

The Big Squeeze

The much-litigated pipeline is now moot, so why is a government agency spending millions to shake down ranching families in eastern Nevada?

By Marjorie Haun

Tyrranny comes in many forms and its motives always diverge from its stated mission. Southern Nevada Water Authority is devouring ranches and pressuring the remaining ranchers in Nevada's eastern counties to sell out, using the livestock business as a guise. Formed in 1991 to procure water for Las Vegas and its burgeoning developments, SNWA is a subdivision of the state of Nevada. SNWA formed the LLC, Great Basin Ranch (GBR), for the express purpose of acquiring ranches in rural White Pine and Lincoln counties. Along with the ranches, SNWA gained control of attached water rights and grazing permits, aiming for all surface water and aquifers in the region. To date, SNWA has spent some \$300 million in taxpayer dollars on its ranching operations, only to fail in its core mission to pump 58 billion gallons of water annually out of arid eastern Nevada through a proposed 300 mile, \$15.5 billion pipeline.

In March 2020, SNWA's "big straw" project was struck down for a second time in Dis-

trict Court. According to a *Nevada Independent* report, the water authority has no plans to appeal the decision. The March 10, 2020, report quoted SNWA's spokesman, Bronson Mack, as saying, "There is no scenario in our water resource plan where this project would be needed within the next 30 years." The District Court's decision was based in part on the state water engineer's study which found that the proposed pipeline would be environmentally detrimental and would adversely affect existing water rights in the Nevada counties in question, as well as several counties in western Utah. But as SNWA retains control of ranches, allotments and water rights in eastern Nevada, those resources are already being denied to private ranchers, citizens of Nevada. So it's worth asking, with no pipeline to pump the water, why is SNWA still holding onto properties in the Great Basin Ranch?

I asked Mr. Mack about this very issue

and he said SNWA is retaining the Great Basin Ranch to fulfill its mission of "protecting" water and resources. I then asked him about the fairness of a subdivision of the state competing with ranchers in the area, to which he replied: "We are not in competition with other ranches in the area. Market forces influence the value of the commodities that are bought and sold within the ranching industry."

Evidence to the contrary, however, is contained in the minutes of a 2017 meeting of the N-4 Grazing Board (which gets its monies from grazing fees paid by ranchers)

Independent ranchers are overshadowed by SNWA's political clout and vast expense accounts. Its yearly budget is nearly \$700 million.

where SNWA requested over \$18,000 for fence improvements. Although SNWA is prohibited as a subdivision of the state from selling products in private transactions, it does impact local markets as bidders and sellers in auctions. SNWA hires many of its cowboys and sheepherders from a limited number of specialized foreign laborers. Sheep camp trailers, water trucks, pickups and other equipment splashed with "Southern Nevada Water Authority" logos are sighted regularly on private and federal lands in eastern Nevada. Call it competition, redundancy or a waste of taxpayer dollars, SNWA appears to be acting as equals to the U.S. Forest Service and Bureau of Land Management (BLM), with its own monitoring teams on the range, purportedly to ensure that "sustainability" goals are being met.

The courts are another arena in which it would be nigh impossible for private ranchers to compete. With a sizable staff of in-house attorneys always at the ready, SNWA also hires outside attorneys to deal with protests of BLM and Forest Service permit denials and other ranching matters. One of SNWA's on-call attorneys is William Myers, former BLM solicitor general. Nothing to see here.



ABOVE: In defiance of the 1963 Agreement, SNWA has been running sheep on cattle portions in the Dry Lake Valley. This image was taken by Kena Gloeckner with a cell phone from a distance, hence the blur. The BLM tends to favor an entity that, by law, isn't allowed to own permits.

Power Corrupts

Not only is SNWA flouting the principle that government must not compete with the private sector, it is also using its power and a bottomless reserve of taxpayer dollars to gain control over eastern Nevada's historical sheep and cattle operations. SNWA has become the largest purchaser of private ranches in eastern Nevada. Since the early 2000s it has captured

each month to keep the ranches open. The longtime employee filed a wrongful termination lawsuit which includes blistering allegations about how water bosses lied to the public and to elected officials." The report states that insiders believe SNWA is losing over \$2 million per year on its ranches.

SNWA's apparent abuse of power goes beyond dollars. If hair-raising levels of overspending aren't bad enough, meet GBR's manager, Bernard Petersen, who received more than \$234,000 in salary and

sion—it shows no signs of returning ranches subsumed by GBR to private ownership and continues to apply for water and grazing rights in Dry Lake Valley. SNWA's acquisition of federal grazing permits is controversial.

Stated in an explanation of the BLM solicitor general's response to Nevada State Parks' acquisition of grazing allotments to form the Walker River State Recreation Area is this: "The relevant section, specifically 43 CFR Section 4110.1(a)(2), clarified that a state government agency is *not* listed as eligible to hold a grazing permit with the BLM." It goes on to explain that a subdivision of the state must eventually divest itself of grazing permits it may have acquired in the purchase of a base property.

The Forest Service Grazing Permit Administration Handbook (2016 version) reiterates the prohibition, writing, "permits may not be issued to federal, state and local governments or subdivisions thereof."

Finally, Section 315b of the Taylor Grazing Act seems to disqualify SNWA as a legitimate applicant. It declares: "Grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declarations of intention to become such, as required by the naturalization laws, and to groups, associations, or corporations authorized to conduct business under the laws of the State in which the grazing district is located. Preference shall be given in the issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights." Although GBR is an LLC, it is owned by a subdivision of the state of Nevada.

The Holdouts

In a high corner of Hank Vogler's great room is perched a stately mountain lion. Leveling a finger at a large window overlooking his bunkhouse and shop he says: "I saw something coming for my hospital sheep, so I got my rifle. When I shot, it flew up into the air and I thought to myself, 'That coyote sure has a long tail.'" His house is adorned with tangible proof that four-legged predators stalk the range north of Ely where he runs thousands of head of sheep and cattle, but Vogler is now focused on another predator: SNWA.

Vogler began working livestock in White Pine County in 1984, first as a cowhand for the R.B. Robison Ranch and then for Vidler Water Company, which subsequently purchased part of the Robison Ranch at a bank-

SNWA's apparent abuse of power goes beyond dollars.

benefits in 2019. When Petersen entered the picture around 2010, workplace conditions deteriorated and for one now-former employee, they became terrifying. Early in 2020, *8 News*



ABOVE: SNWA's manager for Great Basin Ranch, Bernard Petersen, appropriately attired in a Facebook selfie has reportedly terrorized and harassed private ranchers and his own employees. RIGHT: Debra Rivero, one of Petersen's alleged victims. (This is a screenshot taken from *8 News Now* video.)

eight ranches and currently holds 23,000 acres in private ranch land and more than 900,000 acres in Forest Service and BLM grazing allotments.

Independent ranchers are overshadowed by SNWA's political clout and vast expense accounts. Its 2018-2019 budget showed \$700 million, so it's not surprising that SNWA has been in a position to pay massively inflated prices for ranches in the Dry Lake and Muleshoe valleys. In July 2015, *8 News Now* reported that an SNWA accountant-turned-whistleblower was alarmed by the prices being paid to acquire ranches. The report claimed: "He saw the checks SNWA wrote to buy seven ranches in eastern Nevada. The agency paid four to five times what the ranches were worth, \$79 million total." The prices were so outlandish that in fact, according to the same report, accountants were cooking the books to avoid suspicious eyes. The report goes on to say: "A former accountant for SNWA alleges the water agencies have been lying about how much money they spend

Now interviewed Debra Rivero, a longtime SNWA employee and office manager for GBR, who filed a federal EEOC complaint testifying that she and other employees were regularly "abused and terrorized" by Petersen. Rivero's accounts of humiliation and abuse by Petersen include death threats against herself and others and one incident in which he threatened her while holding an electric cattle prod within inches of her face. In a final, chilling episode, according to the report, Rivero suffered a stroke while working at the ranch. She couldn't drive and explained to Petersen that she needed him to transport her to the medical facility in Ely, 30 minutes away. According to Rivero, Petersen insisted on cleaning out his truck before they left, and when they arrived in Ely, he simply dropped her at the curb and sped off.

Sneaking Around the Law

Despite very public reports about SNWA's ethical lapses and the defeat of the pipeline—the cardinal means of fulfilling its stated mis-

ruptcy sale in 2002. In a later transaction, Vogler became part-owner of Vidler Water Company to form H Sheep Company, of which he took full ownership in 2004. With Vogler's acquisition came all rights to its sheep AUM's (animal unit months), water, and Forest Service and BLM grazing permits. In 2006, SNWA purchased the R.B. Robison Ranch, which is adjacent to Vogler's operation, and hired Merlin Flake as its manager. Flake at one point bought cows from a herd known to have trichomoniasis and put them in a pasture next to where Vogler wintered his bulls. Vogler complained to Pat Mulroy, SNWA's director at the time, and Mr. Flake eventually

removed the sick cows. However, says Vogler, "Mr. Flake must have been instructed to harass me, as things only got worse."

Vogler wrote in a recent letter to the editor: "SNWA has pushed on me in an allotment that I purchased two years prior to them purchasing their first ranch in Spring Valley. I have been trying to get the paper straight for 16 years and no one at the BLM wants to touch the issue that, as I have been told many times, is a career ender for anyone addressing it. Is that abuse of power?"

In 2006, SNWA started encroaching on Vogler's other sheep allotments, and that's when hostilities began in earnest. In a letter

to the BLM he describes the onset of SNWA's harassment: "In the fall of 2006 the manager for SNWA's Robison Ranch locked a gate separating allotments on federal land, which is illegal. Mr. Flake nearly killed several of my cows that had drifted into the area trying to go home. I removed the gate after several tries to resolve the issue." He continues: "Later that fall Mr. Flake went into my sheep camp in Grassy Valley, Spring Valley use area. The herders were using the Red Hills and Grassy Valley, which had always been the norm. He attacked my herders physically, throwing a chunk of wood at one, who hid in the brush all night in the cold. He then kicked over the propane tank rupturing the hose and endangering their lives. I confronted Mr. Flake and he said his job 'was to put me out of business.'"

Around 2005-2006, when SNWA was in overdrive scooping up ranches, the BLM

I confronted Mr. Flake and he said his job was to put me out of business.

range conservationist in Ely asked the BLM solicitor general about SNWA's acquisition of grazing allotments. The SG's response was, as Vogler recalls, "The Taylor Grazing Act has no clause that allows a state agency to run livestock on BLM land." Even after the SG informed the Ely range con that federal law prohibits subdivisions of the state from acquiring BLM land for livestock, Bob Abbey, the Obama-appointed national BLM director, called the same range con and told him, according to Vogler, "You will issue Southern Nevada Water Authority a permit!"

Vogler exclaims, "If that's not a threat, I don't know what is. Where is it in the charter for state agencies to operate ranches? They are out of their charter. Maybe the Department of Education should take a run at casinos."

SNWA's holdings end just south of Vogler's properties. Nevertheless, SNWA has shown a keen interest in the sizable Tippett Pass allotment. Covered mostly in black sage, this allotment is traditional sheep country. Vogler has held the permit for years, but SNWA is now running cows on it despite the nearly complete absence of suitable cattle forage. Vogler says: "No determination was ever made that this allotment should be grazed by cows. There's nothing in these hills for the cows to eat, but they're bringing them up to make a point." The point, he believes, is to

PHOTOS © MARJORIE HAUN



PHOTO FROM MERLIN FLAKE'S REALTOR PROFILE PAGE



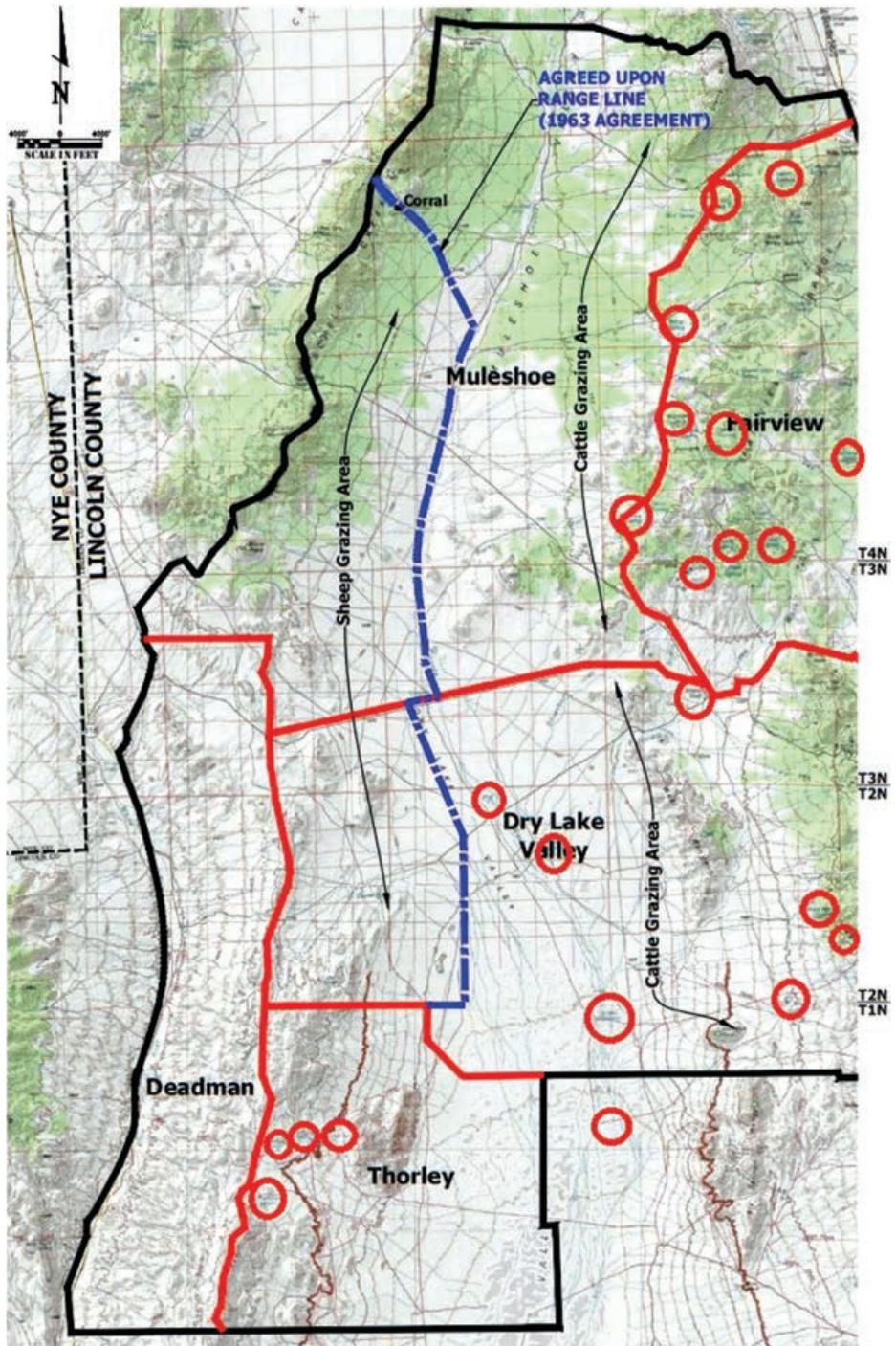
CLOCKWISE FROM TOP: Hank Vogler on his range in eastern Nevada, south of Wells, north of Ely. SNWA is pressing on this rancher by putting cattle on his sheep allotments—an unlawful move according to the BLM. ▶ When SNWA started gobbling up ranches it hired Merlin Flake to manage a ranch adjacent to Hank Vogler's. Good neighboring disappeared. ▶ The Tippett Pass allotment has always been sheep country as shown by this decades-old trough. ▶ Hank's modest operation has taken half a lifetime to build. Guests used to stay in a refurbished sheep trailer next to the tiny lawn. Hank recently finished a new house that overlooks the old one.

drive out his sheep and to flex some bureaucratic muscle. Vogler argues: “The permit they’re hassling me over is so far north of everything else they control that I guarantee you that hauling the water out there and doing everything else they’re doing is not cost-effective!”

In spring 2020 Vogler applied to renew his permit for the Tippet Pass sheep allotment, on which he has successfully and sustainably grazed sheep for nearly two decades. In a curious turn, the BLM denied his application and awarded the permit to SNWA. In the decision document, BLM cites federal grazing law which says that when “more than one qualified applicant” applies for a livestock grazing permit, it is up to the discretion of the “officer” to determine who gets the permit. Apparently SNWA’s power makes it more “qualified” than a seasoned and responsible sheepman. As George Orwell extolled, “All animals are equal, but some animals are more equal than others.”

SNWA may not be content with the ranches it has already absorbed and appears to be using harassment and intimidation to pressure holdouts. “Everyone is scared to death of the politics,” Vogler says. “When SNWA started using their sheep to push around the cattle ranchers in Dry Lake and Delmar valleys, I wondered what the hell is going on down there? They’re running all over those people.” Vogler tells of a rancher in Coyote Valley who was at one time being badgered by Bernard Petersen. “The rancher returned fire by raising his voice and Petersen reported the rancher for ‘workplace violence.’” SNWA subsequently filed charges against the rancher despite the fact his sheep were on his private allotment at the time of the altercation with Petersen. Using a team of in-house attorneys to prosecute the rancher, SNWA successfully got a restraining order against him.

For nearly 60 years, ranching in the



PHOTOS COURTESY TODD MACFARLANE

ABOVE: The 1963 Agreement map shows cattle and sheep portions as well as water rights held by independent ranchers. SNWA has been putting cattle on sheep portions and vice versa, violating the agreement and disrupting the environment.

LEFT: On a string of half a dozen neighboring ranches, everything from fancy pickups, sheep camps and stock trailers to multimillions of dollars of the latest and greatest farm equipment all display the SNWA logo, all belonging to a government entity, as fully evidenced by the Nevada exempt plates. Real ranchers and other hard-working Americans would be happy with the same deal.

INSET: Great Basin Ranch sign on one of SNWA’s eight Nevada ranches.



Kena with family and a highly coveted award. From left to right: Kylee, Kori, husband, Pat Gloeckner, and Kena Lytle Gloeckner, when their ranch—which has been in Kena's family for over a century—received Nevada's Centennial Ranch Award in 2012.

Muleshoe and Dry Lake valleys has been governed by the 1963 agreement, which was formulated by cattle and sheep ranchers and the BLM to determine where cattle and sheep would graze. The agreement laid out specific usages for each allotment in the Dry Lake Valley Use Area (DLVUA) based primarily on water rights and the associated forage on each allotment. Before SNWA entered the scene, everyone was familiar with the range lines and honored the agreement. In defiance of the 1963 agreement, SNWA has been running sheep on cattle portions of the allotments and vice versa.

Ranchers to the south of Vogler joined forces and hired property rights attorney Karen Budd-Falen to represent them in their fight with SNWA over encroachments in the DLVUA and for breaches of the 1963 agreement. Kena Gloeckner, whose family has been ranching in the region for more than a century, is one of those ranchers. She says of her experiences with SNWA: "From the first year they purchased the ranches and began running their sheep in common with our cattle, we have been bullied and harassed. They have a team of attorneys and an insurmountable number of support staff to forward any kind of narrative that supports their agenda to the BLM, politicians, judges. It's almost impossible for the common rancher to compete against them." She goes on: "We have spent thousands

of dollars trying to fight their encroachment on our waters and forage. I have always believed that their main goal was to put us out of business so there would be no senior water right holders to contend with in the corridor of their proposed pipeline." She warns, "SNWA currently has numerous water applications in the Dry Lake Valley that, if granted,

"We have spent thousands of dollars trying to fight their encroachment on our waters and forage."

would interfere with senior water rights."

Of SNWA's treatment of the 1963 agreement, Gloeckner asserts: "In the beginning, they claimed the 1963 agreement was not binding because it did not contain actual signatures. The BLM in 1963 had typed up a second copy since the original handwritten copy was a bit hard to read. They then used the argument that they were not a party to the agreement and so it was not binding upon them even though their predecessors were parties." Gloeckner's account is also at odds with SNWA's assertion that "protecting resources" is its reason for holding on to the ranches. She explains: "Since 2006, SNWA has

run their sheep on forage that belongs to the cattlemen. Last year they put sheep on our portion of the allotment almost three weeks before the season of use even begins." In 2011, one of Gloeckner's calves was killed by an SNWA guard dog. The incident was witnessed by an official with the U.S. Department of Agriculture who reported the killing.

Gloeckner's interactions with GBR manager Bernard Petersen are consistent with other disturbing accounts. She reveals: "My first contact with him was when I discovered 2,000 head of SNWA sheep in our portion of the use area and inside our fenced-in water source. When I told him his sheep were in our portion of the use area and drinking water that had taken months to reserve in a pond for our cows, he began laughing and said: 'Honey, if you believe my sheep need to stay beyond some imaginary line, you are dreaming. My sheep can graze anywhere they want between Highway 318 and Highway 93, and there is nothing anyone can do about it.'"

Imbalance of Power

There can be no comparison between the special advantages afforded employees of SNWA to those of private ranchers, primarily because private ranchers have no special advantages. With its withering political power, SNWA is reshaping eastern Nevada's ranching culture into something it was never meant to be, while threatening its environmental resilience. As agents of a subdivision of the state, SNWA's employees drive vehicles with exempt license plates. Great Basin Ranch is exempt from paying state taxes and its manager, Bernard Petersen, appears to be unanswerable to ethical or moral norms. Without special protections or taxpayer-funded perquisites, how can private ranchers contend with a monstrous government entity that pays no state income tax, has access to endless streams of funding, uses its influence to deprive private ranchers of grazing permits and water rights, and keeps a seraglio of attorneys close at hand?

To be clear, SNWA formed the Great Basin Ranch as an end run around the complications of federal law. And despite the fact that the pipeline is now a moot issue, SNWA continues to shake down hardworking ranching families, overwhelming their lands and water, and the future of eastern Nevada. ■

Marjorie Haun is a freelance journalist with a keen interest in grazing, water rights and defending family ranches against governmental bullies.