



## Up Front

*Storming the beaches of the Toiyabe.*

By C.J. Hadley

It was June 6, D-day, as I drove to the federal courthouse in Reno, at young Wayne Hage's invitation. He told me it could be interesting, as it was the last day of testimony in a trial that had stretched over two months. Chief District Judge Robert C. Jones was expected to offer his preliminary findings and conclusions in the case called, "United States of America v. Estate of E. Wayne Hage, Etc."

I was born in England during World War II and knew the date in 1944 when Allied forces stormed the beaches of Normandy. That formidable scale and sacrifice finally turned the tides against the Nazis. More than 6,000 landing craft and ships took 176,000 troops from England to land on a 50-mile stretch of French coastline. They had assistance from 10,000 fighters and bombers, including 822 aircraft filled with parachutists. By dawn, 18,000 paratroopers were on the ground. Gen. Eisenhower called it "Operation Overlord" and said, "We will accept nothing less than full victory." It cost 20,000 lives, but it was the beginning of Hitler's defeat.

Operation Overlord should have been the title for the decades-long Hage case, which had the same awful odds against success. In 1991, after relentless harassment, Wayne Hage filed suit against the federal government for the taking of his property rights—and therefore his ranch—under the Fifth Amendment.

But, first, some history. I met Wayne Hage in 1976. He was a good writer, and kin to many of Nevada's pioneers in mining and ranching. He wrote stories for me when I published *Nevada Magazine*. I knew Wayne only as a writer until 1978, when he and his wife Jean sold their California ranch in Loyalton and bought the Pine Creek Ranch in Nye County, Nev. This was a high, dry desert outfit in Monitor Valley, flanked by 8,312-foot Table Mountain in the Toiyabe National Forest to the east, and the Toquimas and 11,941-foot Mount Jefferson to the west. Waters from these mountains—and adjudicated water rights and improvements—brought plenty to the ranch.

I rode with Wayne, his small crew and former owner Frank Arcularius in 1978. Frank helped bring cattle down from the high-country wilderness in fall while showing Wayne a

major piece of the half-million acres of the federally leased ground permitted to the ranch. There was still plenty of grass on top, the aspen were gold, the creeks were running.

In the following year, I returned to document the cattle drive and the resource. By this time, Hage knew the country well. I shot 12 rolls of Kodachrome, 432 photos, and thought I'd be happy with all of it. That was until Kodak in San Francisco sent me 12 rolls of raw film with a note, "Sorry, your job was damaged during processing." I felt like storming Kodak's beaches, because I had no record for Wayne.

Soon after, the trouble started. The Forest Service, especially district ranger Dave Grider, didn't seem to like Hage. Wayne was a hard man to know, too bright for his own good. He had knowledge beyond most Forest Service workers, even in their own fields. He was mentally the winner, but in officiousness he was a slap-down loser. He was picked on mercilessly. He was trespassed. He was lied about. He was accused of a felony (which didn't hold). The feds thought they had the upper hand, but what they didn't count on was Wayne's tenacity, temerity, and endurance. He was forever resolute, not a man to be trifled with.

We will be including a major story about the Hage saga in the next issue, after the final briefs have been written by lawyers from Justice and Mark Pollot for the Hage Estate. But the ultimate decision by Judge Jones will show that federal agents did "take" Hage property. It will show that federal agents did "enter into a conspiracy to intentionally deprive the defendants of their grazing rights, permit rights, preference rights." The judge was not impressed by the D.C. lawyers and told them: "The Forest Service manual does not have the force of law. It cannot alter statutory right."

After seven separate judgments in the Hage case, and decades of hearings and trials (and even though a Forest Service boss was heard to say: "Wayne Hage can't win this case. We have more money and more lawyers."), Wayne Hage and his family have prevailed. But it cost three lives and, so far, 21 years. Jean died in 1996 of heart problems; Wayne died on June 5, 2006, of cancer; and Wayne's second wife, former congresswoman Helen Chenoweth-Hage who he married in 1999, died exactly six months after Wayne in an auto accident on their anniversary.

The Hage offspring continue the battle (see p. 38). It's been as hard for them as it was for the soldiers storming the beaches of Normandy. Many lives have been lost, all remaining are scarred...and the enemy is their own government. When the line is drawn, no matter the danger, to succeed you have to cross it. Wayne Hage crossed it, and everyone in the West is better off for this cowboy's valor. ■

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