Robbins*'s dissenting opinion discussed the merits of a
narrowly tailored cause of action to provide and found merit to such an action:

740 Adopting a similar standard to Fifth Amendment retaliation claims would “lesse[n] the
risk of raising a tide of suits threatening initiative on the part of Government’s
employees.” Discrete episodes of hard bargaining that might be viewed as oppressive
would not entitle a litigant to relief. But where a plaintiff could prove a pattern of severe
and pervasive harassment in duration and degree well beyond the ordinary rough-and-
745 tumble one expects in strenuous negotiations, a Bivens suit would provide a remedy.
Robbins would have no trouble meeting that standard.

551 U.S. at 582: Internal citations omitted.

750 I can say without reservation that three of my current clients would directly fall into this category of
people maliciously harmed by an abuse of power by Federal employees, and I can say with absolutely the
same lack of reservation that all three of them would never reach a point of needing to file a cause of
action. I say that without reservation because I firmly believe that such options as are being discussed
here by this committee would serve to deter many instances of abuse of power and would incentivize the
agencies to ensure that the proper checks and balances were in place to prevent such an abuse of power.

755 An argument can be made that the creation of new causes of actions would cause a flood of Federal
litigation, burdening the Courts and costing tax payers money. But such an argument leaves aside the fact
that these causes already exist against the state employees. Further, one must give weight to the simple
argument that if the harm is not occurring, then citizens will have nothing to bring a claim on.

760 A claim (similar to a §1983 claim) must include the components of a right that is possessed by a person
that has suffered a deprivation of said right by an action carried out by a government employee acting
under the color of the law. The deterrence policy of §1983 operates through the mechanism of
compensation of the actual damages suffered by the victim. See *Carey v. Piphus*, 435 U.S. at 256– 57
(1978); *Memphis Community School Dist. v. Stachura*, 477 U.S. 299, 307, 106 S.Ct. 2537, 2543, 91
L.Ed.2d 249 (1986) (“deterrence is also an important purpose of this system, but it operates through the

mechanism of damages that are *compensatory*”) (emphasis in original). As the Supreme Court noted in *Carey*,

765 “[t]o the extent that Congress intended that awards under §1983 should deter the deprivation of constitutional rights, there is no evidence that it meant to establish a deterrent more formidable than that inherent in the award of compensatory damages.” 435 U.S. at 256–57, *Tinch v. City of Dayton*, 77 F.3d 483 (6th Cir. 1996) See also *Medina v. Pacheco*, 161 F.3d 18 (10th Cir. 1998) (recognizing the deterrent value of §1983 of the Civil Rights Act).

770 II. Proposed Language

I have also reviewed the following proposed language for a statute that could be enacted to protect private property owners from intimidating or cajoling behaviors by Federal employees acting under the color of law:

775 *The attempted taking of private property or private property rights by means of governmental employee harassment or intimidation, under color of law, is hereby declared to be a violation of Civil Rights Act. Harassment or intimidation against the owners of private property or private property rights constitutes such violation when (1) a property owner’s relinquishment of his property or property rights is made explicitly or implicitly a term or condition of receipt of a permit or license from a governmental agency, (2)*
780 *submission to or rejection of such conduct by a property owner is used as the basis for the grant of or conditions included in a permit or license, or (3) the conduct of the governmental employee has the purpose or effect of unreasonably interfering with an individual’s private property or private property rights. An attempted taking of private property or property rights under this section can be composed of a series of separate acts that collectively constitutes a significant deprivation of the ownership or use of private property or property rights. In determining whether the activities of a governmental employee are actionable under this section, consideration can be given to the frequency of the discriminatory conduct, harassment or intimidation, its severity, and whether such governmental action interferes with the ownership, use or legitimate investment backed*
785 *expectations of the property owner.*
790

Such narrowly tailored language would serve as a much needed guidance post to Federal agencies. Imagine if, in considering fencing around private property water rights, threatening local governments with trespass for using vested easements, or cajoling a fifth generation agriculturist to go along with a plan or lose his grazing permits, the Federal employees also had to consider whether their desired actions and behavior resulted in liability to the government for damage to private property rights. Arguably they should already be doing so in their oaths to uphold the Constitution, but in reality some of them are not, with no fear of retribution for acting badly. I would respectfully request that the committee consider what added deliberation decision makers and supervisors would make when considering a proposed action or statement made to a private land owner if they must first consider the liability of violating a citizen’s civil and constitutional rights. Section 1983 claims under the Civil Rights Act have been proven to encourage constitutional policing by local law enforcement officers around the country; wouldn’t it make sense to encourage constitutional regulating and land managing by our Federal agencies employees?

800 III. The Amount of Bad Apples v. Good and Giving the Public the Tools to Help Congress Provide Oversight to Federal Agencies and Employee

805 By and large, these examples of Federal employees acting intentionally to violate the private property rights of American citizens are the exception, not the rule. But as you have heard from testimony today,

and will continue hearing well into the future, should Congress fail to act to remedy this issue, the problem will continue to grow. The Federal Government is broad in size, with thousands of Federal employees; sorting through all of the employees to root out the bad apples is a task that is beyond the capabilities of Congress to do one oversight committee hearing at a time. Congress should open the door of the courthouse to the everyday citizens to help shoulder the burden sorting out the bad apples and remedying the damages done by those that would abuse their power.

Prepared Statement of Jose J. Varela Lopez, on Behalf of the New Mexico Cattle Growers' Association, Santa Fe, New Mexico

Chairman Bishop, members of the committee, thank you for the opportunity to come before you today. My name is Jose Varela Lopez. I live on my family ranch southwest of Santa Fe, New Mexico. I am the 14th generation of my family to do so and I pray daily that I will not be the last.

I am president of the New Mexico Cattle Growers' Association, the executive director of the New Mexico Forest Industry Association, the immediate past chairman of the New Mexico Soil & Water Conservation Commission, vice chairman of the Santa Fe-Pojoaque Soil & Water Conservation District and a former Santa Fe County Commissioner.

We are here today to talk about the bullying and abuse of citizens at the hands of the Federal Government. Unfortunately, this is a story that is all too familiar ranging from the IRS scandal, the mistreatment of veterans, the failure to protect dignitaries in foreign lands, the protection of private information, the collapse of security on the Mexican border, and most recently the failure of the CDC to protect their employees.

You can add to that the treatment of Americans by the U.S. Forest Service, the U.S. Fish & Wildlife Service, the Bureau of Land Management, the U.S. Army Corps of Engineers and others. I am not here to tell you that every employee of these agencies is rogue, but I can tell you that the agencies are permeated with employees that wantonly violate the rights of the rural citizens of this country and their small businesses, entities that provide economic stability to the majority of the counties in our great Nation.

As Cattle Growers' President, we are dealing daily with individual and collective efforts to remove families like mine from the land. The worst part is that we have no recourse.

New Mexico has been a hot spot not only for catastrophic wildfires resulting from the lack of management by Federal agencies but also for species listings which affect natural resource users.

Endangered species "protection" is the biggest culprit. At the moment the Fish & Wildlife Service is considering critical habitat for the lesser prairie chicken, the New Mexico meadow jumping mouse and two varieties of garter snakes. Expansion of the Mexican wolf habitat is expected as early as tomorrow. We have had 764,000 acres in New Mexico and Arizona recently designated critical habitat for the jaguar although only a few male jaguars have been sighted in the United States over the last 60 years. We are awaiting listings and designations for the Canadian lynx and the wolverine even though those species do not exist in our state.

Additionally, the Fish & Wildlife Service is taking their power to a whole new level directing their employees in Region 8 NOT to follow the current law, but rather to direct their resources to a program created by a secretarial order issued in December 2010. We have not yet located similar orders for the rest of the Nation, but are confident they are out there.

850 But that is just half the story. New Mexico has been a hot bed for special land use designations. The most recent transgression is the Organ Mountains/Desert Peaks National Monument encompassing some 550,000 acres in the southern part of the state bordering Mexico. Add that to the recent Rio Grande del Norte National Monument of 250,000 acres and the Rio Mora National Wildlife Refuge and Conservation Area of 800,000 acres.

855 There are also proposed designations for a national monument on Otero Mesa of up to a million acres, the La Bajada National Monument of about 130,000 acres, Hondo/Columbine Wilderness at 60,000 acres, Pecos Wilderness expansion of approximately 120,000 acres and the transfer of the 89,000 acre Valles Caldera National Preserve from a multiple use property to the National Park Service. Add to that existing wilderness designations and wilderness study areas of 2.8 million acres and 4.6 million acres of inventoried roadless areas, areas of critical environmental concern, special management areas and national conservation areas.

860 In my own case, the BLM has been buying up private lands near my family ranch within the boundaries of an Area of Critical Environmental Concern that they designated as part of their Resource Management Plan. They now refer to our ranch as an in-holding, meaning that we are now surrounded by federally managed land and ostensibly the next “willing sellers”. What this designation has done is devalued our land and effectively prohibits any type of future development on the ranch that is not consistent with the BLM’s Area of Critical Environmental Concern. My takings protest to their headquarters was to no avail.

865 Each of these listings and designations provide the opportunity for Federal overreach and the violation of our rights as citizens. And there is no recourse. Federal agents are literally taking the food out of the mouths of rural families and Americans as a whole.

870 If I believe my civil or constitutionally guaranteed rights are violated by a local or state agent, I have the right to my day in court where a judge and/or a jury have the opportunity to hear both sides of the story. If those agents have crossed the line, they are held personally liable. Not so with Federal agents.

875 Under current law, Federal land management employees hold the same immunity from the law as diplomats, and are above any law. That is patently inequitable, can be discriminatory and violates the humanitarian ethics we strive to live by. There is no accountability for those who use the power of their employment against people like me.

A report done by the U.S. Department of Agriculture in June of 2013 documents the fact that U.S. Forest Service employees in Regions 2 and 3 routinely violate the civil rights of allotment owners in New Mexico and Colorado. The report states that a detailed Corrective Action Plan must be developed within 60 days of receipt of the report. As of today, to my knowledge, nothing has happened.

880 The hierarchy of the Forest Service and the BLM is such that it seems nearly impossible for there to be justice for natural resource users. In the case of the Forest Service there is no recourse. A district ranger is generally the prosecution, judge, jury and executioner. Decisions go up the chain of command, but are rarely overturned.

885 The BLM does provide at least some way to appeal to higher levels, but allotment owners go to those higher levels at their own peril because retaliatory action at the field level is a real and constant threat.

890 In closing, our Government agencies are punishing natural resource users through unnecessary land use designations and restrictions, prompted mainly by radical environmental groups. This preservationist mentality is making it difficult if not impossible for renewable resource users to make a living, and is in effect extinguishing the customs and culture of our country’s land based people. Besides, how do you preserve a renewable resource?

Thank you for your time and attention. We look forward to working with you to resolve these issues so our families can continue to feed ourselves and the rest the world.

**Prepared Statement of Garrett O. VeneKlasen, Executive Director
New Mexico Wildlife Federation**

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Chairman Rob Bishop, Ranking Member Rau' I M. Grijalva, members of the committee: thank you for giving me the opportunity to present my perspective on "Threats, Intimidation and Bullying by Federal Land Managing Agencies", especially as it pertains to cattle exclosures on Federal lands in New Mexico.

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My name is Garrett VeneKlasen. I am a native New Mexican and have spent my entire life hunting and fishing throughout the Southwest. Before taking my current position as the Executive Director of the New Mexico Wildlife Federation, I was the Southwest Director for Trout Unlimited, working on cold water restoration and public land protection projects throughout New Mexico, Arizona and Colorado.

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Hunting and fishing combined contribute \$93 billion to the Nation's Gross Domestic Product. Like all western states, hunting and fishing in New Mexico is a thriving and rapidly growing yet sustainable industry that enhances and greatly diversifies rural economies west wide. Eighty-nine percent (89%) of NM sportsmen and women utilize public lands to hunt and fish. New Mexico sportsmen alone spend \$579 million, support \$258 million in salaries and wages, contribute \$58 million to state and local taxes and support 7,695 jobs annually (Outdoor Industry Association, Boulder, Colo.)

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It is also important to note that in New Mexico, hunting and fishing are more than just "sport". They are the oldest of our core cultural land use values with a 10,000-year tradition.

This vibrant industry and our cultural values and lifestyle are dependent upon two things: expansive, viable habitat for our fish and wildlife and large, undeveloped tracts of public lands in which our rapidly growing community can recreate.

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The tiny spring and its riparian area in Lincoln National Forest known as Agua Chiquita have gotten a lot of attention lately. A small group of ranchers claims the U.S. Forest Service is trampling their rights. They make it sound like they're the victims, but there's far more to the story.

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The Agua Chiquita offers crucial riparian habitat used by elk, turkey and other wildlife for water, food and breeding. The riparian area has been fenced – with gaps for cattle – for more than 20 years to mitigate livestock damage. Such cattle exclosures have been used by virtually all state and Federal land management agencies to protect critical habitat for more than 50 years.

The original barbed-wire fence around the Agua Chiquita was cut so often that the Forest Service replaced it with a welded pipe-rail fence, 4 feet high and roughly a mile long on both sides of the stream. It encloses less than two dozen acres of riparian habitat within the 28,000-acre grazing allotment. Cattle have access to the stream through two "water lanes" built into the fence.

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But it wasn't the Forest Service that paid for the fence. Hunters and anglers did, using \$104,000 from New Mexico's Habitat Stamp Program and another \$11,000 from New Mexico members of the National Wild Turkey Federation. It was sportsmen in southeast New Mexico that manifested the Agua Chiquita project and made it a top priority because riparian habitat is a precious thing in our arid state.

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Some of those who were offended by the Agua Chiquita project said water rights were being ignored or taken away. But the U.S. Forest Service told our organization that when they checked with the New

Mexico agency that monitors water rights, the Office of the State Engineer, the database showed that the only recorded water rights in that portion of Lincoln National Forest belonged to the U.S. Forest Service.

935 There were also complaints that the cattle in that grazing allotment were being denied water. But in fact, there are two places along the Agua Chiquita project where cattle can reach the stream. The Forest Service has excellent photographs if you would like to see them for yourselves.

But this issue of habitat protection goes far beyond Lincoln National Forest, however. It extends wherever important wildlife habitat is threatened, in New Mexico and other western states.

940 Stream enclosure projects offer tremendous benefits for game and non-game species alike, both aquatic and terrestrial. Outdoorsmen like me are primarily interested in trout, elk, turkey and other game. But what's good for tiny creatures like the meadow jumping mouse is also great for the trout, waterfowl, upland birds and big game for which New Mexico is known worldwide.

945 The discussion in New Mexico and now, in this hearing, has focused on fencing projects around critical wildlife habitat. But perhaps the discussion should broaden and acknowledge the impact of outdated livestock grazing practices on our western landscapes and watersheds. Hundreds of years of overgrazing has literally transformed entire western landscapes and greatly compromised the function of our watersheds. This is a fact and it's high time both state and Federal policymakers and land management agencies recognize and address this issue head on.

950 Grazing practices have affected fish and wildlife, but the general public has also felt the impact in many western states. Degraded watersheds—especially upland watersheds—do not properly hold and dependably deliver our precious and limited water reserves. In the end, the biggest losers are municipalities and downstream agricultural interests who can and should be receiving more water if the upstream systems functioned as they should. The economic impacts to these water dependent economies—especially in times of extreme drought as we're seeing in much of the West—should be carefully considered by this committee.

955 The good news is that our watersheds are restorable, and that sustainable grazing can and should continue alongside proactive habitat restoration. But as a Nation we need to start thinking of better ways to protect and restore degraded watersheds and riparian habitat while at the same time allowing our grazing community to thrive. Sportsmen have already shown they are ready to chip in and do our share.

960 It is ironic that the title of this hearing is "Threats, Intimidation and Bullying BY Federal Land Managing Agencies". I would ask this committee to also consider "Threats, Intimidation and Bullying OF Federal Land Managing Agencies", by certain members of the public lands grazing community as well as by select county policymakers. More than once I have witnessed county commissioners publicly verbally abuse and ridicule land managers in their meetings.

965 I believe the tension under discussion today boils down to one thing: communication. I suspect that if Federal land managers were treated with more respect, the public lands grazing community, county officials and the land managers could start working out their issues on a local, mutually respectful level.

The Otero County Commission's actions and behavior certainly has not represented the best interest of their sportsmen constituents, but instead follows a flawed ideological agenda of rejecting America's public lands legacy. It is also contrary to the best of human traits – collaboration and cooperation.

970 Public lands are democracy in action. They are worth fighting for. They are an American birthright that belongs equally to all citizens both born and unborn. Proximity bestows neither privilege nor special entitlements, only a heightened responsibility of localized stewardship.

975 But as misguided incidents like the Agua Chiquita in New Mexico, the Cliven Bundy standoff in Nevada and the ATV trespass fiasco in Utah's Recapture Canyon show, there is a move afoot to ignore these fundamental public property rights. To some, it may not matter. To public lands sportsmen and women, it does.

980 The Agua Chiquita incident reflects the feeling by some that Federal agencies such as the Forest Service and the BLM have somehow "overstepped" their authority. They haven't. They are abiding by the law laid down through 200-plus years of democratic action. Sportsmen have had to learn to share our public lands and to take responsibility for protecting them. We urge others who use and profit from our Federal public lands to do the same.

Prepared Statement of Michael Lucero, Jemez Pueblo, New Mexico

985 Mr. Chairman and members of the committee, thank you for allowing me to tell you what is going on in New Mexico at the hands of the U.S. Forest Service and the U.S. Fish & Wildlife Service.

My name is Michael Lucero, I was born and raised in New Mexico. I am an allotment owner in the Santa Fe National Forest, as is my father. I currently serve on two boards; the Jemez Valley School Board of Education and the Union Board at work.

990 My family and I ranch on the Santa Fe National Forest, and have for many generations. My great grandfather started off on foot with 1,000 head of sheep when the Forest Service was not even in existence. This was then passed down to my grandparents, then to my father.

Our allotment originally started as the San Diego Land Grant which eventually was taken by the government and became Forest Service land. Land grants were issued to settlers by the king of Spain when the land was part of Mexico. The land was taken from us to create the bureaucracy in place today. 995 Now that government is driving us completely from the land.

We feel that the government has taken away and are still trying to take away what is rightfully ours, from our grazing rights to our water rights. It seems that every year it gets more difficult to continue with our way of life and keep our heritage alive as the government is continually putting obstacles in our path.

1000 My mother's family was driven out of the logging business when the Spotted Owl became an endangered species. They left the valley that they grew up in to find work elsewhere.

Since the drought took over New Mexico, the Forest Service has used the "drought" to reduce our herd numbers. We always did as we were asked and cut our herds. Even though we cut our numbers for a particular year, we still paid the full payment due for the permit. When we looked at the drought maps and the formula they were using with the Forest Service, we were able to prove to them that their formula was incorrect. We were then allowed to come in with full numbers for our herds. Now that that issue has been resolved, here we are again with another issue, an endangered species threatening to shut us down. 1005

Two years ago in 2011, our range conservationist gave us a handout which talked about the New Mexico Meadow Jumping Mouse. In that meeting he stated that if it was listed, that it would be the end of grazing on Forest Service Lands.

1010 This mouse hibernates about 9 months a year and requires a 24-inch stubble height of dense grass. If we were not already providing the appropriate conditions, how can the mouse be there?

Another puzzling fact is that the mouse can apparently detect property lines. The proposed critical habitat goes right to the fence line to the Valles Caldera National Preserve and stops.

1015 That was all we heard on the issue until the fall of 2013. The comment period in the Federal Register would open and the Forest Service told us how important it was to comment. That being said we did make comments when the notice was posted in the Federal Register. We then were called into another meeting with the Forest Service where they told us that they had no control over what was going happen if it was listed.

1020 The local ranchers had many questions about the New Mexico Meadow Jumping Mouse, like where it was found. How many were found? What would be done to protect it and where it would be done? The Forest Service had no answers about the mouse. They told us that the Fish & Wildlife Service made all those decisions.

1025 We then asked the Forest Service to call a meeting with the Forest Service and the Fish & Wildlife Service. In that meeting the Fish & Wildlife Service told us that the listing of the mouse would not affect grazing and that the Fish & Wildlife Service had not told the Forest Service to put up fences of any kind; we were told that all the Fish & Wildlife Service does is list the species.

1030 The Forest Service was present at this meeting. Eric Hines from the Fish & Wildlife Service told us that we would still have our opportunity to be involved in a Section 7 consultation. We asked the Forest Service about that and they had no clue what we were talking about. All this being said we have been in the dark since day one.

The science used to list the mouse is disputable. Why are there no lists of areas that were studied? And if there is a list, why was it not provided to us when we asked for it? In the meeting with the Forest Service, they stated that the only reason for the fence was to avoid being sued by the WildEarth Guardians.

1035 Why is the Forest Service making these decisions that will affect the local economy, the ranching industry and the culture, and wellbeing of rural communities? It appears that they are not taking into account the local comments on these issues based on a lawsuit by a non-governmental party.

1040 Since when is America not a democratic country? Why is the Federal Government not giving every citizen its due process on issues that affect so many different aspects of their lives? In every meeting with the Forest Service, they are always telling us that we are closer to NO RANCHING ON FOREST SERVICE LANDS! When we asked how we can work out a compromise with the Forest Service on issues like this, the Forest Service personnel always answer, "It's not me, I was told that this is the way the upper staff wants it."

1045 I personally asked about alternatives fencing us off water and then out of our pastures but always hit road blocks, such as, no money or more studies needed. But somehow there is now money to build fences? At about \$20 per linear foot, where did the money come from and why now, when we have been asking for alternatives for the past year. The expense of putting up this fence does not make sense since we only graze our cattle 2 months out of the year in these areas.

1050 We were told in the meeting with the Forest Service and Fish & Wildlife Service that nothing would be done without first the NEPA process and a meeting with all of the ranchers and the Forest Service to come up with a plan together. Next thing we hear is that they are going to put up an 8-foot fence spanning 117 acres to keep animals and humans out of the critical habitat for the mouse. That is just my allotment. There are 10 others who are being similarly affected. Seems that we skipped a couple of steps and their words are just empty promises. Moving forward like this is a clear picture of GOVERNMENT

1055 BULLYING. They tell us one thing and do the opposite. They are never truthful with us and we are living in constant fear of what comes next.

After the media got involved around the 4th of July camping season, the Forest Service changed their tune. They are now proposing a 5-foot fence covering the same area that may impact dispersed camping. Why are we told about an 8-foot fence and 2 weeks later it becomes a 5-foot fence? Why are humans and wildlife, particularly elk, not harmful to the mouse?

1060 The money being used to erect these fences is from taxpayers. That being said, it appears that the Forest Service is using my tax dollars to fence my family and numerous other families OUT OF BUSINESS! Tell me how that makes sense? Why would our concerns and comments not be heard, when we have been using these lands since it was our ancestors Land Grant?

1065 Every time that there are compromises to be made, it is always us, the ranchers, who have to compromise on our end. We are told that if we do not compromise and agree with the decisions being made by the Forest Service that we risk losing our grazing allotments.

1070 How are we supposed to work with the Forest Service when we all know that they do not listen to our concerns? We want to work with the Forest Service for the benefit of us all. It is in our best interest to take care of the land and help manage it properly. If we were not managing properly, then how is it that my family has been in business for over 100 years? It's because we love the land and our tradition and hope to pass it down for many generations to come.

I feel that Agriculture is very important to America, if you've seen the price of beef in the grocery stores lately, the more they cut herds the higher the price goes up for all American People.

1075 I don't get how the environmental groups work with the Federal Government; what gives them so much power that they dictate what the Federal Government does with other people that use government lands? If you look at the WildEarth Guardians Web site, it states exactly what the U.S. Forest Service is going to do.

1080 They want to protect one endangered species and do everything in their power to get it done, they don't take into consideration that land management is so important for example: the Spotted Owl that was listed years ago. Many people (most of my family) from the logging industry lost their jobs which caused them to move out of the area to find work.

1085 Through the years, now from the lack of managing the land correctly the Santa Fe National Forest is overgrown and we have had several forest fires with so much fuel they are out of control and the American Tax Payers spend so much more money on these forest fires than they would have if the land was managed properly. People would still have jobs. The Spotted Owl would not have a burned forest and not only that species, but all the other listed species on the Endangered Species List. In the ecosystem how do you protect one species and throw it off for the other endangered species?

1090 Fencing off the river would dramatically affect our culture, economy, and our local community. Our local community businesses thrive on the business generated by ranchers, campers, fishermen, hunters and hikers. If we fence off all of the proposed rivers, it would have a detrimental effect on these local businesses.

I don't understand how people from other states get jobs at these Federal agencies that don't understand the way you manage a ranch in New Mexico. The way we manage a ranch in northern New Mexico is completely different than you would manage a ranch in a place like Wyoming or Montana.

1095 The ranchers in this area don't have a lot of money; there are not a lot of big cattle operations like everyone thinks there are. I bought my own cattle and allotments and I bought it for a reason. It was an investment to put my two kids through college and so I could have something to hand over to my children that they have known their whole lives. My father inherited his small operation from my grandpa, which helps pay for my elderly grandmother's care: medical insurance, daily caretaker, and anything she may need. Because of these cows, grandma is not in a state paid or Federal paid nursing home. This is how we take care of her, it's how our community works; this is a part of what we do as a ranching family and community.

It saddens me to sit in a meeting where the head Forest Ranger (Linda Riddle) is telling us "I could care less if they got rid of all the cows on the Forest, that would make my job that much easier."

1105 This statement coming from a Federal Government employee! Robert Trujillo, Deputy Director of the USFS stated in a local newspaper that he feels that the forest is overgrazed, however if the USFS was to pull the allotment management records, it would show that this is and never has been the case. The areas used by the ranchers are NOT OVERGRAZED! We have never been in violation of the Federal regulations governing ranching.

1110 The opposite is true for the Forest Service personnel because they are not following the Federal regulation that says they are to protect the heritage and culture of ranching families that are allotment owners on the USFS. The Federal regulation states that they are to always get input from the allotment owners when making decisions that would affect them.

1115 Rumors are floating in our communities that the Forest Service is planning to use eminent domain to obtain private land that is within what is believed to be jumping mouse areas. We cannot document them, but this is the fear we are living under.

The government and environmental groups are making it almost impossible for us to do what we love (our culture/heritage). In my opinion cattlemen are the caretakers of the land, if it wasn't for cattle grazing these lands we wouldn't have an environment for a jumping mouse or most other creatures. We are the ones who manage the lands and wildlife also benefit from our watering systems.

The media has accurately shown how our land looks. This is how we have taken care of this land, a part of our culture is an understanding that you have to take care of the land, in order for the land to take care you.

1125 We are trying to do the right thing, but what we see for doing the right thing is we better go along with this or you are going to lose your permits! Ultimately the government is losing its caretaker, because that's what we do.

Thank you for your time. We pray that you can help us.

Timeline on New Mexico Meadow Jumping Mouse

- 1130 • Feb 27, 2014 – Official meeting about the NMNJM, the Forest Service told us they were going to start the NEPA process
- Mar 4, 2014 – The Forest Service told us NO NEPA; Forest Service talked about the fence and taking 300 feet on each side of the river
- Mar 28, 2014 – Forest Service sent letter on mouse fencing
- Apr 2, 2014 – We called a meeting with the Forest Service to ask questions
- 1135 • Apr 8, 2014 – Meeting with the Forest Service; we looked at other options, but no money
- Apr 9, 2014 – Meeting in El Rito NM with Cal Joyner; NO ANSWERS

- Apr 25, 2014 – Meeting with the Forest Service and Fish and Wildlife Service
- May 9, 2014 – Forest Service sends letter retracting the March 28, 2014 letter
- Jun 25, 2014 – Meeting with the Forest Service; they showed us a map of fencing areas and they told us about categorical exclusion
- Jul 2, 2014 – Forest Service and Fish & Wildlife canceled meeting
- Jul 10, 2014 – Received comment notices from Forest Service

Prepared Statement of Drew O. Parkin, Escalante, Utah, Regarding a November 2009 Incident at the Circler Cliffs, Garfield County, within the Grand Staircase-Escalante National Monument

My name is Drew O. Parkin. I am a resident of Escalante, Utah. I am a natural resource policy analyst and planner with 40 years of professional experience in 30 states spanning from Maine to Hawaii. In 2009, I was Assistant Manager for the BLM's Grand Staircase-Escalante National Monument and field station manager for the northern portion of the National Monument, including the entire monument in Garfield County, Utah. In this capacity I had responsibility for overseeing management of field-level management on the northern half of the monument including recreation, wildlife, range, and road management. At the monument I reported to a monument-wide manager named Rene Berkhoudt.

I did not have authority over law enforcement, as that element is managed through a stove-pipe operation where a state-level BLM law enforcement officer directly oversees field-level law enforcement officers (LEOs). However, I did have authority over all of the activities for which an LEO could issue a citation or make an arrest, and for identifying the priorities for LEO involvement within the Escalante Field Station area. Jeffrey Lauersdorf was the LEO assigned to the Escalante Field Station.

In 2009 my office had arranged for the Utah Division of Wildlife Resources (DWR) to hold a special elk hunt in an area called the Circle Cliffs in eastern Garfield County, some 50 miles east of Escalante. We requested the hunt on the advice of the Monument's wildlife biologist to decrease grazing pressure by elk on a large area that had recently been reseeded by the BLM. To participate in the hunt, hunters had to draw a permit. There was high interest in the hunt due to the reputation of the area as a high quality hunting area.

At 4:30 p.m. on November 6, 2009 – the day prior to the start of the hunt – I received a telephone call from a DWR manager in Wayne County, Utah. He was concerned because his staff had visited the site of the impending hunt and discovered that carsonite posts with official “no motor vehicles” posters on them had been placed on several spur roads and undeveloped camping areas, allegedly by “someone from the BLM”. I informed him that I had no knowledge of this and committed to investigate. Immediately after I terminated the call I received another call, this one from the Garfield County Engineer, who called with the same concern. He called after hearing complaints from county residents who were planning to participate in the hunt. He was particularly concerned given the county's assertion of RS 2477 rights to several roads in the area in the Circle Cliff area. Again, I promised to investigate. I immediately drove to the area in question. I drove a government licensed truck and wore an official BLM uniform. When I arrived at the Circle Cliffs I confirmed the accuracy of the DFW and county telephone calls. Most of the side roads were blocked by newly installed carsonite “no motor vehicle” signs. Also signed were many areas historically used as undeveloped vehicle-accessed campsites.

I was also approached by several prospective hunters camped near the main road concerned that they could not access their usual and accustomed hunting and camping areas. They confirmed that the signs had been placed by a uniformed LEO from the BLM. From their descriptions I concluded that the LEO

1180 was Jeff Lauersdorf, an LEO out of the Escalante Field Office, who had a history of rouge enforcement actions, principally aimed at hunters, ranchers, and ATV enthusiasts.

In preparation for this hunt I had given no thought to closing either roads or camping areas. Mr. Lauersdorf had not consulted with me concerning his plan to close roads, and law enforcement officers have no authority to unilaterally close roads. That is a management decision, and I was the field-level management authority for the Circle Cliffs area. At no time did I ask Mr. Lauersdorf to engage with the Circle Cliffs hunt. In fact I had asked staff, including Mr. Lauersdorf, to leave management of the hunt to DWR, as it was their responsibility.

1190 Given the situation I concluded that leaving the road and camping area closure signs in place would be extremely disruptive to the next day's hunt. It was also illegal, and I already knew that both DWR and Garfield County were very concerned. It was now past 6 p.m. and, as this was early November, nighttime was fast approaching. As it would have been impractical to obtain assistance at this time of day I proceeded to remove the signs, which I did by wrapping a chain around the sign, hooking the other end of the chain to my vehicle's trailer hitch, and pulling the signs using my vehicle. I did not count the number of signs that I pulled, but it was certainly over 20. By the time I had finished it was dark and past 10 p.m.

1195 At a location near the Lamp Stand, a prominent rock outcropping at the northeast end of the Circle Cliffs where I had pulled the last sign, I saw headlights coming toward me from the south. I assumed it was a hunter coming to set up camp. When the vehicle reached my location I saw that it was Mr. Lauersdorf, driving his BLM vehicle and wearing his uniform. He stopped his truck abruptly and walked directly to me. He looking in the bed of my truck, saw the signs, and angrily challenged my decision to remove the signs. I informed him of my reason and of the fact that signs are not to be placed in the Escalante Field Station area without my permission. Without comment he proceeded to transfer the signs from my truck to his. I did not intercede as I was aware that (1) we were miles away from the closest person, (2) he was agitated, (3) he was armed with at least three firearms and a knife, and (4) he had a history of impulsive and irrational behavior. In short, I was concerned for my safety. After transferring the signs he came up to me, placed his hand around the handle of his holstered pistol, and, at very close distance, told me that he "was arresting me for destruction of government property".

1210 Fearing for my safety, I pointed my finger at him and told him to back off. He backed up a step or two. I bolted for my vehicle, jumped in, and proceeded to leave by driving through the sage brush to the nearest unimproved road. He followed me, with both of us moving at fairly high speed for this type of road. He followed me for less than a mile and then stopped.

I returned the next morning to observe how the hunt was proceeding. I stopped at the larger camps. I was informed that a BLM LEO had visited the camps earlier in the morning, and that the officer had asked occupants for their hunting and driver's licenses. They questioned why a BLM officer was asking for this information. I met one hunter who informed me that earlier that morning he had been driving his UTV down a Circle Cliffs secondary road and was pulled over by Mr. Lauersdorf, who proceeded to ask for his licenses. After the hunt I spoke with a gentleman from Kanab. The gentleman, who was a disabled hunter participating in the hunt, had been pulled off the road by Mr. Lauersdorf on the morning in question. He told me that the officer had shocked him with his abrupt manner of approach and, as a result, the hunter pulled his vehicle off of the roadway and onto the adjacent sage brush. Mr. Lauersdorf proceeded to threaten to give a ticket for driving off of the road. Mr. Lauersdorf then asked for his hunting permit. After reading it Mr. Lauersdorf told the man that his permit did not cover this hunt and ordered him to leave. He was informed that if he left he would not receive the ticket for being off road. The man left and, after the fact, was informed by DWR that his permit was, in fact valid for this hunt. I was particularly concerned with this situation as the man was disabled, and had gone to considerable effort to participate in the hunt.

1230 The next Monday morning I informed the monument manager, Rene Berkhoudt, of the weekend's events. Concerning the placement of signs, Berkhoudt suggested that he had not spoken to Mr. Lauersdorf before the hunt and had no knowledge of the plan to sign the roads and camping areas. Concerning Mr. Lauersdorf's threat to arrest me, Berkhoudt said, and I quote, "Jeff sometimes gets excited. I will have a talk with him." I was never informed that such a talk took place.

This is a true depiction of the events that took place, to the best of my knowledge. I am quite certain of the date of Friday, November 6 but do not have records to verify the date. It may have been Friday, November 13. I know that it was a Friday evening in early November 2009.

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State of Utah,
Office of the Lieutenant Governor,
July 17, 2014

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Hon. Rob Bishop, *Chairman*
House Subcommittee on Public Lands and Environmental Regulation,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Bishop:

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Thank you for convening a committee hearing of the Public Lands and Environmental Regulation Subcommittee to consider issues related to Bureau of Land Management (BLM) law enforcement activities within the State of Utah. Before addressing our concerns, let me state that we enjoy a very positive and productive relationship with the BLM State Director Juan Palma. He has been consistently attentive to matters that interest the state and swift to respond to requests for meetings, phone conferences, or information. We are fortunate to have him at the helm of the agency that manages more than half of Utah's land. Unfortunately, I cannot extend the same compliments to BLM law enforcement operations in Utah that, regrettably, do not fall under Director Palma's supervision.

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To give you some background, I came to my position as Lieutenant Governor after having served as Sanpete County commissioner and as an elected representative in the Utah Legislature. I have deep roots in our rural culture; and am proud of the integrity and self-reliance of our local elected officials. Over the past several years, I have heard an increasingly loud chorus of voices expressing concerns on the intrusion of Federal law enforcement officers into matters that fall clearly within the jurisdiction of our county sheriffs and a lack of cooperation in those areas which traditionally have involved common Federal-local concerns. Examples include the issuance of traffic violations on county roads both on and off the BLM lands and confrontation and intimidation of local residents accusing them of minor civil infractions of BLM protocols.

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Another matter of concern is how the BLM law enforcement handled the arrest and charges relating to possession of Indian artifacts allegedly taken from BLM lands in southwestern Utah. The BLM law enforcement executed that operation in an unnecessarily aggressive manner. It was an "invasion" of a small town involving an unusually large number of officers. The SWAT team approach to non-violent crimes reflected the arrogance and insensitivity of the law enforcement team involved.

1265

The BLM approach at the Bundy Ranch, in which Utah's BLM Agent in Charge was heavily involved, further demonstrates a lack of judgment. The near disaster at the ranch was brought on by the massive BLM response to a situation involving unlawful grazing and failure to pay fines and fees. This could have

been avoided by a reasoned, balanced approach. Yet, overkill seems to be the default response of Utah's BLM Agent in Charge.

1270 Another very troublesome issue is cooperative law enforcement contracts with our county sheriffs. The Federal Land Policy Management Act (FLPMA) states that the Secretary shall contract with local law enforcement to the greatest extent possible for law enforcement services on public lands. Historically, BLM has delegated law enforcement authority to county sheriff departments to enforce state and local BLM's laws on Federal lands. Such contracts are in place on Forest Service (FS) lands in Utah. Yet, recently, these same contracts have been difficult and in some cases impossible to negotiate due to resistance from the BLM Utah Law Enforcement Chief.

1280 In March of this year, I convened a group of county commissioners, sheriffs, legislators, and the law enforcement agents in charge for both the BLM and the FS to discuss these issues and seek resolution. At that time, we explained our concerns and constructively discussed them concluding with a "next steps" proposal. The BLM Agent in Charge stated that he did not approve contracts out of a concern for lack of "deliverables". He agreed to give us a written description of what he meant by deliverables and provide additional documentation explaining his refusal to renew these contracts. Regrettably, he has not provided the requested information, nor have we seen improvement in the attitudes and performance of Federal law enforcement officers working in the state.

1285 I am hopeful that as you consider our concerns in the course of the hearing, the BLM will respond appropriately to ensure that Utah enjoys the same productive partnership with the Federal law enforcement operations within the state that we have with the BLM State Office.

Respectfully,

1290 Spencer J. Cox,
Lieutenant Governor

State of Utah,
Office of the Attorney General,
July 23, 2014

1295 Hon. Rob Bishop, *Chairman,*
House Subcommittee on Public Lands and Environmental Regulation,
Washington, DC 20515.

Dear Chairman Bishop:

1300 I appreciate your convening a committee hearing of the Public Lands and Environmental Regulation Subcommittee regarding law enforcement activities by the Bureau of Land Management ("BLM") within the State of Utah. I have read the letter dated July 17, 2014 submitted by Utah Lieutenant Governor Spencer J. Cox to you. I agree with the both the content and concern expressed by the Lieutenant Governor and incorporate by reference much of what he communicated.

1305 I, too, would underscore the fact that Utah has had a long and often productive relationship with the BLM over decades and that the current approach and implementation of policies under the BLM State Director, Juan Palma, has been both positive and productive. Just recently, on his own initiative, Mr. Palma took me and a member of my staff on an in-depth tour of his office to increase working relationships and understanding between his office and mine. It was educational and helped build further trust between a

1310 Federal and state agency. Also, one of the past national directors of the BLM, Kathleen Clarke, is from Utah and works closely with our office daily in her role as head of Utah's Public Lands Office.

1315 In contrast to the relationship with Director Palma and former Director Clark, the level of trust and respect for law enforcement under the BLM, seems marginal at best throughout my state. Like our Lt. Governor, I have heard consistent and repeated concerns from the ranks of well-respected and reasonable county commissioners, county attorneys and sheriffs, among others, from counties across my state, regarding what they perceive to be strong-arm tactics, overstepping of authority and attitudes dismissive of county interests by the BLM.

1320 I understand the difficulties facing the Agent in Charge ("AIC") of law enforcement in Utah. As a fellow law enforcement executive, I manage a state agency with hundreds of employees, including dozens of investigators/peace officers. I understand the complexity and many competing interests at play in making every policy decision. I am loath to judge any other executive without knowing all of the considerations facing that leader. Moreover, the AIC has also demonstrated professionalism in our limited personal interactions and been cordial and responsive to me. Nevertheless, I can judge the effect of his decisions on those in my state and, in this case, his decisions have created a void of trust from too many in Utah.

1325 While I have expressed to him my absolute belief, that despite political or personal differences, law enforcement officers at the Federal, state, county and city level need total solidarity in the field (a philosophy to which I continue to hold strongly), the lack of trust toward the BLM law enforcement arm has deteriorated to such a degree, that I am afraid investigators, agents or other law enforcement from his agency, the Utah Attorney General's Office and other law enforcement agencies are not as safe or effective as they could be in multi-agency situations or cases due to such strained relationships.

1330 I hope this perspective provides some assistance to the committee as it hears testimony and deliberates in this matter.

Respectfully,

1335 Sean D. Reyes,
Utah Attorney General

Mohave County Board of Supervisors,
Lake Havasu City, Arizona,
July 29, 2014

1340 Hon. Rob Bishop, *Chairman,*
House Subcommittee on Public Lands and Environmental Regulation,
Washington, DC 20515.

Dear Chairman Bishop:

1345 My name is Buster Johnson and I have been a Supervisor for Mohave County, AZ for 17+ years. I am also retired from Los Angeles County Sheriff's Department. Over the years, I have had a mostly good working relationship with BLM enforcement officers in both jobs. This year is the first time that I have had to question as to how Mohave County will work with BLM officers. It has nothing to do with the officers themselves; it is the leadership in BLM.

The Bundy incident in Nevada, which borders our county, caused us great concern due to the handling of the situation. I believe we saw the incident escalated to a dangerous level by BLM leadership or lack

1350 thereof. We teach our local law enforcement people to defuse situations which may arise, not to throw gas on the fire.

The Federal Government is, from time to time, inexplicably guilty of bullying and in the process of serving arrest warrants on some involved in the Bundy incident which we believe will once again flame the fires of discontent. Clearly, Mr. Bundy needs to pay his grazing fees, and I believe the BLM was within their legal right to try to collect grazing fee arrearages. However, no one in their right mind would design and carry out such a heavy handed, ham-boned raid which sets a bad precedent and places the safety people living near public lands in jeopardy. I agree with the pending arrests but believe the issuing of a summons would work better to keep the possible violence to a minimum. Waiting until after the first of 2015 might also help. Mohave County signs an agreement to allow the feds to enforce Arizona state law in our county. To date that agreement has not been signed due to our concerns over BLM's use of its police powers.

1360 I wish to express my empathy for other counties across the Nation trying to work with BLM law enforcement officials – it is crucial that we work this out and the sooner the better.

Sincerely,

1365 Buster D. Johnson,
Mohave County Supervisor,
District III

1370 Custer Battlefield Museum,
Garryowen, Montana
July 22, 2014

To Whom It May Concern:

1375 My name is Christopher Kortlander. I own and operate the historic town of Garryowen, Montana, the only town inside the perimeter of the Custer Battlefield. I am also the founding director of the Custer Battlefield Museum in Garryowen.

In 2005 a small army of Federal law enforcement agents descended on Garryowen with drawn, fully automatic machine guns. Federal agents pointed guns at Garryowen employees and museum interns while executing a search warrant that was obtained by deceit and the twisting of truth.

1380 This “raid” was conducted as a military style assault on a domestic terrorist cell. The Federal agents had not received any information stating that the target(s) of their assault were in any way violent. In addition, there were a number of civilians/ tourists present who were also put in harm’s way during this raid at Garryowen, which was and remains a historic site and popular tourist destination, as well as a state-recognized informational center, housing a U.S. post office, a gas station, convenience store, museum, Subway sandwich shop and a retail trading post selling souvenirs.

1385 For 8 hours, the BLM agents conducting the “raid” at Garryowen, continually threatened me with never again seeing my special needs son, stating that I was facing decades in a Federal prison. BLM Federal law enforcement agents verbally harassed me, accusing me of being a baby killer, a swindler and a con man, and asserting that I was going to be charged with nine Federal felonies.

1390 After a day terrorizing all the civilians they encountered, and for the following 4-plus years, they continued to threaten me through the U.S. Attorney’s office, and retained seized property that was

unassociated with any crime whatsoever. I was forced to expend hundreds of thousands of dollars and nearly every waking moment, as well as countless sleepless nights, dealing with the legal threats thrown at me, evidently because I needed to be rolled over to advance an agenda that benefited only the BLM and the Federal agents involved.

1395 When the U.S. Attorney announced that there would be no charges filed against me, I sued the 24 Federal agents involved in prosecuting me, and found that I could not legally engage them because of the quasi-immunity that protects Federal law enforcement agents and prevents them from being held accountable for any wrongs they may commit. These men and women who had persecuted me in the 2005 raid – and those who came to conduct another raid in 2008 – were beyond my reach and the reach of any non-
1400 agency review. They remained free to harass and attack me and others without any personal accountability or responsibility for their actions. The quasi-immunity enjoyed by BLM and Federal Fish and Wildlife law enforcement agents means that they are not accountable to me, the American public, the U.S. Court system, or the U.S. Congress. They are untouchables, protected no matter what they do.

Following the end of the investigation and the numerous threats of prosecution made against me, I
1405 received – anonymously – a 52-page document which stated that the BLM raids on Garryowen, Gibson Guitar, and the Four Comers incident in Blanding, Utah, were all connected to the same agency and at least one Federal special agent who were on a mission to enhance their personal status and increase BLM funding from Congress. The actions of the law enforcement agents in the paramilitary raids on Garryowen, the *Operation CERBERUS* Action in Blanding, Utah, and the Gibson Guitar raids served
1410 only the political purposes of the BLM.

At Garryowen, Federal machine guns were pointed at the head of a museum intern who had been forced to the ground spread eagle – not for a pat down consistent with the safety of the abusive law enforcement agents, but rather as a show of force to intimidate and threaten this uninvolved young citizen into fearfully accepting the government’s “might makes right” posture.

1415 I was victimized as a criminal although I have no criminal history. I was denied constitutional protections because these apparently do not attach until charges are filed. The same Federal agents who executed search warrants pursued a fruitless investigation that served only to make me appear to be a criminal to family, friends, colleagues, and business associates, in the process destroying my personal reputation, my businesses and business relationships, together with other opportunities that I had spent more than a
1420 decade developing.

Despite my obvious efforts to cooperate with the Federal agents involved, during the raid I was accused of being a baby killer, and had my private residence (which was NOT on the search warrant) forced open, entered, and searched. Hundreds of artifacts – personal and private – together with tens of thousands of pages of documentation and other assets were seized, all of which were outside the scope of the search
1425 warrant used by the BLM.

No items listed on the search warrant – four buttons and a suspender belt buckle – were taken. After more than 8 hours of scaring and intimidating me, my employees, and volunteer staff, this arrogant assembly of Federal agents departed. My business and philanthropic endeavors were laid to waste and I was left financially destroyed. All that was missing was Federal charges, but despite seizing a mountain of so-called evidence, no charges were ever filed.
1430

What had happened to me can only be described as a non-judicial prosecution, or more correctly, an extra-judicial persecution by BLM Federal agents. Federal charges were threatened for the next several years, but charges were never filed, and nearly 5 years after the “raid” the U.S. Attorney indicated that the

1435 investigation was completed and that NO charges were to be filed against me. Despite that fact, it is unreasonable to say that I had not been abusively prosecuted by the Federal agency involved.

1440 The BLM retained hundreds of artifacts until their so-called investigation had been completed nearly 5 years later, and they continued to hold dozens more after that time, initially alleging that these artifacts were absolute contraband and unlawful to be possessed even by a museum, and later insisting that the artifacts were derivative contraband based upon the manner in which they had been obtained or retained by me and the museum with which I am associated. A Federal claim for the return of these items was filed and just this winter (2014) all of the items sought were finally returned to the Custer Battlefield Museum in Garryowen, MT.

1445 Seized documents had been previously returned, but thrown about in such a manner that it is impossible to restore the organization that existed at the time the BLM agents carted them away. It is impossible for me to even know if what was returned is in fact ALL of the documentation that was seized. I have been unable to find a number of museum documents I know that I possessed prior to the BLM raid.

1450 It is important to note, once again, that no charges of criminal activity of any sort were ever filed in this matter. That action would have moved the matter into Federal court where constitutional protections against the actions of Federal law enforcement agents and the Federal agency they support would have arisen. However, without Federal court supervision, the “800 pound gorilla” that is the autonomous Federal agent, cloaked with the power and authority of the U.S. Government, remains free to use unrestrained, military-level tactics and weaponry and the threat of force to crush citizens – frequently guilty of nothing – and in the process, destroy the businesses and lives of their victims with impunity.

1455 These Federal agents do not appear to answer to anyone other than possibly their peers – those also in agency law enforcement. Their methods are secret, their endeavors blacked out when pursued through Freedom of Information requests, and protected by judicial quasi-immunity granted to any Federal law enforcement agent from the prying eyes of their victims, the press, and apparently the people’s representatives in Congress. Even though the Supreme Court recognized the right of the citizen to hold the workers of the Federal Government personally accountable for their actions, the hurdle for a victim to get into court is generally impossible with ill-defined rules and standards, especially regarding Federal law enforcement agents.

1460 I remain fearful today – not because I am guilty of any criminal activity – but because the unrestrained power of Federal law enforcement agencies to use force and intimidation to strike fear into the hearts and lives of law-abiding citizens remains in place, allowing these reckless agents and agencies to destroy lives and livelihoods and seize personal possessions without reason or accountability to the citizens of these United States or to the letter and spirit of the laws that regulate their activities.

It is time for the U.S. Congress to reign in this self-serving agency that uses Federal paramilitary force to further its own agenda, and believes itself to be beyond reproach or accountability. Thank you for your consideration and concern regarding this matter.

1470 Sincerely,

Christopher Kortlander,
Founding Director.

STATEMENT BY LELAND F. POLLOCK; GARFIELD COUNTY, UTAH COMMISSIONER

BEFORE THE HOUSE NATURAL RESOURCES SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION HEARING ON JULY 24, 2014

“Threats, Intimidation and Bullying by Federal Land Managing Agencies, Part II.”

Thursday, July 24, 2014 at 2:00 p.m. Room 1324 Longworth House Office Building Chairman Bishop, Ranking member Grijalva and members of the committee:

My name is Leland Pollock and I am a County Commissioner from Garfield County, Utah. I also serve as a member of the National Associate of Counties Public Lands Committee and have been designated by my fellow commissioners in Utah as the Chairman of the Utah Association of Counties Public Land Steering Committee.

Garfield County is a scenic rural area roughly the size of Connecticut. 93% of the land base is under federal ownership, and I believe we are the only U.S. County that contains portions of 3 National Parks (Bryce Canyon, Capitol Reef and Canyonlands). We are also home to significant portions of the Glen Canyon National Recreation Area, the Dixie National Forest, the Grand Staircase-Escalante National Monument, two BLM field offices, and a small segment of the Fish Lake National Forest.

I grew up cherishing the lands in Garfield County as the son of a Park Service employee. An ex-marine, my father worked for Bryce Canyon National Park. My father’s employment was outside strict law enforcement responsibilities, but because of his military experience, he was often called upon to assist NPS officers – especially in the most volatile situations. I observed with my own eyes proper methods for protecting and serving the people of the United States.

I am here today to testify regarding two issues regarding BLM law enforcement activities that have moved away from a public service philosophy: 1) Militarization of BLM law enforcement personnel / movement toward a police state; and 2) Cancellation of cooperative law enforcement agreements between BLM and local governments.

As a preface to my remarks I want to inform you that Garfield County has a cooperative and productive relationship with Park Service and Forest Service law enforcement personnel. Things are not always perfect, but we work them out within the confines of the law and with honest consideration for the American public. I also want to let you know we enjoy a very positive and productive relationship with Juan Palma, Utah’s State BLM Director. We meet and talk on the phone frequently; and he has been attentive to our requests and has responded expeditiously and appropriately within his authority.

Unfortunately, we cannot make the same statement regarding BLM law enforcement personnel in Utah that fall under a different line of authority. Discussing BLM law enforcement operations is my purpose today.

This is not our first attempt to resolve issues of bullying, intimidation and lack of integrity exhibited by BLM law enforcement agents. We have tried locally, and earlier this spring Utah's Lieutenant Governor convened an executive level meeting to discuss law enforcement on federal lands in Utah. The meeting was attended by the Lieutenant Governor, Utah's Attorney General Sean Reyes, the Regional Forester, the Regional Chief of Law Enforcement for the Forest Service, Utah's State BLM Director, BLM's Chief of Law Enforcement, and numerous federal, state and local leaders. The meeting was open, cooperative and productive, except for participation of the BLM's Chief of Law Enforcement. To put it frankly, he lied to the group and was exposed in his deception. His arrogant behavior lacked integrity and was illustrative of his department's unacceptable culture.

Our concerns/complaints are not just a matter of hurt feelings, bullying, intimidation, lack of integrity, and a host of social issues. BLM's Chief of Law Enforcement has cost Garfield County real dollars. Last year Garfield County and the Utah State BLM Director worked out a cooperative agreement providing Garfield County Sheriff's office law enforcement on BLM land. The BLM was to reimburse the county a set amount that resulted in significant savings to the federal government. The County – with BLM concurrence hired law enforcement staff, acquired vehicles and equipment, provided training and preceded with implementation of the agreement. Contrary to the State BLM Director's orders and without concurrence, BLM's Chief of Law Enforcement cancelled the agreement leaving Garfield County with a significant budget shortfall and staff operating in an area without agreement. We are befuddled how one individual can override a State Director and negatively impact an entire county with impunity.

We need your help to correct these serious problems. Let me address the two issues cited above:

Militarization of BLM law enforcement personnel

Over the past decade or so we have observed and experienced a militarization of BLM's officers. I am confident you are aware of recent, highly publicized actions involving BLM agents in Nevada. But you may not be aware that much of the support for the rancher by everyday citizens may have resulted from a growing frustration from the way they are treated by local BLM officers. Right or wrong, some equate BLM's law enforcement operations to the Gestapo of the World War II era.

Submitted under separate cover is a list of actions that illustrate BLM's heavy handed authority. Three additional examples from only one BLM unit in Garfield County illustrate the problem.

Example 1. BLM law enforcement officers have been known to block open public roads asserted under Revised Statute 2477 and maintained by Garfield County with rocks, logs and debris. Such actions constitute a Class B Misdemeanor under Utah law.

Example 2. Immediately prior to a big game hunt authorized under Utah Law by the Utah Division of Wildlife resources, a BLM agent placed road closed signs in several County roads that accessed the hunting area. The BLM land manager heard about the problem and took a field trip to investigate. The land manager reports that during the investigation he was harassed and intimidated by the law enforcement officer. At one point the officer put his hand on his gun in an

effort to discourage the land manager from continuing. This was a direct threat to an individual with management authority in the officer's own agency.

Example 3. BLM requested the County's help to install an underground waterline to serve wildlife, livestock, recreation and other public interests. The County offered to put the waterline in a County road to minimize any disturbance on federal land. A BLM back country ranger observed County equipment being transported to the jobsite and followed County crews for more than 20 miles. When the County crews stopped the BLM officer got out of his vehicle and walked behind crew members harassing and interrogating them. Some crew members became so upset they returned to their vehicle to cool down. This occurred on a project where the County was donating thousands of dollars of equipment time and a road easement just to help BLM.

BLM law enforcement in Garfield County is totally uncooperative and unresponsive. Dispatchers have been rebuffed so many times by BLM agents that the County only contacts them as a last resort and with little hope for assistance.

Cancellation of cooperative law enforcement agreements between BLM and local governments

As mentioned above, we have a positive and healthy relationship with many federal agencies and especially with Juan Palma, Utah BLM State Director. We have worked with Mr. Palma to develop a cooperative law enforcement agreement similar to those executed for neighboring counties; and he is supportive of moving forward in accordance with federal law.

The Federal Land Policy Management Act (FLPMA) states that the Secretary of the Interior shall contract with local law enforcement *to the greatest extent possible* for law enforcement services on public lands. Typically, BLM has cooperated with local county sheriff departments to enforce state, local, local BLM laws on federal land. Yet lately, BLM has refused to enter into such contracts due to resistance from BLM's Chief of Law Enforcement in Utah.

Earlier this spring Utah's Lieutenant Governor took steps to develop cooperative agreements and contracts in accordance with federal law. The BLM agent in charge opposed such contracts but agreed to provide some additional information. However, to date, no communication has been received from him and no improvement has occurred in BLM's heavy handed actions.

This testimony is not intended to just document complaints. We offer a simple solution: Comply with FLPMA by contracting with local law enforcement to the greatest extent possible for law enforcement services on public lands. This may require direction to BLM's Chief Law Enforcement Officer, but it is compliant with federal law and is supported by local BLM leadership. Such contracts will also cut federal administrative costs, provide better service and increase public safety at a time when fiscal constraints demand more efficiency.

We are hopeful that after careful consideration, the BLM will take appropriate steps to better coordinate law enforcement with local governments in Utah and BLM law enforcement will enter into contracts as directed by federal law. Thank you for the opportunity of speaking today.

Armed BLM ‘Gestapo’ Threatening Rural Citizens

by [S. Noble](#) • July 25, 2014

The Bureau of Land Management is a ‘gestapo’ according to officials who testified at a House hearing yesterday.

We have the beginnings of gestapos in every government agency and they are growing in power under the perceived authority of the President of the United States who rules this country via executive orders and “guidance” memos without any congressional oversight. He is militarizing his executive branch agencies and letting them run roughshod over citizens largely without restraint and supervision. They can’t be fired as we know.

One of the agencies that has become militarized and which has gone rogue is the Bureau of Land Management.

A hearing in the House on July 24th exposed a dangerous and persistent threat to our nation coming from the Bureau of Land Management (BLM) which is allegedly intimidating citizens, threatening their rights, and creating a hostile environment.

At the hearing this week, the following was uncovered:

- BLM has threatened witnesses to give up their property rights.
- Overreaching and malicious employee behavior goes without retribution.
- BLM does not care about any authority by law enforcement and will not coordinate with them. “BLM law enforcement in Garfield County is totally uncooperative and unresponsive,” Garfield County Commissioner Leland Pollock said in written testimony. “Dispatchers have been rebuffed so many times by BLM agents that the county only contacts them as a last resort and with little hope for assistance.” Law enforcement have been told BLM doesn’t care about any authority they think they have.
- BLM’s Chief of Law Enforcement overrides State Directors and costs counties a fortune.
- BLM is stealing land and buying up land under the endangered species act which is being abused and misinterpreted deliberately.

The House Natural Resources Committee chaired by Doc Hastings released the following:

WASHINGTON, D.C., July 24, 2014: Today, the Subcommittee on Public Lands and Environmental Regulations held an oversight hearing on “Threats, Intimidation and Bullying by Federal Land Managing Agencies.” This hearing continued Committee oversight into bullying by federal land management agencies and federal law enforcement agencies on private, state, and federal lands.

State and local governments, ranchers, business owners, and private citizens have been subject to threats, lack of cooperation, and numerous unfair or heavy-handed tactics which threaten public safety, the environment, endangered species, and the livelihoods of communities. Congressional oversight is necessary to provide an effective check on federal officials who abuse their regulatory powers.

“Today we took a second look at threats, intimidation and bullying by Federal Land Managing Agencies. During a hearing the Committee held last year and again today, we heard first-hand accounts of mistreatment at the hands of federal officials seeking to extort the witnesses into relinquishing their property rights,” said Representative Doug LaMalfa (CA-01). “These firsthand accounts give the victims

of abusive conduct by a federal land managing official a chance to tell their story to Congress. Status quo agency oversight, policies and procedures are inadequate for addressing or deterring employee abuses and may instead embolden overreaching or malicious employee behavior with little risk of retribution for their actions.”

Witnesses highlighted examples of flagrant intimidation met by citizens who refuse to surrender their constitutional rights, land and water rights, grazing permits and other multiple-use benefits.

Sheriff James Perkins, Garfield County, UT, highlighted his perspective from 27 years of law enforcement and experience working with various federal law enforcement agencies.

“BLM’s attitude towards coordinating with local law enforcement is summed up best by a conversation I had with a BLM law enforcement officer while we were attending a drug task force meeting in Cedar City, Utah. He told me point blank that he didn’t care about any authority that I thought I had as the Garfield County Sheriff, and that he did not feel like he had to coordinate anything through my office... This refusal to coordinate, coupled with a lack of any meaningful oversight, has created a perfect environment where the abuse of federal law enforcement powers can occur.”

Leland Pollock, Garfield County Commissioner, Garfield County Utah, testified on how BLM law enforcement has moved away from a public service philosophy due to polarization of personnel and bullying and cancellation of cooperative agreements.

“Our concerns/ complaints are not just a matter of hurt feelings, bullying, intimidation, lack of integrity, and a host of social issues. BLM’s Chief of Law Enforcement has cost Garfield County real dollars... We are befuddled how one individual can override a State Director and negatively impact an entire county with impunity.”

A. Grant Gerber, Elko County Commissioner, Elko Nevada, discussed specific examples of wrongdoings, threats, intimidation, and bullying by both BLM law enforcement and a district manager.

“When I was a boy and as I grew up the few Federal Agents were mainly local or from rural areas and fit in well with the local area. They knew the people and worked cooperatively. Now the Federal agents are predominantly from outside the area and do not develop connections with the locals as was done previously. Many start off with a belligerent attitude, even a commanding presence. They are especially offended if anyone opposes any Federal Government actions. The worst are the Federal Law Enforcement Agents that arrogantly announce that they are not governed by Nevada law, but can enforce it if they choose. Now we have been informed, that without notice of hearings, the BLM has determined that two more BLM Law Enforcement Agents are necessary to control the people in the Elko area. All of this is resulting in less use of Federal Lands by citizens as the citizens become afraid of being accosted and berated.”



Jose Valera Lopez, President of the New Mexico Cattle Growers’ Association, Rancher, Santa Fe New Mexico, testified on current justifications Federal Land Managers use to intimidate and bully including Endangered Species protection and resource protection.

“Endangered species ‘protection’ is the biggest culprit. At the moment the Fish and Wildlife Service is considering critical habitat for the lesser prairie chicken, the New Mexico meadow jumping mouse, and

two varieties of garter snakes. Expansion of the Mexican wolf habitat is expected as early as tomorrow. We have had 764,000 acres in New Mexico and Arizona recently designated critical habitat for the jaguar although only a few male jaguar have been sighted in the U.S. over the last 60 years... In my own case, the BLM has been buying up private lands near my family ranch within the boundaries of an Area of Critical Environmental Concern that they designated part of their Resource Management Plan. They not refer to our ranch as an in-holding. What this designation has done is de-valued our land and effectively prohibits any type of future development on the ranch.”

The armed BLM even intimidates visitors to the county according to Pollack.

Rep. Chris Stewart, a Utah Republican whose district includes Garfield County, pushed for his legislation that would defund what he says are paramilitary units within federal agencies that don't need such heavily-armed forces, including the BLM.

Every government agency is armed with paramilitary teams serving as law enforcement who believe their authority supersedes that of all law enforcement. They are rogue law enforcement since they operate only under one man – the president – without any oversight from Congress.

Listen to what one rancher is going through and understand this is going on throughout the country and particularly the West.

We recently witnessed the BLM raid the Bundy ranch wearing full armor, carrying assault rifles and positioning themselves behind berms as the rancher, his family and workers sat helpless. Bundy had not paid his grazing fees but that was irrelevant to the obvious problem here. What is relevant is that the BLM was empowered to shoot and kill anyone on the ranch over grazing fees.

Government agents aren't like our trusted law enforcement who will not fire on innocents. They are arrogant bureaucrats with guns. They are a protected class of people, protected by an overreaching government and their crony unions. Sentinel supports private unions but government unions are problematic and present serious conflicts of interest.

Armed militias flooded onto Bundy's ranch and the BLM stood down, but that was after the bureaucrats cordoned off free speech areas far from the ranch and shut down Bundy's access to the outside world while conducting air surveillance drills.

The BLM is in the process of confiscating 90,000 acres along the Red River based on an uncontested ruling thirty years ago. The owners of the land have deeds to their land, some dating back to 1804. The land in question is rich in minerals.

Private property is being taken and public lands are being kept from use by the public to allegedly protect obscure and unimportant animals.

Nature weeds out creatures and plants. It happens every day. It's the way of things. They weren't all meant to survive indefinitely.

It isn't the issue really, the animals are an excuse to steal and control land and the money it can bring in.

Unfortunately, if the government can't win through misuse of laws and rules, they will use physical force and they feel empowered to do so.