



# The Ultimate Land Clearance

*The U.S. government has inflicted 40 years of abuse on Nevada's Hage family.*

*By Ramona Hage Morrison*

**R**ecently the *Wall Street Journal* carried a front-page feature by Jim Carlton highlighting my family, the Hages. It attempted to cover the plight of western ranchers and our 40-year David-and-Goliath struggle to prevent the federal government from taking our ranch without just compensation through government threats, intimidation, prosecution, and abuse of discretion.

Pine Creek Ranch is now in foreclosure. We have won enormous landmark victories for western ranchers in multiple bench trials, including a \$14 million judgment against the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM), and—in a separate court—a ruling that the government had engaged in a conspiracy beginning in the 1970s to take our vested water rights and grazing preferences. However, on appeal, the federal courts twisted themselves into a legal pretzel to rule in favor of the government, finally taking our ranch judicially.

Like so many other ranchers before us (many personal friends), we are packing up and moving off the land in a modern-day,

government-sponsored land clearance. What is not well-known is the shocking lengths to which the 9th U.S. Circuit Court of Appeals and U.S. Court of Appeals for the Federal Circuit, as well as the Department of Justice, went to circumvent law, law of the case, rules of procedure, and rules of ethical conduct to manufacture rulings which whitewash government misconduct. In light of the nonstop headline news swirling around DOJ and federal courts, it is worth noting that the rank lawlessness we are witnessing on the nightly news is not limited to a few political appointees, but is endemic throughout the courts and federal agencies.

Since moving to Pine Creek Ranch as a high school freshman with my parents in 1978, I have had a front-row seat from which to view the lengths to which the government would go to drive my parents and so many other ranchers like them out of business. After winning three administrative appeals against the USFS—each costing between \$50,000 to \$150,000 to defend—the government retaliated in 1991 by raiding the ranch with a 40-man Forest Service SWAT team to

impound 104 head of cattle. It then sold the cattle and kept the proceeds. The USFS perpetrated the raid based upon false allegations of overgrazing without providing us the constitutional protections of procedural due process of law before the cattle and our livelihood were stolen. Two massive civil cases—the 1991 Constitutional Fifth Amendment Takings Case of *Hage v. U.S.* and the 2007 trespass case, *U.S. v. Hage*—were born out of my family having to defend our constitutionally protected property rights in court on a ranch which was otherwise rendered worthless by the government's actions.

Since 1991, we have slogged through nearly three months of actual court days in several separate bench trials, a jury trial, state water adjudication and contempt hearing against the government, the testimony of numerous witnesses, and review of thousands of exhibits. Two independent federal judges from two separate jurisdictions separated by more than a decade of time, after lengthy trials with actual evidence, concluded that representatives of the United States from the BLM and the USFS acted in coer-

cive, fraudulent manners towards my family.

Judge Loren A. Smith, chief judge of the U.S. Court of Federal Claims, after two bifurcated bench trials in a 20-year-long case, with a total of five weeks of trial where actual evidence was presented concerning the manner in which these agents of the U.S. government abused their discretion and power against the Hage family, concluded that any attempt by the Hages to negotiate or attempt to comply with the demands of these agents and their bureaucracies would be futile. Smith ruled in favor of the Hages—finding that the actions of these agents constituted a pattern and practice designed to deprive the Hage family of its vested water rights, 1866 Act ditch rights-of-ways, and range improvements—which resulted in a judgment for the Hages of over \$14 million.

The government appealed. After a 30-minute hearing in the appellate court, three judges determined that had the Hages filed a request for a special-use permit the Forest Service would have granted it, and since the Hages did not file such a request, the case was not ripe, and therefore dismissed. This despite the fact that there was no requirement to file for a special-use permit, and despite the fact that Judge Smith specifically found that any attempt by the Hage family to work cooperatively with USFS or BLM agents would be futile. Unfortunately, the U.S. Supreme Court did not grant certiorari on this matter, leaving the Hages without a remedy.

Judge Robert C. Jones, chief judge of the Federal District Court for the District of Nevada, after a four-week civil trial, with careful consideration of over 21 days of testimony and evidence, and an additional four days of a separate contempt-of-court hearing, determined that the representatives of the USFS and BLM acted in a manner specifically to conspire to deprive the Hage family of its vested property rights, in particular stockwater and grazing preferences, as Judge Smith had previously found in the U.S. Court of Federal Claims. Jones specifically found that the conduct of these bureaucrats “shocked the conscience” of the court.

The court also named the Department of Justice attorneys as possibly being a part of that conspiracy. Judge Jones found evidence of fraud, mail fraud, and wire fraud on the part of the federal agents and of racketeering or RICO. He specifically charged several of the USFS and BLM representatives with contempt of court and ruled in favor of the defendant, Wayne Hage Jr., and the Estate of Wayne and Jean Hage. Finally, the BLM and



COURTESY HAGE FAMILY

*The Hage family, shortly after they arrived at their dream home on Pine Creek Ranch near Tonopah, Nev., in 1978. From top left: Ramona, Ruth, Margaret, Wayne, Jean, young Wayne Jr. (now age 43), and Laura. They didn't know that federal agents were already after their outfit. The 9th U.S. Circuit Court of Appeals is currently hearing what might be the Hages' last appeal. As is becoming too common these days, and obvious to anyone paying attention, American "justice" doesn't work.*

USFS, which had arbitrarily cancelled the Hages' grazing permits in the early 1990s, were ordered by the court to reinstate the Hage Estate's grazing permits.

After a 40-minute hearing in the 9th Circuit, the three-judge panel determined that no lucid judge would have made these findings absent some bias or prejudice against the government. This despite the fact that the findings made by Judge Jones in Nevada, after independent consideration of overwhelming evidence, made virtually identical findings to those previously made by Judge Smith in Washington, D.C.

As a result of the court's disbelief that representatives of the government would act consistent with the findings of Judge Jones,

the 9th Circuit reversed Jones' decision, remanded the case back to the district court level, and directed Judge Gloria Navarro to rule in favor of the USFS and BLM. This case was also appealed to the Supreme Court, which for the second time did not grant certiorari in the absence of Justice Scalia, again leaving the Hage family without a remedy.

Judge Navarro, a newly Obama-appointed federal district judge from the District of Nevada, was assigned to enter a judgment in favor of the United States against Wayne Hage, as a result of the 9th Circuit's ruling that Judge Jones was biased and prejudiced against the United States. She dutifully relied on the allegations of representatives of the DOJ regarding damages incurred by defen-

dant Hage. She accepted the government's allegations without an evidentiary hearing and despite the fact that no evidence concerning the cause or amount of those alleged damages had ever been introduced in any court. This resulted in the United States being awarded a judgment against Wayne Hage Jr. in the amount of nearly \$580,000, although the actual amount supported by evidence presented at trial by the government was a mere \$15,000. The punitive amount of this judgment is currently on appeal to the 9th Circuit Court of Appeals.

This same Judge Navarro was the junior judge assigned to the criminal case against the Bundy family and other defendants. Judge Navarro in two separate Bundy defendant trials had, like in the Hage hearing, ruled entirely for the government during the course of those trials, in a manner that was shockingly biased to many court observers. However, last December in the third trial involving Bundy family members, evidence was presented concerning the agents from the Department of Justice, U.S. Attorney's Office, BLM and FBI engaging in fraud, misrepresentation of material facts to the court, and collusion against the Bundys. These

agents had concealed over 3,000 pages of exculpatory evidence from the defense team in violation of Federal Rules of Criminal Procedure. Judge Navarro was presumably left with no choice but to dismiss the Bundys with prejudice, which she did. She specifically noted that the BLM and DOJ engaged in "flagrant misconduct" and "deliberate attempts to mislead and distort the truth."

In addition to the fact that three different federal judges have specifically found a pattern and practice of inappropriate and even illegal behavior by representatives of the DOJ, BLM, USFS, U.S. Attorney's Office, and FBI, additional evidence of gross misconduct has recently come to light via a BLM whistleblower. The so-called "Wooten Memo," written by the BLM's lead investigator on the Bundy matter, contains many charges against government agents including a chilling reference to a "kill book" which was bragged about by head BLM enforcement officer Dan Love. The 18-page memo reveals that the pattern and practice of the federal land-management agencies were, by design, intended to violate the constitutional rights and to deprive U.S.

citizens such as the Hage and Bundy families of their property. A second Wooten whistleblower memo was just discovered but it has been ordered to be sealed by the court by Judge Navarro, who continues to refuse to release the 3,000 pages of exculpatory evidence to the defendants in the Bundy trials.

The lengths to which the appellate courts have gone to substitute their own findings of fact for those of the trial judge, or to charge the trial judge with bias in order to avoid ruling on the merits of a case, or to utilize any other legal loophole in order to rule over 90 percent of the time in favor of the federal government is a sheer travesty of justice. The Hage cases are Exhibit A for why ranchers do not believe they have a snowball's chance in hell to prevail against an all-powerful federal master, no matter how strong the evidence or

how many judges agree with them.

As a DOJ attorney said to us during court-ordered settlement talks, they weren't concerned about Judge Jones' ruling because "we get everything we want from the 9th Circuit." DOJ attorneys also informed us at another time that it is "Justice Department policy to get privately owned

water into government ownership."

We unfortunately don't have congressional investigators combing through court documents, emails and texts, secret warrants or phone taps, etc., in numerous cases where the BLM, USFS, EPA and U.S. Fish & Wildlife Service, enabled by the Justice Department and FBI, have targeted property owners and other land users for destruction. Dwight and Steven Hammond are currently sitting in jail, charged as domestic terrorists for a backfire that accidentally burned a small piece of adjacent vacant federal land. LaVoy Finicum was shot and killed by snipers on the side of the road. Raymond Yowell, the Dann sisters, Ben Colvin, Danny Martinez, Kit Laney, my family, and many others have watched their livestock and livelihoods hauled off by the BLM and USFS in cattle trucks at gunpoint without being afforded procedural due process of law or just compensation.

It is no surprise to us that agents charged with enforcing the law would attempt to prosecute trumped-up charges to topple a duly elected president. Sadly, the evening news looks eerily familiar. ■

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