

## SPECIAL REPORT

# PATTERNS OF HARASSMENT

*Some say the wealth of America lies in her coal mines and her forests, her wheat fields and her factories. But they are wrong. I have seen the wealth of America. It lies in the hearts of Cliff Gardner, Cliven Bundy, and the Hage children. It lies in the spunk with which they will continue to fight their fight for as long as they draw breath. It lives in their naive faith that some judge, somewhere, will hear them out, answer their questions, acknowledge the limits of his jurisdiction, search his conscience, see justice done.*

By Vin Suprynowicz

## Onslaught at Gold Butte

*Only something funny happened on the way to hanging Cliven Bundy's scalp on the lodge pole.*

In April 2014, after years of bluff, bluster, and one-sided hearings in federal courts, the federal Bureau of Land Management sent hundreds of armed men, including SWAT teams and snipers dug in along the ridgelines, to barricade roads and attempt to seal off hundreds of thousands of acres south of Mesquite, Nev., in order to confront a single, 67-year-old rancher, Cliven Bundy.

BLM's goal might have been to round up



*Bundy supporters in Bunkerville last April. Are they, as Sen. Reid claims, domestic terrorists?*

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Bundy's 600 head of cattle and remove them from land about 80 miles northeast of Las Vegas which his family has been grazing for more than a century. Or its goal might have been to lure Bundy into an armed response to men bulldozing his waterlines, torching his water tanks, and shooting his bulls. If he'd responded that way, they could have jailed or killed him to serve as an example to other ranchers elsewhere in the West who might be tempted to similarly resist the bankruptcy which looms for all as the BLM continues to annually reduce the number of cattle they're allowed to graze.

Either way, the agents failed, because the government can no longer control people's access to real news. In the old days, all they needed to do was make sure the network newscasters repeated the boilerplate sound bite that this was all about "a trespassing rancher who refused to pay a million dollars in grazing fees." But as public outrage at the government's absurdly heavy-handed tactics swelled, a thousand supporters, some armed, individually or in small groups, found their way to the scene to back up a besieged old rancher and his family.

At the same time, inquiries about the role in all this of Senate Majority Leader Harry Reid, his friends the Red Chinese, and his lined-up-at-the-feed-trough offspring went viral in ways the Reid team (including BLM boss Neil Kornze, who worked as a "policy advisor" for Reid from 2003 to 2011) must have found extremely disturbing. (See "The Reid Connection" on page 50.)

On Saturday morning, April 12, Clark



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*Would you believe this is what folks in Washington now believe representatives of a bureau established to "sustain the health, diversity, and productivity of the public lands" should look like? Actually, given the lack of shoulder patches, there's no way to be sure which agencies are represented among these combat troops, seen deploying near Toquop Wash on April 12 to guard cattle seized from the Bundys in an effort to reduce "productivity" of that land to zero. Bundy and members of Congress insist the BLM has "no police powers."*



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*“There’s a philosophy of life that I have,” says Cliven Bundy. “All these resources—the brush, the game—are put here for man’s use. They say they want to protect the ecosystem, but man has to be part of the ecosystem. This land would be better off if you let people use it and work it and improve it.”*

County Sheriff Doug Gillespie—who had legal authority to stop the BLM from closing off roads in his county and threatening the citizens with armed force, but did nothing—tried to “meet with the Bundy family in private.” But Bundy insisted the sheriff speak in front of the crowd, so they appeared together on a makeshift stage on the banks of the Virgin River. There the sheriff announced the BLM had agreed to turn tail and withdraw. Hours later, around 3 p.m., about 150 Bundy supporters advanced on a corral in the Toquop Wash where the BLM had penned up nearly 400 head of Bundy’s cattle—the ones its contract cowboys hadn’t shot and buried in a secret grave—and set them free.

This is huge. The BLM was not stymied by Nevada Gov. Brian Sandoval, who did very little. They were not forced to back off by the local Clark County sheriff and his thousands of Las Vegas-based police, who told local residents of the towns of Mesquite and Bunkerville that they were on their own. Instead, the BLM was stunned to find a thousand everyday Americans showing up from all across the West—some on horseback in cowboy hats, many bearing semiautomatic .223 rifles. It was a spontaneous and genuine outpouring of support by people who had had enough. And this militia drove

off the Washington-based invaders without firing a shot, simply by standing next to an old cowboy.

During the previous week, BLM agents had arrested one of Bundy’s kids for having the nerve to take videos of their behavior (they called it “refusing to disperse,” though how a single person can disperse remains unclear), had tased a pregnant woman and a

**“Everything we tried to do, every time we tried some compromise, they wanted more. It was like talking to a greedy landlord. Everything became lockout or lockup.”**

CLIVEN BUNDY, RANGE, 1999

few other nonviolent citizens, had threatened protestors with attack dogs, and had opened themselves to widespread contempt by erecting remote, fenced-off “First Amendment zones.” After a week of ridicule, the BLM goons tucked their tails between their legs and disappeared, with nothing to show for their trouble. This prompted Harry Reid, easily the nation’s most unpopular senator

among his own rural constituents, to cackle like a frustrated Rumpelstiltskin that Bundy’s nonviolent supporters were “violent domestic terrorists” and vow, “It’s not over.”

Oddly, these violent domestic terrorists had not opened fire on anyone. They do not stand accused of poisoning any reservoirs, blowing up any buildings, hijacking any airliners, stealing quarters from blind newsboys, or even jaywalking. The BLM, on the other hand, was backed up by men in full combat gear who aimed their M-16s at law-abiding civilians. Veterans who were present on April 12 said, “If one person on either side had popped off a round, there would have been a massacre.”

And all this over less than \$300,000 in grazing fees. The BLM charges \$1.35 per Animal Unit Month (cost to run a cow and calf for one month), which would add up to either \$195,000 or \$290,000 over 20 years, depending on whether you use Bundy’s estimate of 600 head or the BLM’s highest count to date, which is 900. But such fees have to be based on voluntary “range-management” contracts. And Bundy stopped signing the contracts in 1993 because if he’d signed he would have been required to pull his cattle off the range every spring, which would have put him out of business, in which case he couldn’t have paid fees anyway.

#### **NO ONE TO BUY, SHIP OR FEED**

At the Bundy ranch on April 24, Cliven’s wife, Carol, told me the blustering Sen. Reid resembles “a little boy who’s had his lollipop taken away.” She also noted that she and Cliven were not in the gully by the Interstate-15 overpass on that Saturday afternoon when the gate was opened to release the cattle. “Cliven said, ‘If I open the gate then it’s just Cliven released the cattle, but if we’re not there then it’ll be We-The-People who released them.’”

The BLM said it would release the cattle in two more hours. Bundy supporters asked: “Why two hours? If you’re going to release them, why not do it now?”

Carol explains: “The BLM was waiting for reinforcements from Las Vegas and buses they were going to use to arrest those people and haul ’em away to jail. But they couldn’t get through ’cause the highway was blocked

off.” Some Bundy supporters “parked their trucks on the highway and took the keys with ’em so traffic wasn’t moving, and the reinforcements couldn’t get through.”

Carol’s nephew was close to the holding pen. “He looked at his brother-in-law, whose eyes were as big as this, pulled his hat down and said, ‘This is a good day to die,’ so they took a step forward. He said that first step was the hardest, facing all those guns. And then they took a second step, and each step got easier until they got to the pen and let those cattle go.”

A letter from Utah Gov. Gary Herbert warned the BLM not to bring any of the cattle into his state for sale. That may have contributed to the federal withdrawal. Bundy says the governor had no choice. “We put him on notice those were rustled cattle and it would have been illegal for them to sell our branded cattle in Utah without our permission.”

Former *Las Vegas Review-Journal* editor Tom Mitchell reports on his 4thST8 blog that the BLM could find no rancher or trucker in four states to haul their cattle, buy their cattle, or even sell them a bale of hay.

It was heartwarming to see the BLM and its accompanying “Homeland Security” combat forces back down. It was equally heartwarming to see state lawmakers from around the West gather in Utah the follow-



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**Was there some other agenda here—like making this vast tract of desert permanently uninhabitable by and inaccessible to any member of the human race? And why schedule the destructive roundup for spring, when both baby calves and baby tortoises are on the range?**

ing week to discuss state initiatives to regain control of the majority of lands in the western states. The meeting had already been scheduled, but participants put the failed Bundy attack center stage on the agenda. It was less heartwarming on Easter weekend, when the Bundys posted photos of a half-dozen cattle killed and buried in a 30-by-50-

foot pit by federal “law enforcers,” the bulldozed waterlines, the sawed-off pipelines where they emerge from wellheads, and evidence that torches were used in an attempt to cut up and haul away a 12,000-gallon water tank belonging to Bundy.

Two valuable bulls were shot, one after it was penned, shot so many times the Bundys characterized it as a “thrill killing.” Why? The Bundys say the range bulls were not aggressive. And why attempt to ruin the water infrastructure that helps support both cattle and native wildlife including deer and desert sheep on that dry range? If you were evicting a nonpaying tenant—and that’s the way the BLM was at pains to characterize its invasion—would you also seek to demolish the house you hoped to rent to a “better” tenant? Or was there some other agenda here—like making this vast tract of desert permanently uninhabitable by and inaccessible to any member of the human race? And why schedule the destructive roundup for spring, when both baby calves and baby tortoises are on the range? (See “Is It All About The Tortoise?” on page 48.)

The day I visited the ranch, the Bundys had just found a spring calf that had been stranded in the desert for two weeks without its mother after the panicked animals were pushed long distances by helicopters. The



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*Bundy’s cows have learned how to use the desert well. “I had to explain to the BLM that when you put cattle out on land like this,” Bundy says, “if their mommas haven’t taught them what they can eat out here, they starve.” The BLM wanted Bundy to stay off the range for three months in spring, with nowhere else to go. That would have meant taking them to the closest sale yard in Utah and buying more cattle after the best growing season. It didn’t make sense. It would have been agricultural suicide.*



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*The BLM's hired contractors—"cowboys from Utah"—and its own employees cost Bundy "at least \$100,000" in infrastructure damage and "more than 50 head of cattle."*

Bundys were giving the calf water as it lay in the shade in their front yard, and by the end of the day the little critter could at least raise its head...but it died the next day. In late June, Bundy told me his losses were "at least \$100,000" in infrastructure damage and "more than 50 head."

Now, weeks later, even those who objected to the heavy-handed tactics of the Washington bureaucrats still seem reluctant to challenge the underlying sound bite: that Cliven Bundy owes a million dollars in fees for grazing cattle on federally owned land without proper permits.

All this begs many questions.

Does the federal government own this land? Does Cliven Bundy owe more than a million dollars in grazing fees? What happened to the other 51 families who grazed cattle for generations on Clark County's other allotments? After all, the BLM was established in 1946 to "promote productive use of the land," including grazing, mining, and lumbering. What is the role of "protecting the threatened Mojave desert tortoise" in all this? If Bundy is removed and the huge Gold Butte area is blocked off to human access and turned into a wilderness, would that financially benefit residents of local towns including Mesquite and Bunkerville? And what about the Harry Reid connection? In how many ways are the fingerprints of the senator whom mobsters from Cleveland and Las Vegas have long called "Mister Cleanface" all over this mess?

In the *freedomourtime* blogspot, Will Grigg notes it was in 1993 that the BLM

decreed that the land on which Cliven Bundy and neighbors had long grazed their cattle was actually the "habitat" of the desert tortoise, calling for drastic new restrictions on land use by ranchers. "The BLM's revisions were imposed during the reign of Interior Secretary Bruce Babbitt," Grigg writes, "who in a letter two years earlier (written while he was head of the League of Conservation Voters) declared: 'We must identify our enemies and drive them into oblivion.' Babbitt and his comrades...in the past 20 years...have all but eradicated cattle ranching in the southwestern United States."

In his book, "War on the West," William Perry Pendley of Mountain States Legal Foundation observes, "The enormous might of the federal government has always meant that the life of the West was in the hands of strangers living thousands of miles away." During Babbitt's tenure at Interior, Pendley notes: "[T]he federal eco-jihad specifically targeted 'the most enduring symbol of the American West—the cowboy—seeking to price and regulate the rancher off federal grazing lands and out of business, destroying the economy of rural areas.' One of the first initiatives undertaken by Secretary Babbitt in pursuit of his vision of a 'New West' was to seek a 230 percent increase in grazing fees charged to ranchers on federally administered lands. Although the proposed fee increase was thwarted by a Senate filibuster, the effort to destroy the ranching industry continued."

After the fee increase was proposed, an Interior Department memo surfaced which

revealed that Babbitt wanted "to use price increases as a straw man to draw attention from management issues." While ranchers fought the fee increase, Babbitt and company created "Range Reform '94," a cluster of proposed federal land-use and environmental regulations which Pendley describes as "a thousand and one ways to get ranchers off federal land."

Grigg writes: "Of the 52 ranchers in his section of Nevada, Cliven Bundy is the only one who has refused to go back to the reservation. So the heirs to Sherman and Sheridan have mobilized an army to protect hired thieves who have come to steal the Bundy family's cattle with the ultimate purpose of driving him from the land. Their objective is not to protect the desert tortoise, but to punish a defiant property owner and entrepreneur. This potentially murderous aggression is being celebrated by Progressives as a worthy effort to make dangerous radicals 'feel the superior power of the Government.'" Why? Because the feds "fear his continued resistance could catalyze a general revolt against their designs for the western United States."

## WHO OWNS THE LAND?

Cliff Gardner ranches Nevada's Ruby Valley, hundreds of miles to the north near Elko. He also keeps getting hauled into federal court for refusing to comply with BLM grazing plans. The late Wayne Hage and now his family have fought the U.S. Forest Service and the BLM in court and administratively for 35 years and won major rulings regarding preexisting property rights that the courts have upheld on appeal. They and Cliven Bundy and many other Nevada ranchers who have been driven into or toward bankruptcy over the past 40 years all insist the Founding Fathers went to great pains to block the federal government from ever owning (as D.C. now claims to own) 86 percent of Nevada, 57 percent of Utah, 53 percent of Oregon, 50 percent of Idaho, 48 percent of Arizona, 45 percent of California, or 42 percent of Wyoming. (For comparison, try 0.8 percent of New York and 0.4 percent of Connecticut, where the Greens shout most loudly about ranchers "trespassing on our lands.")

"The federal estate is larger than France, Germany, Poland, Italy, Spain and the United Kingdom combined," Robert Gordon, a senior adviser for the Heritage Foundation, told the *Washington Times* in early May. "It is too big and was never intended to be pre-

served as one big park, but the left is strangling use of it and with it, rural America.”

The ranchers insist they can find “no authority whatsoever” for the federal government to “hold and manage lands within an admitted State” aside from the power granted in Article 1, Section 8 of the U.S. Constitution. And that only authorizes the feds to purchase specific parcels “by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings.” Obviously, that provision would hardly seem to apply to millions of acres of western grazing land.

“It is the BLM, not Cliven Bundy, who is in violation of the law and the Constitution, specifically Article 1, Section 8, Clause 17 of the U.S. Constitution,” Kurt Nimmo wrote on the infowars.com website on April 11, 2014. During the federal convention debates in September 1787, Nimmo notes, Elbridge Gerry, who later went on to serve as vice president under James Madison, contended that federal purchase of land “might be made use of to enslave any particular State by buying up its territory, and that the strongholds proposed would be a means of awing the State into an undue obedience.” In order to make certain the federal government did not abuse the Enclave Clause, the words “by the Consent of the Legislature of the State” were added.

## LAWLESS BLM

Immediately after the April 12 BLM withdrawal, Texas Republican Rep. Steve Stockman wrote to President Obama, Secretary of the Interior Sally Jewell, and BLM Director Neil Kornze stating that police actions by the agency would violate the U.S. Constitution.

“Because of this standoff,” Stockman wrote, “I have looked into BLM’s authority to conduct such paramilitary raids against American citizens, and it appears that BLM is acting in a lawless manner in Nevada.” He cited the limited powers granted to the federal government, noting the bureau has no “right to assume preemptory police powers, that role being reserved to the states,” and explained that “many federal laws require the federal government to seek assistance from local law enforcement whenever the use of force may become necessary.”

The letter included a section of the U.S. Code (43 U.S.C. Section 1733, Subsection C): “When the Secretary determines that assistance is necessary in enforcing Federal



*Cliven Bundy examines one of the First Amendment Areas set up by the BLM in the Gold Butte area near Bunkerville on April 1, 2014, using orange plastic snow fencing. The implication was that protesters were free to gather and exercise their free-speech rights only to the crows and lizards in the windswept isolation of these remote sites, miles down the road from the “trespass cattle.” The scheme was universally ridiculed and the BLM eventually tore them down.*

laws and regulations relating to the public lands or their resources he shall [not *may* but *shall*], offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions.” The crisis the government has provoked at the

**“The enormous might of the federal government has always meant that the life of the West was in the hands of strangers living thousands of miles away.”**

—WILLIAM PERRY PENDLEY, MOUNTAIN STATES LEGAL FOUNDATION, IN HIS BOOK, “WAR ON THE WEST”

Bundy ranch “is the very type of incident that Congress knew could be avoided by relying on local law enforcement officials,” Rep. Stockman concludes.

Cliven Bundy insists, “It’s really about our constitutional rights and statehood, and whether this area known as the state of Nevada is owned by the United States government or is owned by the sovereign state of Nevada.”

The liberal press tends to dismiss such statements as equivalent to those of some amusing lunatic, dressed in Confederate gray and insisting the Yankees never won the War of the Southern Secession. But Nimmo concludes, “Mr. Bundy, despite a propaganda campaign to the contrary launched by the federal government and its subservient

media, is absolutely correct.”

The BLM got a federal judge named Johnnie Rawlinson (see “The Reid Connection,” page 50) to embrace its contention that the feds own this land because they acquired it from Mexico in the Treaty of Guadalupe Hidalgo in 1848. But, as Cliven Bundy points out, that was 16 years before Nevada became a state (and there is no provision in the treaty for U.S. government ownership of land).

What happens to public lands when a territory becomes a state? Under the Constitution drawn up for us by the Founders (who feared a federal monopoly on power), ownership and control of the public lands must pass to the state. Otherwise, the feds could claim to own and wield “plenary” authority over as much as 86 percent (heck, probably 100 percent) of the land area of Arkansas, Missouri, Iowa, Minnesota, Montana, Colorado, and points in between, having “acquired them” when Thomas Jefferson purchased them from a cash-hungry Napoleon Bonaparte as part of the Louisiana Territory in 1803.

## CLAIMS OF RACISM

Cliven Bundy was all over the media in the two weeks following federal withdrawal. The feds were obviously desperate to discredit him and change the subject. Once he was lured by a *New York Times* interviewer into making remarks about today’s welfare state being equivalent to a slave-owner’s plantation, daily papers including the *Review-Journal* raced to cover the “racist” angle, dropping any discussion of federal land ownership and



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Members of the Oath Keepers and other constitutional groups guarded the stage on April 12 as Sheriff Doug Gillespie (right) told Cliven Bundy the BLM was pulling out.

jurisdiction, or why an agency charged with “promoting beneficial uses of the land” is now trying to entirely shut down cattle ranching in the West. Anyone who values facts and logic above synthetic, pantomimed outrage knows that Bundy is right, and the observation isn’t even new. Syndicated columnist Star Parker’s book “Uncle Sam’s Plantation: How Big Government Enslaves America’s Poor and What We Can Do About It” (note the use of the word “enslaves”) was published in 2003 to largely enthusiastic reviews. Yet no one calls Star Parker a racist, because she’s black.

If following federal orders to the point of bankruptcy is mandatory, why are the ranchers asked to sign contracts? Can a contract be valid if it’s not entered into freely? If the feds were to send in armed combat troops to evict citizens of Iowa or Colorado from lands their families have farmed or grazed for a century or more, would most Americans just shrug, parroting back the sound bite: “Well, they didn’t pay their fees. After all, those lands belong to all of us; they shouldn’t get to use them for free”?

Wouldn’t we call that Communism?

“Back before ’34, before the Taylor Grazing Act, they started to have range wars,” Cliven Bundy explains. “Instead of settling boundary disputes in local and state courts, the federal government got involved. It was the ranchers’ fault; they never should have

allowed it to start. They started payin’ the Taylor Grazing fees in ’34, to adjudicate the boundaries. The adjudicating went on right up through the ’60s. Then they needed fences and water. The ranchers paid for that adjudication, \$6 to \$10 per animal unit and they were getting 80 percent of the fees back in range improvements. Twelve-and-a-half percent was supposed to go to the BLM for administration, and then the rest was for range improvements.”

**“We must identify our enemies and drive them into oblivion.”**

—BRUCE BABBITT, LEAGUE OF CONSERVATION VOTERS BOSS IN 1991, WAS NAMED SECRETARY OF INTERIOR BY PRESIDENT CLINTON IN 1993

It was when he finally realized his own fees and willingness to sign off on their range management plans were being used to drive him out of business that Cliven finally fired the BLM, saying he no longer needed its help or advice to manage his ranch.

**COULD BUNDY PAY UP AND STAY?**

The clear implication of the BLM claims that this is all about Bundy simply refusing to pay “more than a million dollars in grazing fees” is that once this bad, “trespassing” tenant

rancher and his “trespassing cattle” have been evicted from this piece of “federally owned” desert range, the BLM will go out and find some “better” rancher who’s willing to pay the fees, and this vital source of income for the taxpayers will be restored, right? But that’s nonsense—a sound bite targeted at the uninformed.

First, what the mainstream media take no trouble to explain is that here in the intermountain West there has developed over the past 170 years by use, custom and also by law, a system of mixed title to the public lands, whereby the water and grazing rights to vast swatches of largely uninhabitable desert scrub can be owned by ranching families who established these rights through use over the decades, just as the Bundy family own the water and grazing rights to the Mesquite allotment.

Bundy says his rights came down on his mother’s side from the Abbott, Jensen, and Leavitt families and have been in the Bundy name since 1944 when Cliven’s father, Dave Bundy, married Margaret Bodell Jensen, who inherited the property.

In arid Nevada, no rancher can succeed on the 160 or 320 acres his grandparents were allowed to homestead. In the Mojave, ranchers figure it takes 320 acres of desert scrub to feed one cow and its spring calf. To run even 300 to 500 head of red Angus—as the Gardners do in the Ruby Valley—or 600 to 700 head of exotic, heat-tolerant Brahman/Herefords, as the Bundys do south of Mesquite, requires tens of thousands of acres. Both through paperwork “filings” and through years of habit and adverse possession, western ranchers have thus established an acknowledged property right which cannot be overturned by bureaucratic whim.

The feds have never challenged Bundy’s ownership of these grazing and water rights. Instead, they just keep parroting their line about this mythical “more than \$1 million” that Bundy supposedly owes in grazing fees for the past 20-odd years. While the point of origin for that number is unknown, it would sound foolish for the BLM to admit it hired freelance cowboys for \$966,000 to round up as many as (its estimate) 1,100 head of Bundy cattle as part of a budgeted \$5.5 million operation in order to collect “back grazing fees” of less than \$300,000. On the other hand, if the BLM were folding in the arbitrary penalty of \$200 per day per cow imposed by the federal judges (who won’t give Bundy the trial by his peers that he’s

guaranteed under Article 3 of the Constitution), then the amount due since 1998 could be a laughable \$500 million, and the “million dollar” sound bite would be far too low.

Anyway, if collecting grazing fees on the 52 Clark County allotments that were active in 1950 is so important to federal liquidity, what kind of fees is the BLM now collecting on the other 51 allotments it administers in southern Nevada, where “better ranchers” have presumably been “following the rules” for the past 30 years?

Um...that would be...zero.

## NO ACCIDENT

Cliven Bundy, who runs cattle about as far east in Clark County as you can go, says, “I’m the last rancher from here to the Pacific Ocean.” He believes the only reason he’s survived is that he won’t cooperate with the BLM and won’t allow agents to impose on him a range management plan which has been a purposeful recipe for bankruptcy for every other rancher in Clark County and which could soon drive every rancher in the rest of Nevada out of business as well. (The pretext in northern Nevada and a dozen other western states is not protection of the desert tortoise, but the sage grouse.)

What happens to grazing rights as the rancher nears bankruptcy? With exquisite timing, an outfit like The Nature Conservancy usually slithers up and hisses in the rancher’s ear, offering to buy those rights at heavy discounts. Since they’re useless to any other grazer because cattle numbers have been reduced by the regulators below profitability, no other offer is forthcoming, and the rancher usually sells out his family’s ancestral heritage for peanuts. The environmental group in question then transfers ownership to the county, which offers the federal “species conservation” gauleiters a deal: “Allow” us to develop some more land closer to our urban core, and in exchange we’ll set aside this former cattle ranch in “mitigation” as a “tortoise preserve”—even though the absence of the rancher and his cattle will soon make the area as useless to tortoises as it is to mankind. Then—who says the bureaucrats have no sense of humor?—the BLM will report in its official documents and on its websites that the grazing rights to that land were given up by a “willing seller.” Ha!

Newspaper columnists who are essentially agents of Harry Reid and the BLM sneer, “Does anyone really believe Cliven Bundy would pay his grazing fees to the state or the

county?” Actually, the Bundys say they’ve tried. But there’s a sure way to find out. All Nevada Gov. Brian Sandoval has to do is issue a formal, written offer to accept 20 years (heck, 30, up through 2024) worth of grazing fees from the Bundys at the old standard rate of between \$10,000 and \$15,000 per year (for 600 or 900 cows), without requiring them to sign any BLM range management plan. Then the governor can offer to transfer that money to the BLM if he wishes, in complete settlement of this matter, thus allowing the BLM to prove once and for all that it’s all about the grazing fees.

Of course, the BLM would then have to spend 87 percent of that money helping

flowers blossom is after the spring rains. The only time ranchers can fatten their cattle enough to make any money out of the back-breaking work is in this season. Where are these ranchers supposed to put them? They’re not feedlot operators. Anyone can see the BLM requirement is a good way to go broke, which is why none of Clark County’s other 51 ranching families from 60 years ago—the ones who tried to follow the rules and pay their fees—are still in business. And that’s no accident.

It was back in 1999 that I first toured the Mesquite Allotment with Clark County’s last cattle rancher. Needless to say, even then the feds had been working to drive Cliven Bundy



*Bundy’s cowboys and supporters release cattle back to the desert. They are passing the fence where the BLM soldiers had been positioned.*

Bundy repair his water tanks, wouldn’t they? In fact, it’s not about the fees at all. If he had accepted the BLM permit restrictions, all Bundy would have had to do was keep his cattle off the range in the spring, supposedly so they wouldn’t “step on the little baby tortoises.” Note that tortoise mortality caused by cattle has never been documented by anyone to rival predation by coyotes and (now “protected”) ravens, the killers that ranchers have traditionally kept in check, which is precisely why tortoise populations were so large during peak grazing years in the 1920s and 1930s.

But here in the high Mojave Desert, the only time the land looks green and the wild-

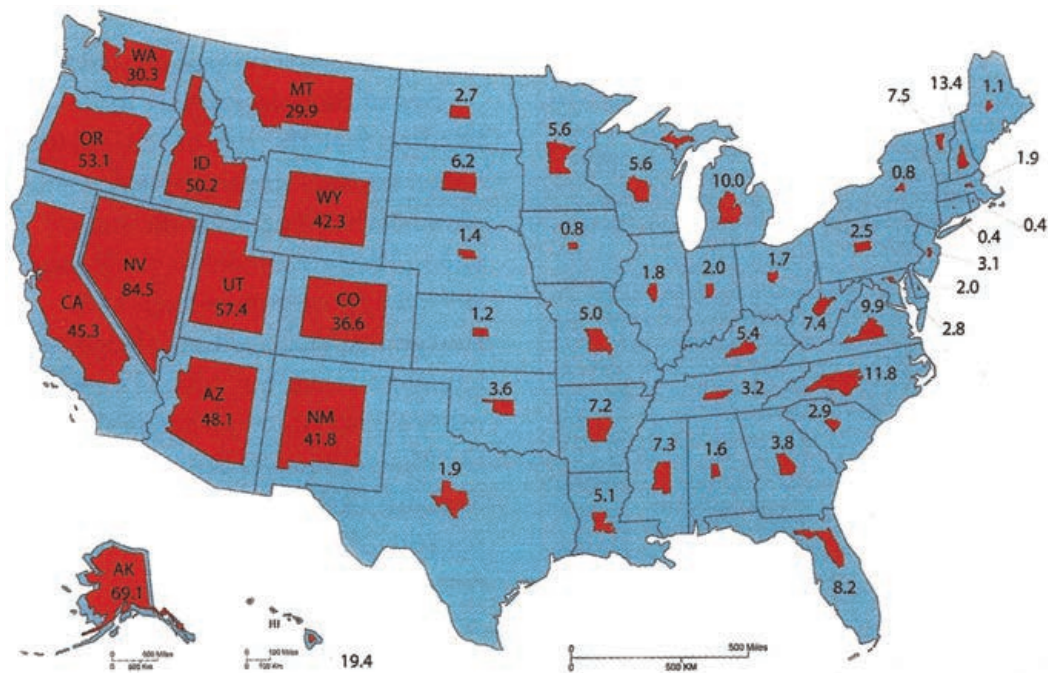
out of business. Cliven responded by “firing” the BLM. “I don’t sign their contracts and I don’t pay their fees and I don’t expect any services from ’em,” he told me.

At the time, Cliven and I squatted to examine some mighty spindly ground cover, the lifetime rancher explaining to me how the browsing of the plant by cattle clears room for the new, green shoots to come in each spring. I must have expressed some amazement at the idea that cattle could survive by eating such stuff in the first place.

“A calf only learns what to eat out here because his momma shows him what to eat,” he responded seriously. “At one point the tortoise people came in here and said I should

# WHO OWNS THE WEST?

Federal land (in red) as a percentage of total state land area.



*Even as Third World nations now fight desertification by putting cattle back on the land, many residents of states where federal land control is minimal—who have never even seen open range—continue to naively support eradication of grazing in the West. But how would they respond if Washington started evicting residents from 84 percent of THEIR state, to facilitate enforcement of some East Coast Cranberry Bog Restoration Act?*

MAP DATA SOURCE:  
U.S. GENERAL SERVICES  
ADMINISTRATION, FEDERAL  
REAL PROPERTY PROFILE 2004,  
EXCLUDES TRUST PROPERTIES.

just pull my cattle off the range for a few months in the spring, when the tortoises were breeding. I told them the only way I could do that would be to haul my herd to St. George and sell it, and then buy new feed-lot cattle and put them out here come summer. They couldn't see why that would be a problem. I had to explain to them that when you put cattle out on land like this, if their mommas haven't taught them what they can eat out here, they starve."

Cliven showed me areas where he'd bulldozed dirt across an occasional wash, which then filled up and became a muddy watering pond not only for his cattle, but for the quail and other wildlife that subsequently thrived there in much larger numbers than had been seen before. He explained that left in its natural state, the salt cedar moves in and clogs a spring till there's no more surface water for anything. Only the rancher has the incentive to dig the spring back to bedrock, install piping, and run the water to a tank where it can be used by all critters on the range.

## CHINESE WATER TORTURE

Cliven explained how the process works now. If a farmer grazing the public lands tries to follow the rules when he brings in his own bulldozer for such a one-day job—or even to

run a piece of galvanized pipe under a dirt road, he must call the Forest Service or BLM, ask for an officer to come out, do a survey, and sign off that in performing such a "range alteration" he will not be dangerously infringing on the habitat of any threatened or endangered species.

In 1990, 596 species were listed as "threat-

**"Public lands are a myth. The lands are already privatized. We already have those rights, and the federal government does not have jurisdiction."**

—WAYNE HAGE (1936-2006)  
EMBATTLED NEVADA RANCHER

ened or endangered" by the federal government. By 1999, the list had grown to 1,205—many of them weeds and bugs. Having won an "endangered species sign-off" for his one-day culvert project, the naive rancher might then assume he could proceed to do the job (at his own expense, of course). Oh no. "You can't do a thing till they send out another guy, who has to do another survey to find out if you might be damaging any

potential archaeological sites," Cliven says. "I used to ask them, 'Gee, couldn't that guy have come along with you at the same time?' But no, you have to wait more weeks before you see that guy."

Even if we agree the feds are to administer all these lands, punishing trespassers like Bundy and Gardner, we must still ask under what jurisdiction their courts and other officers are to operate as they do so: under Article III of the Constitution...in which case defendants like Gardner and Bundy have a right to a trial by a jury of their peers, a right to due process and equal protection, all guaranteed by the Bill of Rights? Or is the federal jurisdiction over these lands in fact a "territorial" jurisdiction, as established under Article IV of the Constitution, which would appear to set no such due-process restrictions on the power of Congress to "dispose of and make all Needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States..."

Most Nevadans—most Americans—would doubtless respond that folks like Cliven Bundy and Cliff Gardner (Americans born and bred) are citizens of both the United States and the sovereign state of Nevada,



and that in any action brought against them by the U.S. government of course they enjoy all the constitutional rights to due process guaranteed by the Fourth, Fifth, Sixth, Eighth and Ninth Amendments.

Cliff Gardner kept trying to get federal Judge Howard D. McKibben to confirm that. But whenever Gardner makes a court filing asking for just such a confirmation of his due process rights, Judge McKibben just “lay low and don’t say nothin.” Motion denied without comment. Motion denied without comment. Motion denied without comment. “Before we can argue about how many cows are on the land, we need to know whether we have constitutional rights under the Sixth Amendment. Is this an Article III or an Article IV court?” Gardner asks. “We need to know the rules and the jurisdiction.”

I called Howard McKibben. Could this be the same Judge McKibben who sentenced an old Shoshone Indian named Clifford Dann back in 1993 for parking his truck in the road in order to stop the BLM from stealing his sisters’ cattle from Indian land and got up in the bed of his pickup, doused himself with gasoline, and threatened to set himself on fire? BLM thugs lured him down from the truck, beat him bloody, and hauled him in front of McKibben, who sentenced him to nine years in prison for “assaulting an officer with gasoline.” As he pronounced sentence, that federal judge declared that the severity of the sentence was intended “to send a message to journalists, activists, and the Western Shoshone.”

Howard McKibben explained he had taken my call as a courtesy, but that he couldn’t answer any questions about a pending case. “You could present to me a summary of his concerns, and I could take them under consideration, but I wouldn’t be able to comment,” the judge explained.

“And that would include the jurisdiction?” I asked. “Mr. Gardner says he can’t get an answer as to whether his case in your court falls under Article III jurisdiction or Article IV jurisdiction. So when you say you can’t comment, would that include telling me whether this case falls under the jurisdiction of Article III or Article IV of the Constitution?”

“What it includes is that I can’t comment on the case,” McKibben replied. “You have

expressed to me what his concerns are. I can tell you this, that if you file something in court, I always prepare an order and you can read that order. But I don’t want to be quoted on that.”

“So you can’t even say whether—just speaking in general now—all defendants have their due process rights under Article III and the Bill of Rights when they appear in your court?”

“The canon of ethics prevents me from



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## What happened to the other 51 families who grazed cattle for generations on Clark County’s other allotments?

speaking about a pending case, and we have an ethical obligation not to do that,” was the judge’s answer. In other words, he wouldn’t answer the question. Ironically, McKibben also presided over the criminal conviction of the late Wayne Hage for cutting trees in his 1866 Act historical right-of-way—a conviction that was tossed out by the 9th Circuit judges.

### WAR OF RELIGIONS

Tim Findley, former chief investigative reporter for the *San Francisco Chronicle* and assistant editor for *Rolling Stone*, died three years ago at the age of 67. He had been covering the Gardner case for *RANGE* for more than a year when I spoke to him about it in 2001. He told me the struggle between ranchers like Gardner and Bundy on one side and federal regulators and land managers on the other amounts to a war of religions.

“Both Bundy and Gardner are Mormons,” Findley pointed out. “They believe

that taming the wilderness is a noble cause, and raising their children close to the land has been good for their families and their society. On the other side we have the arrogant practitioners of an environmental religion endeavoring to use federal force—in blatant violation of the First Amendment—to establish and impose across the West the religion of environmentalism, which holds that cattle—and lumbering and mining, for that matter—are unnatural desecrations of nature’s temple, a wilderness from which all human activity must be banished so that the lands can be held in permanent trust in their wild splendor.”

I mentioned to Findley the fervor with which Cliff Gardner will show his slides at the drop of a hat—sharing the photographic evidence gathered over decades, before-and-after photos demonstrating that the lands are in better shape where they’ve been grazed by cattle than where they’ve been fenced off for years as sterile wilderness.

“Cliff has more than anecdotal evidence for his claims,” Findley responded. “He’s been out there taking pictures for more than 20 years and he has built a very convincing case. Cliff contends these forage plants evolved to need large ungulates to graze them, whether that be cattle or some other animal,

and the cattle are a vital part of the ecosystem. They can demonstrate that. Where the cattle graze you see an enormous beneficial growth of the game species, the deer herds and so forth. Where they fence the cattle off the land you see the land go to waste; you see a buildup in fuel so you get more and harsher range fires.

“These [federal] people...really don’t understand what they’re doing to destroy the lives of people with equally good hearts. The Nature Conservancy had grabbed off two-thirds of that land near the Gardner Ranch in Ruby Valley and they desperately want Cliff’s chunk. It’s really extortion. And all you get from the federal side is arrogance.”

### WHAT’S RIGHT?

Has Bundy won—as his supporters hope and believe—or will the feds just lick their wounds before coming at him on some other front? Both the Mesquite City Council and the Clark County Commission have expressed support for a plan to turn the

entire Gold Butte region into a “federal conservation area.” Mark Andrews, a local photographer who’s frequented the area for 35 years, says: “The BLM and the Friends of Gold Butte group have removed countless miles of road and open land access from free use. Places I used to go for decades are now blockaded. These are roads that are nearly 100 years old and in steady use. And this activity has become very aggressive and pronounced in the last 24 months. They seem to have a deep agenda regarding it.”

Bundy says that the area south of

local economic activity?

The *Las Vegas Review-Journal* regularly receives letters to the editor which are essentially form letters, though they bear different signatures. Typical is one received in 2012 from Terri Rylander, a member of Friends of Gold Butte, in which she identifies herself as “a business owner living in Mesquite.” Her business is marketing and Web page design. In a piece of boilerplate common to most of these letters, hers asserts: “People may visit special places like Red Rock Canyon and Gold Butte for different reasons—camping,



WALLBOULTON

Cliven Bundy (right) and son Ryan demonstrate how grazing reduces fire risk by cropping back dry brush, while encouraging new growth closer to the ground. This benefits desert tortoise.

Mesquite “is really the only public area Clark County has left that’s not designated for some conservation area, or preserve, or monument, or whatever. I’m really the only resource user who’s still got any interest use in the land.”

Attempting to cooperate with their federal overseers, “year by year their operations were crippled by rising fees and reductions in AUMs,” wrote Findley in *RANGE*, Summer 1999. “The numbers of actively used allotments were rapidly diminishing. The cattlemen took their cases to court, and won, but the BLM simply imposed new ‘force and effect’ regulations. More ranchers gave up.”

The right amount of grazing, in the minds of Bundy’s adversaries, is no grazing. The real plan here is to turn hundreds more square miles into another federal conservation area, if not outright wilderness. How is that supposed to generate any more federal revenue, let alone significant

hunting, hiking, bird-watching—but all visitors spend money in our communities at restaurants, hotels, gas stations, and retail stores. Protecting Gold Butte as a national conservation area with wilderness will put this unique area on the map, drawing visitors...and ensure a steady stream of revenue to local communities like Mesquite.”

Researchers at the Jon M. Huntsman School of Business, Utah State University, disagree. “We find that when controlling for other types of federally held land and additional factors impacting economic conditions, federally designated wilderness negatively impacts local economic conditions,” wrote USU researchers Brian C. Steed, Ryan M. Yonk, and Randy Simmons in June 2011. “Specifically, we find a significant negative relationship between the presence of wilderness and county total payroll, county tax receipts, and county average household income.”

Why? Wilderness is the most restrictive of all federal land-use designations, the researchers point out: “To preserve wild characteristics, the wilderness designation prohibits roads, road construction, mechanized travel, and the use of mechanized equipment. Wilderness also impacts extractive industries such as mining, logging, and grazing.” In a footnote, the researchers explain: “Grazing is expressly allowed in wilderness areas, but administrators may make ‘reasonable regulations’ including the reduction of grazing to improve range conditions.... The argument often stated by the environmental community that wilderness is good for local economies is simply not supported by the data. If the test for whether or not to designate wilderness is economic, wilderness fails.”

Nor is it clear that cattle grazing damages the range. In fact, there’s plenty of evidence that ranchers—with their drip lines and water tanks supporting quail and deer and other populations as well as cattle and the ungulates themselves, cropping the graze close enough to the ground to allow new green shoots accessible to the tortoise while reducing the fuel buildup that fosters wildfires—are a net benefit to the country, before we even consider our need for wholesome, free-range beef.

In his *RANGE* profile back in 1999, Findley reported that Cliven Bundy in the 1970s was willing to embrace the “multiple use” of the rangelands then being promoted. “He was patient and tried to cooperate with advice from those he considered his friends in the BLM,” Findley wrote.

“But everything we tried to do—every time we tried some compromise—they wanted more,” Bundy told Findley. “It was like talking to a greedy landlord. Everything became lockout or lockup.”

Findley then referred to former Nevada District Court Judge and rancher Clel Georgetown, who for the first time in his 1972 book “Golden Fleece in Nevada” presented the then “almost subversive” legal doctrine that claims by the federal government to more than 86 percent of the land of Nevada “amounted not only to a violation of the intention of Lincoln’s administration in promoting Nevada’s statehood in 1864, but of previous constitutional findings on the ‘equal footing’ of states admitted to the union.”

Thus was born the Sagebrush Rebellion. Legislation introduced by then-state Sen. Dean Rhoads in 1979, directing the state

attorney general to sue the federal government for control of all federal lands not specifically set aside for federal forts, post offices, or Indian reservations “is still a part of Nevada law,” Findley reported, “backed even more by a statewide referendum in 1996 in which voters overwhelmingly supported the idea of state control of public lands.”

So why hasn't it happened? “The Nevada attorney general has never taken the argument to federal courts,” Findley explained. The last state attorney general to specifically, personally promise this writer that he would bring the “no jurisdiction” claim to federal court (specifically, regarding Yucca Mountain) and then fail to do so? Current Gov. Brian Sandoval.

## PUBLIC LANDS ARE A MYTH

In his 1989 book, “Storm Over Rangelands,” Nevada rancher Wayne Hage detailed how ranchers, miners, and others possess split title to western lands. Though a foreign concept east of the Rockies, here in the arid West it's not unusual for different parties to own, say, the grazing and water rights versus the mineral rights to overlapping parcels of land, while neither claims to “own” all the land outright. This system, deemed appropriate to the landscape, has been established over 170 years, and federal attempts to regulate those long-established rights out of existence violate basic constitutional rights, Hage argued.

“Public lands are a myth,” Hage wrote. “The lands are already privatized.

We already have those rights, and the federal government does not have jurisdiction.” The BLM confiscated Hage's cattle in Monitor Valley northeast of Tonopah in 1991. He fought them through the courts for years—and won. But the feds continue to relentlessly harass the Hage family.

In fact, Chief Judge Robert C. Jones of the Federal District Court of Nevada in August 2012 ruled the BLM had been engaged in a decades-long criminal “conspiracy” against the Wayne Hage family, fellow ranchers and friends of the Bundys. Among other things, Jones accused the bureaucrats of racketeering under the federal RICO (Racketeer Influenced and Corruption Organizations) statute, and accused them as well of extortion, mail fraud, and



AT TOP: SWAT team and Clark County Sheriff's deputies at the beginning of the fiasco.

ABOVE: BLM agents retreated after the agency decided to hand back Bundy's cattle and stand down.

fraud in an effort “to kill the business of Mr. Hage.” In fact, the government's actions were so malicious, said the judge, as to “shock the conscience of the Court.” Judge Jones granted an injunction against the agencies and referred area BLM and Forest Service managers to the U.S. Attorney for prosecution.

“Has Attorney General Eric Holder prosecuted any federal officials for criminal activity and violation of the Hage family's constitutionally protected rights?” asks William P. Jasper at the [newamerican.com](http://newamerican.com) website.

“No. Has Sen. Harry Reid denounced this lawlessness

and criminal activity by government officials and called upon President Obama and Attorney General Holder to protect the citizens of his state from the depredations of federal officials under their command? No.”

Wayne Hage died soon after winning his court fight. His children continue the struggle. (Check *RANGE*'s award-winning series on Hage at [rangemagazine.com](http://rangemagazine.com). Click on “Special Info/News on Hage Case,” bottom of Home Page.)

Findley's old *RANGE* piece has President Ronald Reagan asking his Interior secretary, James Watt, why the federal government couldn't end its dominion over nearly one-third of the nation's lands by selling them off or transferring them back to the states. Watt had to explain to the president that wasn't

really what the ranchers wanted. Years later, addressing a 1994 cattlemen's meeting, Demar Dahl, former head of the state cattlemen's association, said, “Watt said Nevada sabotaged the Sagebrush Rebellion. When it came down to it, a lot of the big ranchers were afraid of losing their allotments.” Local politicians also find it “hard to turn down that \$5 million or whatever” that Uncle Sam routinely showers on local municipalities. “My side don't have much cash,” Bundy acknowledges. “But the other side has put us, what is it, \$60 trillion in debt.”

Indeed they have.

## DESTROYING A PROUD CULTURE

“There's a philosophy of life that I have,” says Cliven Bundy, blue eyes sparkling beneath his Navajo-silver hatband. “All these resources—the brush, the game—are put here for man's use. They say they want to protect the ecosystem, but man has to be part of the ecosystem. If man manages the predators so they only eat half the quail, and half are left for man, think of all the Dutch-oven meals that makes. Everything here on the earth is made for man. This land would be better off if you let people use it and work it and improve it.”

In the snide phrases of the coffeehouse environmentalist, these families that have worked from dawn to dusk for 130 years—no calling in sick when it's 30 below or 115 in the shade—are “welfare ranchers,” taking advantage of the rest of us by leasing federally controlled scrubland for “less than market

**The real plan here is to turn hundreds more square miles into another federal conservation area, if not an outright wilderness.**

rates.” But no one else is chafing at the bit to pay good money to use this godforsaken scrub, risking their savings against the bank, the sheriff, and the bankruptcy court.

Mark my words: within 30 years, unless a whole lot more Americans decide this is their battle, not just that of one old rancher who won't pay his fees—the range cattle will be gone, just as the BLM plans and plots, and Americans will finally grow sick of eating nothing but hormone- and antibiotic-laced feedlot meat. At that point, there will be a popular movement to bring back cattle ranching in the West—a rich culture and proud way of life and a source of healthier, more nutritious, locally produced organic food, a culture willfully and spitefully destroyed during our current era, with all the ironies of our supposed celebration of “multiculturalism.”

The problem is, no one will remember how to do it. And because of the generational links being broken with the deaths or forced retirements of old-timers like Wayne Hage, Cliff Gardner, and Cliven Bundy, there will be no one left to show us how.

Some say the wealth of America lies in her coal mines and her forests, her wheat fields and her factories. But they are wrong. I have seen the wealth of America. It lies in the hearts of Cliff Gardner, Cliven Bundy, and the Hage children. It lies in the spunk with which they will continue to fight their fight for as long as they draw breath. It lives in their naive faith that some judge, somewhere, will hear them out, answer their questions, acknowledge the limits of his jurisdiction, search his conscience, see justice done.

The funny thing about their kind of faith and strength is that you cannot steal these things away. You cannot load them up in a trailer and alter their brands and claim them for your own. Instead, when they have finished driving the Bundys off this land, they will find that the America they claim to be protecting...is gone. ■

*Vin Suprynowicz was an award-winning columnist and assistant editorial-page editor for the daily Las Vegas Review-Journal for more than 20 years. His position was eliminated in 2013 as the new management sought editorials and columns more sympathetic to the Obama administration. He is the author of “Send in the Waco Killers,” “The Ballad of Carl Drega,” and the novel “The Black Arrow.” His next book, “The Testament of James,” is due in late 2014. His column on gun rights appears monthly in Shotgun News.*

## Is It All About The Tortoise?

*More cattle equal more tortoise. What's the problem? By Vin Suprynowicz*

**T**he feds contend they're doing all this to protect the threatened desert tortoise, though I've documented again and again over the years, citing such experts as Vernon Bostick, that government wildlife experts admit the desert tortoise is “at saturation levels” in the wild, and that all evidence demonstrates the tortoises do better when cattle are on the land, with the ranchers putting in drips and tanks and maintaining the water features.

Cattle's presence on the land benefits tortoises in many ways. Ranchers make some effort to reduce the populations of coyotes and ravens, which are the tortoises' main predators. Ranchers also clear out springs and pipe water to remote tanks, so both the ranchers themselves and their wandering cattle bring water to areas where deer and doves and quail—and especially tortoises, which can't travel as far in a day—would otherwise find none. Cattle also graze down brush, reducing the severity of range fires and causing tender new shoots to grow in closer to ground level where tortoises can more easily reach them.

Bostick published “The Desert Tortoise in Relation to Cattle Grazing” in the Society of Rangeland Management's *Rangelands* in June 1990. His credibility is very high indeed among the people-off-the-land gang when he's saying things they like to hear—as when he confirmed the presence of “protectable” bighorn sheep in the mountains south of Hoover Dam years ago. He telephoned me in mid-June 2008 to discuss the matter.

“They claim cow dung is nutritionally deficient,” Vernon laughs. “It's high in nitrogen and that's USDA Bulletin No. 49. Cows absorb 20 percent, pass 80 percent of the nutrients through their system. And they graze stuff too tough for tortoises to masticate.... Each cow makes 12 deposits a day and it's 90 percent water. Remove the cattle and the tortoises are dependent on rainfall; they have to hold their urine...which can result in illness and, eventually, death.”

Bostick has a master's degree in biology from the University of Nevada, Las Vegas, and a bachelor's in range management from Colorado State. He wrote the text for a course in judging range condition and trends



*Mature male desert tortoises face off in a slow-motion battle over the boundary of their respective territories. The showdown begins with a display of neck stretching, head bobbing, and push-ups. Wildlife expert Vernon Bostick says, “In every case, elimination of cattle grazing resulted in a smaller tortoise population.” And Cliven Bundy's son Ryan said, when BLM took over their range with trucks and a helicopter: “We found several places where their trucks have caved in tortoise dens. Talk about hypocrisy.”*

(whether the range is improving or deteriorating) taken by all U.S. Forest Service personnel working in Arizona and New Mexico.

"I will call History as my first rebuttal witness," Bostick writes. "Before there were any cattle grazing on the western range the desert tortoise was extremely rare. The first Spanish explorers found roasted shells at old Indian camps but never saw a live tortoise. They concluded that this unique reptile was extinct.... Spanish colonists brought cattle with them. Cattle and tortoise have shared the same range for more than three centuries in some places and for more than a century everywhere...."

In her book, "Tortoises for Tomorrow," Kristin Berry writes: "Longtime desert residents in California noted extraordinary densities [in the early '30s...when cattle numbers peaked] that could have been as high as 2,000 per square mile."

Bostick says that a member of the survey party in Antelope Valley in 1933 saw over 100 tortoises in one place at one time. He told Kristin Berry that tortoises "were everywhere...all over the ground" (and so were cow pies). "From the early '30s to the mid-'80s the number of cows grazing on federal range was reduced about 90 percent.... From the early '30s to the mid-'80s tortoise densities declined from 2,000 per square mile to 65 (97 percent) in response to reduced cattle grazing. Kristin Berry used this drastic reduction in tortoise population to get the desert tortoise listed as an endangered species. Then she used this listing to 'get rid of the cows.' Mission accomplished."

Bostick's 1987 report reviews all cases where cattle grazing was eliminated and tortoises had exclusive use of the range. "In every case elimination of cattle grazing resulted in a smaller tortoise population." He says the most complete data is from the Beaver Dam Mountains. "Woodbury and Hardy reported a tortoise population density of 150 per square mile in 1948. BLM reduced cattle grazing a few years later and eliminated cattle in 1970. Coombs reported a tortoise density of 39 per square mile in 1974. In these 26 years cattle use was reduced 100 percent and tortoise numbers were reduced 74 percent. These tortoises were doing so poorly a veterinarian, Dr. Jarchow, was consulted. He reported all six specimens were suffering from osteoporosis caused by a protein deficiency in their diet. Dr. Jarchow examined five specimens from the same mountains that shared their range with cat-

tle. He reported these specimens were all healthy and well nourished."

According to Bostick, the historical record proves conclusively that tortoise thrive when cattle are on the range with them and without cattle grazing they are always malnourished and unhealthy and their numbers plummet. "The tortoise

**The BLM was established in 1946 to "promote productive use of the land." In 1990, 596 species were listed as "threatened or endangered" by the federal government. By 1999, the list had grown to 1,205—many of them weeds and bugs.**



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*Even though there are millions of ravens, they are protected by the Migratory Bird Act. Sadly, ravens are the greatest threat to desert tortoise, eating baby tortoises right out of their shells.*

recovery program is based on a popular but false premise that the desert tortoise is endangered because of competition with cattle for forage," Bostick concluded. "The recovery team has had a lot of time and they have spent a lot of money. I think we should have an accounting. How many tortoise populations have they recovered and to what extent?"

#### **AT SATURATION LEVELS**

Back in the 1990s, native Las Vegas Harry Pappas was appointed to the BLM's Citizen

Advisory Council by then-Congresswoman Barbara Vucanovich. He later represented the State Rifle & Pistol Association on the Clark County Tortoise Advisory Council.

"They said anyone who found a tortoise had to turn it in to Clark County authorities," Pappas recalled back in 2001. "So what happened? They got so overrun with tortoises being turned in that they told us they were going to have to start euthanizing them. I said, 'Why don't you just drop them out in the desert?' They said, 'Oh no, they'll fight with the native tortoises that already live out there and they'll kill each other, because all these lands are already at saturation levels.'"

Pappas recalled a wildlife biologist from California who, more than a decade ago, spoke before the Citizen Advisory Council, bringing in two huge plastic garbage bags full of baby tortoise shells. "There had to be hundreds of them, probably thousands. Every one of these shells had a hole pecked through the top where the ravens had carried them off and pecked through the shell and eaten the baby tortoise right out of the shell, and he said they picked these up in middens around the raven nests, just thousands of them."

When blame started to be placed on the cattle, Pappas asked that the wildlife biologist with his bags full of baby tortoise shells be brought back. "They said they didn't have the slightest idea who I was talking about; they claimed they'd never heard of him."

People who find desert tortoises wandering around southern Nevada are supposed to turn them in. The tax-funded shelter collected 10,000 desert tortoises and finally stopped accepting any new ones, with officials admitting they euthanize—"put down"—any that develop respiratory infections, a few hundred so far. At the moment, the tortoise protection officials' biggest current concern is "unlimited breeding of an endangered species in captivity." Marci Henson, of Clark County's Desert Conservation Program, says they have to find a way to stop that because, in trying to "recover" the species, animals in shelters or kept as pets in people's backyards "don't count," so they're just a problem.

This is like saying the common house cat is an endangered species, because even though millions of them live in our homes, those don't count—all that matters is there aren't "enough" of them (a number never to be defined) left in the Egyptian desert from which they originally came. ■

# The Reid Connection

Why would the most powerful man in the U.S. Senate want so badly to get rid of Cliven Bundy's little herd of cows? By Vin Suprynowicz

Sen. Harry Reid, who actually lives in a fancy hotel in Washington City, returns to Nevada every six years to don a pair of blue jeans and get his picture taken sitting on a hay bale and fondling the .22 rifle with which he recalls once shooting rabbits as a kid. He consistently wins reelection to Congress in close races by carrying only two of

ningly ruled that the federal government “owns” 86 percent of Nevada, Johnnie Rawlinson, was nominated for that post by Reid. And the boss of the BLM, who doubtless approved the big Bundy raid, was a chief Reid staffer from 2003 to 2011. So it would have been difficult for the senator to shrug and say, “All I know is what I read in the



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U.S. Senate Majority Leader Harry Reid (D-NV) on Capitol Hill in Washington on July 16, 2013, accompanied by Sen. Jeff Merkley (D-OR) and Sen. Tom Udall (D-NM). Dubbed “Mr. Cleanface” by mobster Joe Agosto, Reid predicted on Las Vegas TV after the BLM stand-down that “something would happen” to Cliven Bundy. RIGHT: Typical western solar farm. How many critters can live here?

the state’s 17 counties—Mineral in the north, which is depressed but still heavily dependent on federal funding for its military ammo dump, and massive and increasingly Democratic Clark County, home of Las Vegas.

Reid has had several supposedly “mini” strokes and often says odd things that—if they emerged from the mouth of a public figure on the political right—would be mercilessly ridiculed by the leftist commentariat. When the latest BLM effort to round up Bundy’s cattle or prompt a shoot-out backfired and had to be called off, Reid made it personal, branding Bundy’s nonviolent supporters “violent domestic terrorists” and vowing, “It’s not over.” He then went further. A few days later Reid, sounding like a cheap gangster, predicted “something would happen” to Cliven Bundy.

Why would the most powerful man in the U.S. Senate want so badly to get rid of Cliven Bundy’s little herd of cows?

Well, the federal judge who in 2001 stun-

papers.” But there’s more going on here.

Former *Review-Journal* editor Tom Mitchell wrote on his 4thST8 blog on April 11, 2014: “For some reason a Web page the BLM had once posted listing its reasons for the confiscation of Cliven Bundy’s cattle in the Gold Butte area has been taken down, but a cache of the page is still extant. That page states: ‘NonGovernmental Organizations have expressed concern that the regional mitigation strategy for the Dry Lake Solar Energy Zone utilizes Gold Butte as the location for off-site mitigation for impacts from solar development, and that those restoration activities are not durable with the presence of trespass cattle.’”

Mitchell wrote—though of course he does. “I have no idea what any of that means in English.” It means the feds have already accepted the planned “Gold Butte Conservation Area”—the fenced-off Bundy ranch without its cattle—as an acceptable replacement for the acres of supposed “tortoise

habitat” that would be destroyed by the big Red Chinese solar plant planned for the Dry Lake bed between Las Vegas and the Bundy Ranch—a plant which could not be built without the Red Chinese somehow making Harry Reid their friend, since it would also require both federal subsidies and a Nevada state legislative mandate that local monopoly utility companies buy a certain percentage of their power from high-priced solar sources, even though this drives up local power bills.

“So, cattle bad. Solar panels good,” Mr. Mitchell concludes. “Got to save the tortoises. Or is it the solar panel companies which contribute to Reid’s campaigns?”

Another long-term Reid donor and supporter, Harvey Whittemore, didn’t have much trouble getting an exemption from tortoise protection rules when he wanted to put a big residential development at Coyote Springs, in the empty desert northwest of the Bundy grazing allotment. Whittemore was later convicted of making illegal campaign contributions to Sen. Reid, though of course no culpability for accepting the donations in any kind of quid pro quo arrangement was ever assigned to Mister Cleanface. The Coyote Springs development appears to have



VIA INTERNET

died on the vine with the big housing market collapse of 2008.

Who’s the lawyer who appears to be doing pretty well promoting that Dry Lake Solar Energy Zone, which has had a fantastic run of luck in seeking exemptions or “mitigation” approval for the tortoise habitat its solar panels will supposedly destroy? Um...that would be Harry Reid’s son, Rory.

Unfortunately for the Reid Machine, it appears the senator’s good friend, Red Chinese energy billionaire and solar tycoon Yusuo Wang, pulled the plug on the big Dry Lake solar farm in the summer of 2013. Even Sen. Reid’s arm twisting had not proved sufficient to win commitments from monopoly California and Nevada energy providers to buy hundreds of megawatts of high-priced Chinese solar power. ■

*This only scratches the surface of the Reid machine. For more, check:*

<http://patriotpost.us/opinion/25014>.

# More Federal Takings

The feds will not be satisfied until they have control of all private property—and not only in the American West.

By Julian Stone

“With a wave of his pen under the controversial American Antiquities Act of 1906, President Obama announced the creation of a national monument in southern New Mexico—the 500,000-acre Organ Mountains-Desert Peaks National Monument.”

PRESIDENTIAL PROCLAMATION, MAY 21, 2014

The Cliven Bundy story is just the tip of the iceberg. These announcements are coming with alarming rapidity, and federal department overreach is at epidemic levels. Here are a few other examples of takings' attempts in the years since the Obama administration took control, or perhaps some would say lost control, of its domestic land-management agencies, including Bureau of Land Management, U.S. Forest Service, National Park Service, National Marine Fisheries, and Environmental Protection Agency.

■ **California:** Drakes Bay Oyster Company (DBOC), a National Stewardship Award-winning leaseholder in the Point Reyes National Seashore, was denied renewal of its 40-year lease, even though the park superintendent had encouraged owners to invest \$300,000 in renovating facilities. DBOC sued over the denial which included justification based on fabricated science and failure to produce a National Environmental Policy Act report. Even though more than 90 percent of residents in Marin County want the farm to stay open, a split 9th Circuit panel sided with the government, ruling that courts may not review regulators' decisions against renewing leases on federal property. The family is petitioning the Supreme Court to review the case.

■ **Oklahoma/Kansas:** State attorneys general file lawsuit against Interior Department and U.S. Fish & Wildlife Service over attempts by WildEarth Guardians to restrict all economic activity in a five-state area including Oklahoma, Texas, Colorado, New Mexico, and Kansas, in deference to and disregarding state conservation efforts for the lesser prairie chicken.

■ **Texas/Oklahoma:** The Red River chan-

© MARY BRANSCOMB



nel migrates, as do all river channels. Private landowners in Texas and Oklahoma have wrangled since 1919 over lands bordering the river. Now the Oklahoma BLM is formulating new land-management plans for 116 miles of Red River borderlands for which private landowners in Texas have paid hundreds of thousands of dollars [to pay for property or in taxes?], and the BLM says it belongs to the government. “The land in question belongs neither to Texas or Oklahoma, even if locals have bought it from one another and continue to pay taxes on it.”

More than 200 interested citizens turned out in May to tour Pete Tomera's Argenta BLM allotment. Spring rains brought the onset of abundant cheatgrass, an annual which livestock are most likely to eat in spring while it is still green. As temperatures rise, cheatgrass dries out, turns red, and becomes extremely flammable for wildfire later in the season. Resting cheatgrass does nothing for the landscape except allow it to reseed and multiply for the following growing (and fire) season. BELOW: Pete Tomera's cows, at first denied turnout on the range by BLM's Doug Furtado, knee deep in grass.

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■ **Otero County, New Mexico:** Forest Service fences off a water source owned, according to New Mexico law, by a ranching family. The Forest Service, attempting to protect the New Mexico meadow-jumping mouse at the behest of WildEarth Guardians, refuses to open the gates while Otero County commissioners demand the sheriff cut the locks. As for the mice that are supposedly being driven out by the thirsty herd, their presence isn't exactly well-known among locals. “I've never seen one of these mice, and the Forest Service claims it caught one last year,” Commissioner Tommie Herrell told Reuters. Standoff continues as we go to press.



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■ **Nevada:** State BLM director Amy Lueders reports that ranchers voluntarily relinquished 400,000 AUMs to temporary nonuse in deference to drought conditions in the state. This represents an average 20 percent cut to ranchers statewide, and a loss of income of \$40 million this year, not including hay, pasture and potential restocking costs. BLM requested voluntary cuts in February 2014, months before spring rains fed grasslands, resulting in lush regrowth of millions of acres of potential fuel for wildfires. Some district managers worked with permittees to allow them to continue grazing based on spring data. Others, like Battle Mountain district manager Doug Furtado, used the drought designation to advance his well-known personal animus toward ranchers. In Furtado's district, the drought plan resulted in a not-so-voluntary reduction of 156,634 AUMs (animal unit months), compared to 29,886 AUMs in the Winnemucca District, and only 2,271 AUMs in the Ely District. Each of these districts contains approximately 11 million federally managed acres. Local rancher Pete Tomera responded by rallying support and showing off the Argenta allotment in May on a grass tour to more than 200 people, including local politicians and congressional representatives. Furtado did not attend and was forced to back off his position. The Tomeras were allowed back onto their allotment for a year.

■ **Kevin Borda,** a Nevada BLM permittee with allotments in both the Ely District and Furtado's Battle Mountain District, was shown massive and arbitrary cuts in his permit

when he went in to pay his grazing fees on a permit that was supposedly not in question. BLM range conservationists told him that they had been advised by its legal team not to accept his check, telling him, "If we don't accept the money, you don't have a permit." Furtado also threatened Borda with trespass if he allowed his cattle to water on his permit. "How can he tell me not to turn on my pump to run the water I have rights to?" Borda asked.

These are not just isolated incidents of individual administrators flexing their muscles. There is implicit permission as well as national direction to this landgrab. Evidence comes from the BLM's 2010 internal memo on Treasured Landscapes (see "Move Over, Bruce Babbitt" by Dave Skinner at [www.rangemagazine.com](http://www.rangemagazine.com), Fall 2010), which outlines how BLM plans to wrest control of private lands from "willing sellers" over the next 25 years. (The willing seller language is straight off the anti-cow Western Watershed Project Web page.) Roughly equivalent in size to Wyoming and Colorado combined, in order to "facilitate the transition from the current land-management system which is based on jurisdictional boundaries, to a modern landscape-level management system, the BLM proposes to designate, rationalize, and manage at-scale" its treasured-landscape holdings.

Management categories include:

- *National Landscape Conservation System (27 million acres): National Monuments, Wilderness Study Areas, National Scenic and Historic Trails, etc.*
- "Special Areas" identified through the land-use planning process (75 million acres): *Areas of Critical Environmental Concern, Globally Important Bird Areas (does this mean flyways?), Significant Caves, and others.*
- *Critical habitat, designated by FWS (25 million acres): Listed and sensitive plant and animal species.*
- *Wild Horse Preserves (no specific acreage): Targeted for the Midwest and the East.*

BLM recommends establishing new national monuments by using the Antiquities Act, "which allows the president to act



Pete Tomera and neighboring ranchers in the Argenta allotment were cut by 11,000 AUMs in the spring of 2014. That's a lot of cattle and could devastate the ranchers. Here Pete asks the photographer after he was finally allowed to turn his cattle out in May: "No grass? After our spring rains, this is great!"

**"The president is going down the list, and sealing off vast swaths of the West on behalf of his special interest allies, who view our states as their personal playground."**

—THE WESTERN CONGRESSIONAL CAUCUS, DESCRIBING THE 2010 BLM MEMO LABELED "INTERNAL DRAFT—NOT FOR RELEASE" AS A PLAN TO GRAB MILLIONS OF ACRES OF WESTERN LAND

quickly"; BLM wants to use the land-use planning process to promote conservation values—rather than the multiple-use direction that is embedded in current law. It justifies massive adverse economic impacts by suggesting that we measure the value of BLM lands in "the amount of carbon sequestered by a stand of trees or native grasslands" rather than in timber sales or livestock production.

BLM aims to consolidate its checkerboard landholdings, particularly in Nevada, Oregon, California, Utah and Wyoming, seeking to acquire properties "to preserve ecosystem integrities." It plans to use the Land & Water Conservation Fund (LWCF), the Federal Land Transfer Facilitation Act,

and a new program of renewable energy offsets. BLM estimates LWCF would need \$75 million a year for the next 10 years to finance its landgrab. That could be your private property it wants. Here's a partial list of federal and environmental priorities. The reader will recognize a few:

- Organ Mountains-Desert Peaks (nearly 500,000 acres) was declared a national monument in southern New Mexico on May 21, 2014
- Gold Butte, Nevada (in dispute thanks to the Bundy debacle)
- El Rio Grande del Norte, New Mexico
- John Day Basin, Oregon: 10,000 acres of new wilderness
- Dolores River Basin, Colorado: potential for 500,000 acres of protected public lands, old-growth ponderosa forest, 63,000 acres of wilderness
- Hidden Gems, Colorado: 400,000 acres of wilderness, both FS and BLM.
- Montana's Northern Prairie: 2.5 million acres
- Heart of the Great Basin: a swath of central Nevada with undesignated acreage
- Sonoran Desert, Arizona: 500,000 acres
- Owyhee Desert, Oregon and Nevada

And the list goes on. ■

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