

## SPECIAL REPORT: PATTERNS OF HARASSMENT II

# The Grass March

**Regulation without representation is tyranny.**

**H**ow far would you go to protect your rights? How far would you go to redress a wrong? How far would you go to fight for your way of life?

The Grass March Cowboy Express rode horseback slightly under 3,000 miles to protest a litany of abuses by the federal agencies originally created to work with ranchers, to protest promises broken by bureaucrats, and to protest laws ignored and violated by the federal government. One man was mortally wounded on the ride, but even as he died he urged his fellow riders to continue, to not give up.

Would you risk your life to save your way of life?

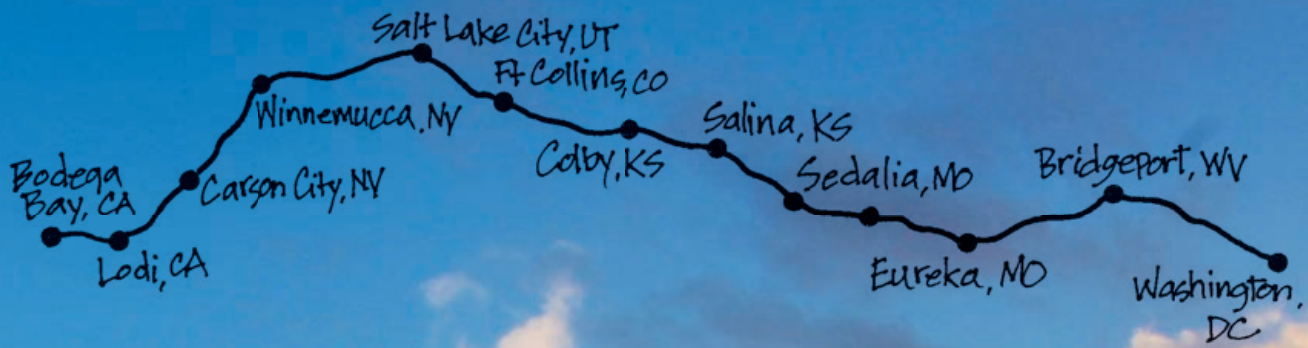
In 1993 there were 52 ranchers with permits to graze cattle in Clark County, Nev. Today there are none, and the same forces that drove ranchers out of Clark County are attempting to do the same thing all over the West, rancher by rancher, county by county, state by state.

What is most shocking and almost unbelievable is that the forces that are trying to drive the ranchers out are the U.S.

Department of the Interior and U.S. Department of Agriculture and their subsidiary agencies, the Bureau of Land Management and the U.S. Forest Service, respectively. These agencies were originally founded to manage for multiple use and help real producers and landowners; now they're trying to run those same people out of business.

If the federal government were to abruptly declare all ranching within the boundaries of the continental United States illegal, and all public lands closed, permanently, to any kind of grazing or productive use, even the mainstream press would rise up in outrage at illegal, unconstitutional, and dictatorial overreach. But that's not how it's being done. Instead, as in the movie "Sergeant York," the government is picking off ranchers one by one, so that in 1993 one or two ranchers in Clark County had permits revoked, livestock units abruptly reduced, trespass fees slapped on them, "critical areas" closed, and impossible conditions and restrictions imposed. Only one or two ranchers? They must have been bad guys. But 22 years





later, there are no ranches or ranchers with permits, good or bad, and the mainstream media either doesn't know or doesn't care or—in the case of papers such as the *New York Times*—actively opposes food production, painting all ranchers as rich, lazy grifters, fat hogs gorging at the public trough.

In the 2000 census 80 percent of America was classified as urban. That means at least 80 percent of America neither knows where its food comes from, nor cares—as long as it's on the table. So how do you draw attention to a very small number of the small percentage of the country that produces food, especially when those people are vilified by politicians and press alike? What do you do? How far would you go?

This is the story of 28 horses and 11 men and women, including a few Nevada ranchers, who embarked on a long, dangerous, anachronistic journey from the Pacific to the Atlantic to try and raise awareness that America is about to sacrifice its food source on the false altar of environmental and political correctness.—*Jameson Parker*



Riders at Bodega Bay, from left: Jess Jones, Katie Jones, Andy Boyer, Grant Gerber, Eddyann Filippini and Arlo Crutcher. PHOTO © DEE YATES

MAP BY JOHN BARDWELL

# The Riders

*The Grass March Cowboy Express was an arduous trip with serious intent, 2,800 miles horseback. Ranchers were asking for help from Congress to stop regulation without representation. It was courageous and heroic.*

By Julian Stone

Things were getting so ugly in Nevada's Battle Mountain District of the BLM that Assemblyman Ira Hansen wrote to Gov. Brian Sandoval on May 28, 2014, asking him for help.

"I represent Lander County and the Argenta BLM grazing district," he wrote. "I want to ensure you are fully informed on the increasingly unreasonable and nearly tyrannical actions of the BLM there, especially the conduct of district manager Doug Furtado."

Hansen was told there was a meeting and called Furtado to verify, but the Bureau of Land Management boss said there was no such meeting. After he hung up with the legislator, Furtado called Pete Tomera, a permittee, and threatened him for sharing information. He told Pete that if Ira Hansen or Sen. Pete Goicoechea showed up, he would shut down the meeting.

"Mr. Furtado flat-out lied to me," Hansen says. "I then met with Amy Lueders, Nevada BLM director, and her assistant, Raul Morales, in an effort to bypass Furtado. Instead, they showed me photos of poor range conditions sent in by Furtado. There

seemed to be no interest in seeking a middle ground."

On May 17, Hansen attended an all-day Grass Tour of the grazing allotment in question. "Contrary to the photos from Furtado, taken in February, the range is in excellent shape. Both riparian habitat along the streams and springs and the uplands were in excellent condition. Without exaggeration, native grasses waved like wheat fields in the breeze, and on recent fire scars, cheatgrass was thick and already a foot high. These conditions are perfect for grazing—or fire."

Another disturbing development: petitions to remove the conflict-loving bureaucrat were circulating. One was placed in the Battle Mountain hardware store. A heavily armed BLM agent wearing a bulletproof vest showed up and told the store owner that it was a crime to attempt to intimidate or harass a BLM official. After reading the petition, the federal intimidator noted "the petition is O.K.," and left.

Hansen continues: "It is a violation of a constitutional right to petition our government for a redress of our grievances. Govern-

nor, I have attempted to work with BLM and local officials to resolve this—unsuccessfully. I ask you for additional assistance...and use your authority to protect the hardworking, honest people in my district and see that [Furtado] is replaced."

This followed a targeting of ranchers in Nevada's Battle Mountain District in 2013 and 2014 (see page 63). Elko attorney and public lands-issues activist Grant Gerber, long a supporter of underdog causes, encouraged the ranch families to take on a crazy idea: ride horseback to Washington, D.C., Pony Express style.

Grant came up with the Grass March Cowboy Express. He compared the march to Gandhi's Salt March. He said they would use every element of the First Amendment. They would be talking to the press, they would be assembling, they would be praying and would do everything they could to change the situation in a peaceful, legal manner. By May 2014, a trial run had sent riders close to 300 miles, relay-style, from Elko, Nev., to Carson City with petitions for Gov. Sandoval. There was a photo op accepting the petitions and then...nothing.

Undeterred, a "big run" was planned for early fall. Grant rallied the horsemen at Bodega Bay on September 26: eight mostly desert rats, including Eddyann Filippini, Arlo Crutcher, Andy Boyer, Grant Gerber, George Martin, Josh White and Jess and Katie Jones. Eddyann was first on the trail on September 26, riding out at first light, accompanied by two pickups, plus a chuck wagon and relief horses in trailers.

The goal was to cover close to 3,000 miles from coast to coast, waving flags, handing out pamphlets, gathering petitions from others along the way who had concerns with government overreach. Get some national attention. Try to get elected representatives in Washington to take notice of mishandling of public lands and private property rights. Grant's battle cry became "Regulation without representation is tyranny." He hired Jess Jones as trail boss and Katie as coordinator. "We need a lot of volunteer riders and horses," said Jess, "but we know we can get it done."

Over the Sierra Nevada they rode on the shoulder of state highways. They were to pick up the petitions from the governor's office and carry them east, but the governor was not in and the petitions could not be found. (Thanks to Ira Hansen, they were FedExed to the group as



Grant Gerber speaks to Mike Wilden, chief of staff, and a couple of other staffers in Gov. Brian Sandoval's Carson City office. He is flanked by Ira Hansen, state assemblyman and rancher Dan Filippini. Just outside view are three ranch families from Battle Mountain.



LEFT: Eddyann Filippini took the first ride out of Bodega Bay. She is followed by Katie Jones and Josh White. ABOVE: Andy Boyer drives the mules and chuck wagon to lead the horsemen to the governor's office in Carson City, Nev. BELOW: Native American Arlo Crutcher carries the pouch including the petitions to Congress. He says, "These cowboys are the new Indians."

**"We're able to ride 75.5 miles in six hours, equals 12.583 mph using nine horses. Eat your heart out, William F. Cody!"**

—BRUCE CLEGG

they loped across Kansas.)

"Grant wanted to start before daylight," says Eddyann. "Crossing the Sierra on the second day I was on Highway 50 riding Velvet, Jess and Katie's black horse. It was foggy, it was raining, and smoke was still thick from the fires that were burning that summer. Arlo, Andy and Grant were behind me in a black pickup with flashing lights and a gray horse trailer. The last thing you expect on the highway is a rider on horseback. We were riding by the headlights of the trailer and this was the most terrifying moment of my life. I'm going downhill and it was mountain, no edge, no place to go. A white Dodge dually...I could hear it behind me...cut right in front of me and it was a close call. I could feel the frigid air sucking me into the traffic. I had eight-tenths of a mile to go and I was wet and cold and as soon as I got to a turnout I told Grant, 'Nobody is doing this stretch tonight.'"

Lynn Tomera joined the Grass March in Carson City, ready to ride to D.C. Lynn has been living in brush country all her life and she and husband, Pete, are ranchers, going back four generations. When Grant Gerber

urged her to ride to Washington, she was apprehensive. "To say that I was an inexperienced traveler was a huge understatement. It was about as far out of my comfort zone as I could ever imagine."

She joined neighbor rancher Eddyann Filippini, whose family also goes back for generations. Eddyann brought her pickup and four-horse trailer with a tack room crammed with feed for horses, tack, medicine and clothes for any kind of weather. Lynn's mother, Lorraine Sestanovich, encouraged her. "By the time you and Eddyann get to the East Coast and turn around and head West," her mother said, "you two will be like two old bell mares heading for home."

Eddyann is a self-confident and experienced traveler, an expert at pulling a horse trailer through traffic that terrified Lynn. "I'm glad she agreed to take this rookie and her brush country horse on this adventure."

Lynn's husband Pete, sons Dan and Paul and his wife, Paula, helped do five-mile stints on the trail across Nevada to Elko. Then they



had to go back to work, haying and keeping the ranches going. Eddyann's husband, Dan, son Max, daughter Mary, granddaughter Brooke, and mother, Sammye Ugalde, age 81, also rode some. That's four generations.

Arlo Crutcher, former council chairman of the Pauite/Shoshone tribe in McDermitt, Nev., joined the group in Bodega Bay and rode all the way to Washington. "I had signed the petition and Grant and I got to talking. We have the same situation in McDermitt with BLM as the Tomeras do in Battle Mountain and I have known the Filippinis for years. I wanted to support them. I took a month off for this because I felt for them and can see what's happening. My ancestors went through that and now the cowboys are the new Indians."

Arlo was ramrod of one of the outfits. He had an eight-horse trailer, with three of his that had never seen town, three of Grant's, and space for convalescing horses. It didn't take long for Arlo and Grant to become good friends. "He gave me a lot of history on the way across country. We talked about going to the coast. We had seafood in Bodega Bay—an Indian with the fish at the coast! I got so sick for a few days after that."

Riders did two or three rotations a day relayed in five- and six-mile stretches across the desert, accumulating sympathizers and a few ranchers who wanted to ride sections for



*George Martin drove a big RV pulling a trailer with horse feed and the chuck wagon. He and Nellie Hamilton helped with logistics, served coffee and breakfast for the riders long before dawn, and kept stocked with provisions for men, women and horses.*

them. At the Utah state line, they met up with Bruce and Janice Clegg, who drove a small RV and brought a string of fast horses and a couple more riders—their adult children Wes Clegg and Amie Paulick. Bruce and Janice stayed with the riders to keep them on track and make sure they didn't get run over through areas of traffic.

By the time they reached Salt Lake City, there were 11 full-time tough-and-fearless riders and 28 tough-as-nails horses, many from the Cleggs' 7C stock contractor outfit, including Iceman, Shortstop, Yellow Paint, Nimrod, Cookie Dough and Gray Eagle.



PHOTO COURTESY SHAWN TASSET

*On October 7 in Kansas, Ford County Commissioner, Shawn Tasset, took the group to dinner and made sure the stockyards were available for them. "A farmer who liked our cause brought in a load of hay and bedded our pens so our horses could lie down and rest." Grant Gerber accepts a petition from Tasset to add to the Washington pouch. It was right after his wreck.*

With a dozen more good ranch horses, these champions were a huge part of the venture. The riders' lives depended on them as they rode the shoulders of America's highways, from the coast to mountain and prairie, through heat, cold, insects, rain and dark.

"It was a very arduous trip," says mule-skinner/wagon driver Andy Boyer. Some riders camped in teepees. The rest stayed in motel rooms. "We would get in at night at 10 or 11, turn the horses out and feed and water them and then get a room," Andy says. "We'd start again at 4:30 a.m., but you had to get up two hours earlier to feed and water and saddle the horses." When the riders left in the dark, the campers cleaned up and did laundry. They also restocked supplies and made sure there was enough cubed alfalfa and grain for the horses.

"George Martin drove a large RV with a trailer hauling the chuck wagon. He and Nellie Hamilton always had hot coffee and breakfast for us," Lynn says. "They picked up groceries and kept us all fed. The RV also served as an office for Katie Jones as she kept the trip organized and planned."

"Kansas is so strange," Janice wrote in her journal. "Flat ground as far as the eye can see. The sunset seems wrong without mountains in front of it."

Lynn says: "We rode through the rain in Indiana and marveled at the beautiful, green grass of Kentucky. Our horses grazed and rolled in the luxury of it. We rode through the Appalachian Mountains and were awestruck by the beautiful autumn colors.

**"We can ride in the rain, but it's too dangerous to ride in the rain in the dark, so I'm leaving the hands affolled in their buckaroo tents until first light."**

—BRUCE CLEGG

Never did I think I would ride through the forest on my horse."

All across country, small communities, newspapers, radio and TV stations were interested in their stories. They passed out brochures, posed for photos and answered every question.

Some large papers ignored them. The *Salt Lake Tribune* expressed no interest so Arlo, Eddyann and Lynn rode up to the office horseback and asked to see the editor. An assistant came out but no press resulted. "The only thing that showed we were there," Grant said, "is the horse apples outside the building." The *Deseret News* in the same city covered their ride well.

Utah state Rep. Ken Ivory authorized HB 148, the Transfer of Public Lands Act. Since then six other western states, including Nevada, have drafted similar proposals demanding the federal government cede title to certain lands within their borders. These lands were promised to the states when they became part of the Union. A copy of HB 148 was added to the Grass March message bag along with petitions from other rural Utah counties. More were added as they rode, with people in other states taking the opportunity to express their frustrations over federal government overreach.

The travelers kept journals (with parts shown below in italics). Janice used yellow pads. Bruce communicated via Facebook. Others found the trip difficult to forget.

*"By the time we hit the sack there was very little energy left to write. We fed, watered and cared for our own horses. We never asked for help. We were fiercely independent and refused to be a burden to anyone." (Lynn)*

*"Oct. 2. Rock Springs, Wyoming. Stop for oats for the horses. We are galloping the miles away. A nice rancher let us stay at his ranch near Rawlins, fed and watered our horses.*

*Sandwiches for dinner and sugar snap peas. We crossed the Continental Divide today. Saw a coyote stalking antelope about dusk." (Janice)*

As they were crossing Colorado, Jess sent the Bell Mares to a saloon that was going to host a bull riding that night to find a place

for the horses. “The bartender suggested the Equine Center at the university. It was a beautiful place, but no horses and no one around. We called Jess and told him of our find. We got the water troughs filled and pens ready for the horses. Our four were fed and watered when Katie called and said the center was empty because it was under quarantine for a contagious mouth blister. It didn’t take long to evacuate.”

“Oct. 9. Meriden, Kansas. It’s trying to rain on the Old Chisholm Trail. We can ride in the rain, but it’s too dangerous to ride in the rain in the dark, so I’m leaving the hands affolled in their buckaroo tents until first light. I just checked on the remuda and they all were up and going except Randy, but his eyes look bright.” (Bruce)

In Colorado and Kansas the roadsides were dotted with hundreds of prairie dog holes. “I rode with my heart in my mouth most of the time,” Lynn says. “fearing my horse would step in one and fall.”

Arlo and Andy were with Grant when his horse stepped in a prairie dog hole. He hit his head, hard. “We were joking around,” says Arlo, who took his picture after the wreck. “Grant didn’t want to go to the hospital with me and Andy. We called him Dad and took him to the hospital in a nearby town, much against his will. He had two black eyes and a bloody nose.” Grant had a concussion and was told to take it easy.

“We have to navigate our way through Kansas City today. The cook’s up and going, got his coffee on, lots of thunder and lightning happening. Horse and riders are nature’s lightning rods.” (Bruce)

All the western state governors told the riders on the Grass March that they would do anything they could to help them through their states, including opening their freeways—at least in Nevada, Utah and Wyoming. “We found out yesterday,” Bruce says, “that it’s legal to Ride-Boldy-Ride through Kansas—as long as you don’t get caught. Old Josh and Nimrod were arrested by a female Kansas Smokey. She ordered him off his horse and made them wait at an exit.”

“We left Colby, Kansas, at 0:431,” Bruce wrote on Facebook. “Amie, Wes and Josh are working on their fourth run before 0:800. Wes has a ration of quarter corn quarter sweet feed half oats and has the horses breathing fire. Our



hands are riding with just their halters instead of bridles because we don’t want to send any message to their brains to slow down.”

Finding stables for 28 horses was difficult. One night, off the beaten path near Eureka, Mo., Eddyann and Lynn were heading down a narrow road in the rain. “It was pitch-dark, pouring rain and spooky,” Lynn says. “There was no place to turn around. Finally we came to a tiny clearing with a small, white church and a big sign proclaiming ‘Jesus Saves!’ Eddyann turned the pickup and trailer around in that tiny parking lot and we gave a fervent prayer of thanks. It wasn’t long before we saw Bruce and Janice’s headlights guiding us to that night’s stable.”

“108 miles to go today. I think we are on a



Grant Gerber (in white cowboy hat next to dome) gives petition to congressional staffers and Young Republicans. Bruce Clegg is standing at left.

roll. Wes is riding an A-team horse. I wish the rumble strip weren’t so bad and the reflection poles were further off the road. Every car and truck driver are friendly, most pull in the other lane and give us room. A lot of cars and trucks traveling the other way wave and honk. It’s better if they don’t honk when Wes is on a younger horse.” (Janice)

Bruce says it’s 7C policy that when you are at an arena on the road and put your horses in a corral you lock the gate and take your halter and tie it shut. “Last night when we got into Princeton, Illinois,” he says, “I watched Amie lock the gate and tie her halter on it. Now I am not suggesting that an ani-

The Grass Marchers, top row, from left: Martin Paris, Jess Jones, Katie Jones, Andy Boyer, Eddyann Filippini, Arlo Crutcher, Lynn Tomera, Pete Tomera and Dan Tomera. Front row, from left: Lucy Tomera Miller, Bruce Clegg, Amie Paulick, Janice Clegg, Grant Gerber, Josh White and Nellie Hamilton.

mal rights group came in and turned the horses out, but they did escape. There was no runaway left in them but they did have some walk away slowly left in them. When the hooves hit

the city streets, nervous natives called the town cop. When he got to them and turned on his bubblegum machine they turned around and came back to camp.”

“Oct. 11. Freeburg, Illinois. Last night Jess had to take Grant to the ER. Grant has a serious concussion but was released.... We were scheduled to stop in Frankfort, Kentucky, but we have proof of an organized protest there to attack us. We are not stopping there.” (Bruce)

The rain kept falling. Hills were steep and Josh was loping along on his grullo horse in the slop. They had great support from people who asked what they were doing as they traveled Highway 50. Every town has a newspaper, and reporters came out to support and write articles about their endeavor.

“4 a.m. On a trot to Deerfield, Indiana. Read on Facebook that there’s an anti-Grass March rally planned tonight for the town we are to stay in. Easy to live in a city and tell the people in the West how to manage the land and their animals....”

“Oct. 12. Leaving Princeton, Bruce said we made it into the L.A. Times and some other major newspapers.” (Janice)

“Oct 13. Huntington, West Virginia. State Police are investigating our health papers like a murder,” Bruce wrote. “I think we can limp in with what we got, but we are going to tell Sen. Harry Reid, ‘Don’t make us come back here.’”

On October 14, they circled the wagons at Weston, W.V. “Horses are strong, conserving their strength, full of wind. They have give us their all,” Bruce wrote. “One more big day, and then we head to town.”

“Oct. 14. Boothville, West Virginia. It is raining so hard it feels like it is going to peel the aluminum siding off the motorhome. There seem to be forces against us, but it just makes us more determined to carry on.” (Bruce)

"Oct. 15. Started out at 5:30 a.m. through the Appalachian Mountains, narrow curvy roads, the autumn leaves are beautiful. Raining lightly, wind is blowing harder." (Janice)

"Oct. 15. Augusta, West Virginia. Today we are still in Appalachia. After Amie and Wes had rode three times apiece Amie threw her pack on Shortstop. He was one of the reasons for this trip. I wanted to get him broke to ride and he has had his challenges. Had lunch in Aurora at a place called Donna Jean's. People hadn't seen trailer loads of horses before, so Amie was telling them what we were up to. When we left there, we found out that one of the construction workers had paid for all our meals. Pay it forward." (Bruce)

## The Leader

*A firebrand extinguished.*

By Carolyn Duffurrena

**M**ake no small plans. They have no magic to stir men's souls." Grant Gerber lived by this credo until the day he died, after a fall two weeks earlier from his dun horse Ghandi in Kansas left him with a concussion and an eventual brain bleed. The 72-year-old spiritual leader of the Grass March Cowboy Express rode mile after mile, organizing the march, exhorting his companions, meeting with local politicians and reporters to publicize a little-known, sparsely populated area's struggles with the overreach of federal land managers.

An intelligence officer in Vietnam decorated with the Bronze Star, Gerber kept a piece of shrapnel in his Elko, Nev., law office as a reminder of how fragile life could be. A passionate activist for private property rights and fearless to a fault, he organized multiple actions in northeast Nevada over three decades, the last of which was the Grass March.

"If it wasn't a David-and-Goliath situation, it would not even pique his interest," says son Travis, who lawyered for him in Elko and helped with the march.

Gerber believed the cause of freedom was worth the risk. In a prescient email to

In West Virginia, due to torrential rains, there was a tree across the road. A hillbilly in a little truck got some workers with a boom truck and chainsaws to clear it. "We heard banjos," says Bruce.

The brush-country riders found riding to the Capitol "surreal." They rode with a police escort during morning rush hour and snarled traffic so badly even the *Washington Post* took notice. But the commuters weren't angry; they took cell phone pictures from their cars and construction workers waved and hollered at the bunch of cowboys on horseback with a team of white mules pulling a chuck wagon down Pennsylvania Avenue.

"Many people cheered and every one of

himself, sent just days before the Grass March embarked on its coast-to-coast Pony Express-style mission, he wrote: "When I volunteered for the Army and went to Vietnam I did not expect the country to stop fighting if I was killed or hurt. And now I do not expect the Grass March Cowboy Express to stop if I am killed or hurt.... This ride is dangerous and I accept that danger. I believe the risk is worth the danger.... Please carry on if I am killed or hurt. After the



Grant Gerber, center, enjoys a moment with muleskinner/chuckwagon driver Andy Boyer and Katie Jones outside the governor's office in Carson City. They are three days into their 22-day saga.

petitions are delivered you can scrape up my old bones and deliver them back to Elko County."

He rode from the Pacific Coast into Washington and delivered his petitions. He rode his horse on the Atlantic sand, and made it back to Salt Lake City, not quite home. He was a joyful warrior who lived the life he loved, and he died with his boots on. Whatever side of this battle you come down on, you have to admire him for that. ■

them took pictures," Lynn says, "from smartly dressed business people to the guys driving garbage trucks. It was great!"

In front of the Capitol, Grant, Eddyann, Lynn and Arlo were able to give the petitions they brought with them to the right people. Representatives from Utah, Nevada, Idaho, Arizona, New Mexico, Colorado, Kansas, Hawaii and Florida, as well as a group of Young Republicans were there to greet them. Grant was able to give a short talk about what they were trying to accomplish and they were given assurances by the delegation that they would do all they could to bring the ranchers' plight to the attention of the people who could help resolve it.

They toured the Capitol building after they left their knives and Wes' "Arkansas Toothpick" in the trucks and after Bruce took off his spurs at the security checkpoint.

The Cleggs went home, but most of the Nevada contingent went on to the Atlantic on the Delaware coast to play in the sea. Lynn had never seen an ocean. "When I rode up to the edge of the sea and the waves came crashing in, I'm not sure who was more afraid, me or my horse."

Arlo, Andy, Grant and the Bell Mares finally headed home. Grant's headaches grew worse. He stopped at the hospital in Laramie and another in Cheyenne to discover he needed surgery for a brain bleed. Doctors said it would be safe for him to travel to the University of Utah Hospital closer to home. He rode with Lynn and Eddyann from Laramie and spent the morning laying out a game plan for their struggle with BLM.

"I didn't realize it at the time, but it was as if he knew he only had a short time left and there was so much he wanted us to know," says Lynn. "He told us which books to read to help us continue our fight for our livelihoods in the most effective way. He never stopped talking for the entire morning until we quit for lunch. We all hugged him and wished him well with his surgery."

The Cleggs got their good horses back to Utah, Arlo Crutcher got his horses home to the reservation, and the Bell Mares made it home to Battle Mountain on October 22. Grant Gerber, born June 11, 1942, died surrounded by family in a Salt Lake City hospital on Oct. 25, 2014. (See sidebar.)

At press time, Amy Lueders was back in Washington "for 120 days" and Neil Kornze, national BLM chief, will be touring three Nevada ranches in May.

This story isn't over. ■

# The Muscle

Power-hungry feds versus Nevada cowboys. The saga continues. By Julian Stone

**T**here's a pattern of harassment in the Battle Mountain District of the Bureau of Land Management, and Nevada family ranchers are being targeted. "It's harassment, it's bullying perhaps," says Eureka County Commissioner J.J. Goicoechea. "Some people love conflict because they want to be in the forefront. You can drum up more business when you're confrontational."

One analyst says it looks like rural cleansing. "Family after family has recently received notices of huge cuts in their grazing—50 percent, 75 percent, 100 percent—thus making their entire family ranches and their fee lands and water rights useless."

In the Battle Mountain District (BMD) in northern Nevada, 11,000 AUMs were cut last spring from a single allotment. (An Animal Unit Month is the amount of forage needed to sustain one cow for one month.) Ranchers were coerced into signing punitive deals. Agreements were forged in the field with their BLM range conservationist but changed at extremely short notice by "management," sometimes only hours after the ink was dry, so that they could then be determined out of compliance and have their permits revoked.

Several allotments were targeted for closure in 2013 and the goal was accomplished in July 2014. After the Argenta allotment was closed, Lynn Tomera asked their range con Adam Cochran, "How does the Argenta compare to the other allotments in the Battle Mountain District?" Cochran's response was, "It is actually one of the better conditioned allotments in the district." When Lynn asked him why BLM was putting so much energy into closing it, he had no answer.

## PECULIAR CHOICES

BLM isn't even following its own rules. An unsigned but implemented Drought Environmental Assessment (EA) was written by the Battle Mountain District and somehow enforced without a Record of Decision filed. District Manager Doug Furtado has given his staff the authorization to close allotments reaching "drought triggers" that have not been through the full National Environmental Policy Act

process. The document is invalid.

"The word 'drought' raises remarkable alarm," noted Administrative Law Judge James H. Heffernan in his Order dated Aug. 12, 2014, during a hearing on the ranchers' case against the BLM. However, what is more



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**"Doug Furtado should be praised, not pilloried, for doing his job."**

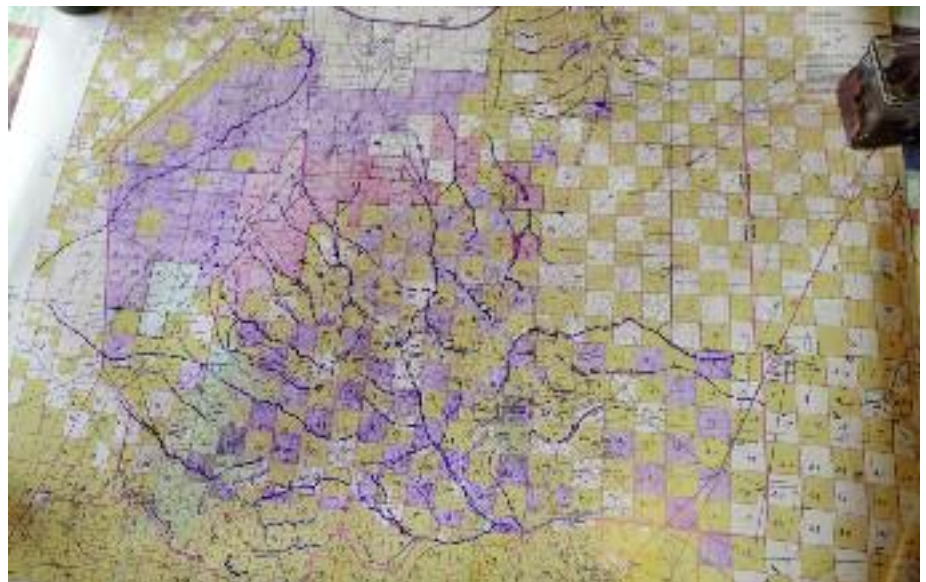
KIRSTEN SLADE, ADVOCACY DIRECTOR, PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY

remarkable is that when BLM's claims are analyzed, the issue is not actually about drought. Instead, its claims are driven by utilization "triggers" in certain small riparian zones—i.e., if some plants are grazed too short it triggers a change in management.

In one case, it makes up less than seven acres of the approximately 92,000 acres at issue within nine Use Areas. In fact, BLM's own data from the upland public land across that vast area discloses significantly low utilization and standing grass sufficient for livestock and wildlife. Such a disparity raises the question of whether these seven acres should drive an immediate and indefinite closure of the other 91,993 acres.

Observed utilization on these riparian zones was consistent with what has historically occurred and was not the function of drought, even according to the BLM in its own Aug. 22, 2014, decision. The U.S. Drought Monitor (USDMD) was never intended to be used for making site-specific management decisions. Brian Fuchs, climatologist at the National Drought Mitigation Center and one of the contributors to the USDMD, stated that it cannot and should not be used to determine the duration of a drought. In June 2014, Fuchs stated that it is "fiction" that "the Drought Monitor is a forecast or a drought declaration."

In addition, BLM's rationale for its August 22 decision ignores the potential for catastrophic wildfire that will destroy the



*The 2012 Battle Mountain District Drought Environmental Assessment violates the National Environmental Policy Act. "Drought triggers," which in fact are utilization levels, although being used to remove livestock from the land, were not mentioned as management objectives by BLM, nor do they appear in the Land Use Plans which guide permits. Furtado relied on one author (Holechek, 1988), who himself stated in writing that BLM had misapplied his research. There is no measurable data required in the Environmental Assessment to mark the end of drought.*



public land resources it seems to want to protect, particularly given the significant amount of standing fuel—i.e., grass. Wildfire could also destroy certain plants that grow upon the public land within the nine Use Areas that are sacred to a local Native American tribe. Richard Smith, Shoshone tribal member, says, “We requested that the livestock numbers be increased and the allotment be grazed to protect our medicinal plants and sacred animals from wildfire.”

Ellen Rand’s ranch in the Battle Mountain District is one example where all cattle have been banned from the land in deference to unmanaged excess feral horses. They’ve cut her, cut her and cut her over horses and the ranch can’t run. There was an agreement made on the ground between BLM personnel and the rancher to use the high country. A drift fence was to have been repaired and the permittee agreed to haul water so that the cows could be turned out. Furtado overruled that deal, saying: “I have to save this for the horses. The cows can’t go up there.”

Ellen sold her cows and she was dead within three months. It’s not just the Rand Ranch, it’s the Argenta allotment, including the Tomera, Mariluch and Filippini families. It’s Borba Ranches to the south, and several others. It’s a series of family operations, which appear to be taken on one at a time, hounded and bullied until either the ranch folds or until they get a lawyer and defend themselves. And it’s tough to outlast or outspend the overtaxing federal government.

Mike Mitchel, a 28-year BLM employee who worked in Battle Mountain from 1973 to 1996, toured the Argenta allotment on Sept. 8, 2014. He wrote a declaration which was included in the Tomeras’ appeal against the closure. “I was impressed with the lack of utilization on uplands and side slopes.... The riparian bottoms that I reviewed on Sept. 8, 2014, appear to be in stable, though deteriorated from the pristine, riparian condition. It is my opinion that there is no imminent likelihood of their further deterioration in the short term.” He also stated: “The stream bottoms seem in about the same condition as I remember from years past. I feel neither the drought nor grazing practices, including stocking rates and season of use, have resulted in further or accelerated deterioration of those locations I visited.”

Some of these ranches are in the checkerboard, a 40-mile-wide swath across Nevada along the Union Pacific Railroad tracks. Every other section is privately owned, pur-

chased over time from the UP, which acquired it from the United States in the 1860s to build the transcontinental railroad. The logistics of fencing such country are prohibitive, and therefore it has all been managed as if it were public land. A trade agreement called an “exchange of use” is made by the landholder with the federal agency, which adjusts the number of cattle

**Many courts have ruled that grazing rights, forage rights, ditch rights and water rights are private property on public lands. The IRS agrees because ranchers are taxed on those rights.**



*Pete and Lynn Tomera at home in Battle Mountain with Lynn’s mother, Lorraine Sestanovich, and Junior.*

that can be turned out to account for the private lands.

Kirsten Slade, advocacy director for Public Employees for Environmental Responsibility, told the *Los Angeles Times* on Oct. 9, 2014: “Ranches running cattle on public lands are trespassers. This land belongs to taxpayers, not them.”

The fact is there are a bundle of private property rights on public land. The early settlers—who were there a long time before the Forest Service and the BLM came into existence—owned water rights, springs, streams, irrigation ditches, rights-of-way and range improvements, including fences, ponds, corals, and other rights and entitlements as well

as grazing. And those rights have been passed on from generation to generation.

“As Nevada is 87 percent federally managed land,” Paul Tomera says, “it is difficult to buy private lands, so usually when a ranch is bought you also buy the grazing permit for the adjoining public lands. This is considered real property and contributes to the value of a ranch.” Many federal and state courts have ruled that grazing rights, forage rights, ditch rights and water rights are private property on public lands. The IRS agrees because ranchers are taxed on those rights.

Over the past 50 years, range livestock numbers have been cut in half. Most of the sheep are gone. There are fewer sage grouse and fewer desert tortoises, which thrive with the bovines. Even so, environmentalists and bureaucrats are now trying to remove cattle altogether from many areas, allegedly to “save” the reptile and the little gray bird.

**BADGER RANCH**

Since March 1989, Dan and Eddyann Filippini have been ranching in the BLM Battle Mountain District. “Dan and I were fortunate,” says Eddyann. “With the help of Dan’s parents, Hank and Marion, we bought the Badger Ranch from LeRoy and Barbara Horn. In the purchase, we acquired the Copper Canyon and North Buffalo allotments. It came with 3,000 AUMs. It was our dream to be able to raise cattle and ranch as our parents, grandparents and great-grandparents did. Both of us are bred and born Nevada ranchers. Our roots are in Nevada’s high desert. We have raised three beautiful children and one grandchild so far at the Badger, along with cattle, horses and hay.”

In North Buffalo, 97 percent of the AUMs are private. Copper Canyon is 56 percent private. The stockwater rights on both allotments are in the ranchers’ name. The two allotments consist of more than 300 square miles. It is huge, open country, good for cattle, with boundary fences only along Interstate 80, State Route 305 and neighboring allotments to the south and west.

Back in March 1993, Dan and Eddyann bought the Chiara Ranch from neighbors who wanted to retire and move to town. The Chiara’s 1,081 AUM permit is in the Argenta allotment.

In March 2013, BLM issued grazing authorization for North Buffalo and Copper Canyon allotments for grazing through February 2014. Dan and Eddyann turned out in early March as usual, but only until the end

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of May 2013 when BLM issued a “Full Force and Effect” decision that closed those allotments to livestock grazing “indefinitely.” The cows were still calving and the decision specified that the closure would remain in effect “for the remainder of the drought plus one growing season.” Nine hundred cows with calves had to find new homes or be sold.

There had been good spring rains and the grass was thick and green. The cattle were confused by the havoc. Baby calves do not travel fast. “To say the least, it was a wreck,” says Eddyann. “Some cows were calving, some were very heavy, some were bulling. It was in 100-degree heat in June 2013. The cattle didn’t want to move. We pushed them every step and a lot of calves were leppied [orphaned] in this process.”

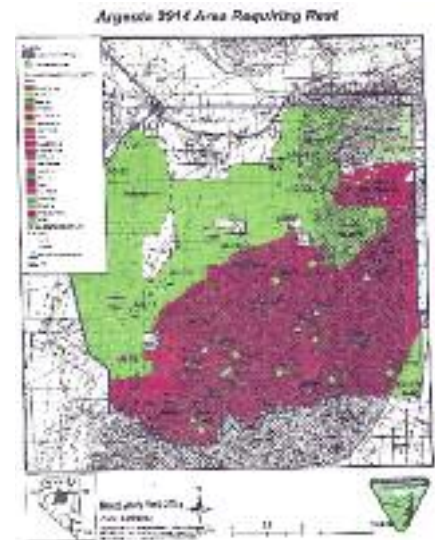
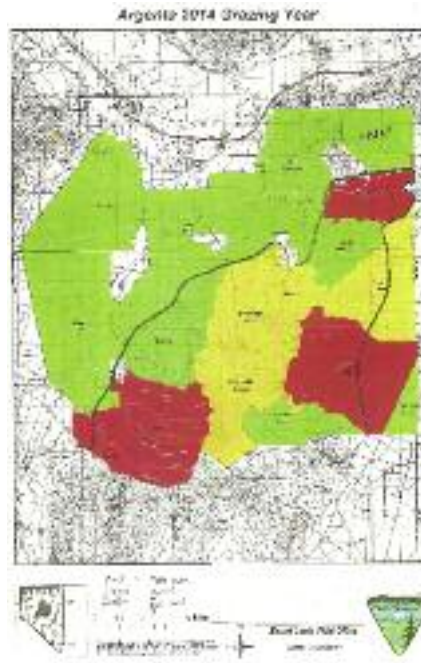
Alternate grazing was almost impossible to find. “We fed dry hay on dry dirt and sold the ones we couldn’t feed,” Eddyann says. “Dust pneumonia was a big issue feeding on the ground in the middle of summer.” They spent thousands of dollars buying hay and friends helped them find pasture for some of their cattle. “We applied for fall and winter grazing in North Buffalo and Copper Canyon but our applications were returned to us noted ‘per decision’ on a sticky note.”

The Filippinis share the Argenta allotment with Tomera Ranches and Shawn and Angie Filipinini Mariluch. In 2014, BLM used the same tactics. Permittees were told that no “hot season” grazing would be approved on Mount Lewis due to the drought. They could use their private land if it were fenced from the public and they could use some of the flats which offered no feed. They were told “management” (aka Furtado) might approve late turnout in November or December; however, they would not extend the permitted season more than two weeks.

Adam Cochran says, “Drought triggers come from the EA which was signed two years ago.” The Filippinis’ range consultant, Jack Alexander, asked for a copy of the signed document early in 2014. He is still waiting.

## THE TOMERA RANCHES

The Tomeras have been ranching for four generations. Pete and Lynn had a beautiful outfit in Elko County that was condemned in 1984 for the South Fork Dam. They purchased a high-desert ranch in Battle Mountain in 1984, including buildings, range improvements, grazing rights and all water rights. Elevation ranges from 4,500 to 10,000 feet, and deer, antelope, mountain lion, bob-



cat, coyote and chukar share the range.

Pete and Lynn Tomera made an agreement on the ground with Adam Cochran, the range con assigned to manage their portion of the Argenta. It is 350,000 acres of checkerboard and slightly more than half of that is privately owned. They have grazing rights for 3,000 cows (which equals 22,000 AUMs for seven months a year). By the time Pete and Lynn made it home, there was a call from BLM: Cochran’s handshake agreement had been overruled by Furtado. The allotment was closed.

A statement from BLM state office in Reno included: “BLM Nevada attempted to work with the individuals who graze their cows on an area of public lands known as the Argenta allotment to develop a plan for reduced use that would correspond to the current drought conditions. These cooperative efforts were rejected which forced the BLM to temporarily prohibit grazing on the Argenta allotment.” Wasn’t a 40 percent cut and a shorter season with later turnout and an earlier turn-in date cooperative enough?

“BLM’s statement is a lie,” says Paul Tomera. “Either the Nevada state office is ignoring what is happening in the Battle Mountain District or the district isn’t telling the state office the truth about what is happening out here. Amy Lueders, BLM state director, touts 400,000 to 500,000 AUMs being taken in nonuse statewide in 2014, which is approximately 20 percent. The Battle Mountain District has close to 30 percent being taken in nonuse.” Amy Lueders says, “Doug is doing a great job.”

*On January 30 (see map on left) Pete Tomera was told he can use the green which is good and the yellow which is in fair condition. “Shortly after that, Doug Furtado covered the whole thing red. We built a 16-mile \$80,000 fence pretty much on the edge of the green. We even had to leave private ground outside of the fence because Doug told me, ‘If you plant one post on BLM ground I will pull it out faster than you can drive it in.’ We had to haul water last fall so we GPS’d it and put the troughs on private ground. BLM checked to make sure we followed the rules.”*

Spring rains came and the grass grew again, which is not unusual for the high desert. BLM still refused to open Mount Lewis to the Filippinis and Tomeras. A meeting soon followed with the permittees, Nevada Assemblyman Ira Hansen, U.S. Congressman Mark Amodei’s representative, Meghan Brown, and Chris Cook, at that time BLM’s assistant field manager. Cook was asked by Shawn Mariluch, “What science do you use to make the decision to close the allotment?” Cook responded, “You know as well as I do you can make data say whatever you want it to say, depending on your agenda.” Cook has since been promoted to the Nevada state office. The Tomeras hired their own independent range consultant to defend themselves and gather accurate data.

In response to Furtado’s punitive actions, Elko attorney and activist Grant Gerber and John Carpenter, former state assemblyman organized a public Grass Tour of the allotment on May 17. More than 200 people showed up, but no one from the BLM. They saw abundant forage, grass up to 24 inches high, but no cattle. The wildfire hazard was apparent to all who attended and some ranchers commented, “If this is a drought in Argenta, we are all in big trouble.”

On May 22, Amy Lueders, deputy direc-

tor Raul Morales, and Dick Mayberry from the Washington office took a brief look at the allotment. Mayberry is knowledgeable about rangeland health. He noted that the area had burned and that it was not sage grouse habitat.

Shortly after that, Doug Furtado met with two Lander County commissioners to try to calm things down. No permittees were allowed to attend. They negotiated an agreement that cattle could be turned out if all permittees signed it. The ranchers couldn't. "We would have failed the first blade of grass a cow ate." After several disagreements, they signed an agreement that would only be enforced for 2014.

Their backs were against the wall because their cattle were still on the flats. "We had to get them turned out or sell them."

Stipulations on the agreement were pretty much impossible to comply with. Frequent monitoring by government agents and ranchers was part of the deal. "The BLM broke the agreement the first time we tried to schedule all parties to participate."

Before they could move a cow, Furtado insisted that they build 16 miles of fence to protect some riparian areas. It cost \$80,000. "We had to leave private ground outside of the fence," Pete says, "because Doug Furtado told me, 'If you plant one post on BLM ground I will pull it out faster than you can drive it in.' We had to haul water last fall and we GPS'd where we put the troughs to make sure they were on our private ground."

On July 23, 2014, Furtado closed down the entire mountain again. As mentioned earlier, agents had identified nine areas where seven acres of riparian had grass that had been chewed more than the BLM agreement had stipulated. The "trigger" instantly closed down 92,000 acres of grass, which would soon be dry, waiting for lightning to strike.

"When we were taking cows off the top of that mountain," Lynn says, "there was so much grass it looked like cows were walking through a pasture. They matted down grass there was so much feed."

Between Tomera and Filippini there were well over 2,000 head. "We were in the middle of haying season," Pete says, "and four months in advance of the day we were supposed to go off."

Daughter-in-law Paula says: "We produce high-protein food for the nation and



*Pete Tomera was forced to bring his cattle off the Argenta allotment after only a few weeks due to "drought." There was so much grass the cows thought they were in Kentucky. BLM gave the ranchers seven days to remove 2,000 cows from 350,000 acres.*

in all the years our family has been ranching, we have never been accused of being irresponsible stewards of the land. We are not environmental activists, we are active environmentalists."

Grant Gerber organized a more dramatic response and protest in 2014. "To demonstrate the dictatorial power Mr. Furtado has

**"We produce high-protein food for the nation and in all the years our family has been ranching, we have never been accused of being irresponsible stewards of the land. We are not environmental activists, we are active environmentalists."**

—PAULA TOMERA

over the citizens in the center of Nevada and to seek relief, a Grass March Cowboy Express will take a petition to Congress asking for Mr. Furtado to be removed." Riders would lope or trot from the Pacific to Washington, D.C., 2,800 miles, and deliver petitions to members of Congress gathered from other states along the way which are also suffering from the heavy hand of government. It was a heroic effort to garner national attention and support for real producers who help feed the country and the world and to stop the harassment by unaccountable bureaucrats. Grant's motto was, "Regulation without representation is tyranny." (See story page 56.)

## BORBA RANCH

Kevin Borba felt the same pain as his northern cowboy neighbors. He ranches near Eureka and says that he tried repeatedly to get a face-to-face meeting with Battle Mountain District management for three years to discuss issues with his own permit. His major problem was the more than 600 head of feral horses that run year-round—and increase by 20 percent each year—in violation of BLM's own rules. Appropriate Management Level for this area is 170 horses. BLM didn't have any reason to sit down with him, apparently, until Furtado brought Borba into a meeting to lecture

him on his ranching future in the Battle Mountain District.

"Furtado told me that he was a smart man, an educated man," says Borba. "He said if I were smart I'd start looking for another line of work. Then he told me that ranching as I know it would soon cease to exist."

BLM removed Borba from his 400-head Fish Creek permit in mid-February 2014, citing overgrazing and the Drought EA. To be fair, Borba did have cows out where he wasn't supposed to be, but he was making every effort to gather cattle with the limited help he had. In other districts when strays are reported, a reasonable length of time is generally allowed for ranchers to gather escapees. It's a professional courtesy that demonstrates good faith between federal agents and the permittee. Borba had bought some cattle that had never been on the desert and did not know or understand the country. When he turned them out they scattered everywhere.

J.J. Goicoechea, the Eureka County commissioner, believes the newcomer to Nevada was intentionally set up to fail. "They had his back to the wall from the day he showed up there. It's a good winter outfit, but the BLM rolled it over and let him turn out in the summer. They knew what was going to happen." It was asking for a wreck. Furtado told Goicoechea that Borba's Fish Creek allotment was "grazed to the dirt; we're taking the cows off of there."

During the Fish Creek horse gather in late February, Goicoechea was on the phone again to Battle Mountain. "Furtado says, 'These horses are in such good body condition, I can justify turning them back out.'

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And the next sentence out of his mouth was, 'We don't have drought to contend with here like we do in other places.'" This is the same permit that Borba was forced to vacate two weeks earlier.

Borba was vilified online by horse advocates. During and after the gather, even though he spent close to \$20,000 of his own money to keep feral horses watered at his own stock wells during the previous two winters when ponds and springs were frozen over, none of his cattle were out there.

"I've been able to work with a lot of hardheaded individuals," says Goicoechea, "and we've been able to get somewhere most of the time. But in the Battle Mountain District we just seem to have this 'spirit of conflict.' It's 'Well, I have orders,' and 'I'm going to do it this way,' and 'We're sticking by our guns.'" As long as local bureaucrats do business this way, county commissioners and landowner groups have to push back.

## OUTSIDE HELP

The conflict became so volatile that Rep. Mark Amodei encouraged BLM Nevada to request help from the National Riparian Services Team. Laura Van Riper, team lead and conflict resolution specialist, says, "The purpose is to develop a plan for working together during the coming grazing season that enables sound resource management decisions to be made, and helps move past the highly charged atmosphere that has characterized relationships in the last several years."

NRST's Wayne Elmore, Steve Smith and Steve Leonard met with permittees and district staff in early March and they spent a week on the ground looking at the Argenta allotment. "They worked really hard," says Lynn Tomera, who was with the team every day. She says they had ideas that would help ranchers stay on the land as well as protect the resource. BLM range cons attended the tours and meetings but didn't have much to say and except for a brief welcoming speech on the first morning, Furtado did not attend.

At the end of the weeklong tour, Lynn asked NRST scientists, "Do you feel this range warrants closure?"

"No. This allotment is in better shape than some we've seen," was the response. Although the Battle Mountain staff had reserved comment until the very end of the long session, their negative comments threw up roadblocks at a time when the team was due to leave the meeting. Lynn

says conversation ended on an uneven and uncomfortable note.

Laura Van Riper is more hopeful. Grazing options for the NRST stated: "The March review will inform NRST thoughts and opinions about the situation, on-the-ground condition, and possible options for moving forward." National BLM listens to NRST's recommendations but do not have to follow them.

Eddyann Filippini is always passionate and direct. "Our livelihoods are being taken and we have nothing to lose which makes us very dangerous," she says. "I have heard suffering builds endurance and endurance builds character. On the inside I have a knot that won't go away. My home is supposed to be my safe place, but the closer I get to home, the bigger the knot gets. It won't go away until the wrongs have been made right. It is my hope that my children have the same choices Dan and I

have had, to do what we love and what we were bred to do."

Furtado was unavailable to speak with RANGE. BLM's Nevada state office and NRST will be making opportunities available for education, both for its employees and permittees. One training organized by NRST in March was attended by 24 ranchers in Battle Mountain. It focused on stockmanship, ways ranchers can make the most of resources without doing damage. (For one ranch that could mean hiring two or three more cowboys.) In June, NRST will host workshops statewide "to build a common understanding of healthy riparian conditions and management approaches for improving resource conditions while protecting social and economic values."

Hopefully there will be some behind-the-scenes help for bureaucrats who work for us, delay legal paperwork, and don't seem to enjoy "collaboration." ■

## The Last Best Hope

*From the National Riparian Services Team. By Carolyn Dufurrena*

Consider this: BLM's Battle Mountain District was the last place in the nation to implement the Taylor Grazing Act. Its lowest priority allotments are in the checkerboard, including the Argenta, so it was quite a place to make a stand.

Range management on federal lands in this district predates the TGA. (So do some of the ranchers.) BLM is supposed to collaboratively generate a management plan for each allotment every 10 years. Argenta has no plan. No plan means no range improvements in place: no water development, no fences, nothing to facilitate livestock distribution. For decades, it's been, "Turn the cows out. Let 'em run from X to Y, bring 'em in."

It takes years to develop a trusting relationship. Since the National Environmental Policy Act, BLM takes forever to push through paperwork to make range improvements. Everybody in Battle Mountain is old school. Relationships have not been built. Paperwork is nonexistent.

Then, the perfect storm. Decades of bad federal management meet drought, mustangs, sage grouse. Public scrutiny. Local manager Doug Furtado decides to be the hero of his own story, so he trots out the state's first Drought EA. Slapdash, with misapplied science, and probably illegal, his easy fix for the long-neglected Argenta allotment is to kick the cows off. "It's like feeding the puppy from the table for two years," says one participant, "and then one day the puppy comes to the table and you hit him in the face."

NRST, a multidisciplinary team of resource managers and conflict resolution specialists, can possibly arbitrate a solution to this ugly conflict. "We give you a fair and honest process, we look at the conditions on the ground," says Laura Van Riper, project lead. "The riparians weren't in great shape, but not the worst, either. There's enough water. Small changes in management will make big differences. Those nine closed areas hamstringing the whole ranching operation." Temporary fencing may help. You can strategically place supplements, but you have to ride, steady, all summer. That's the ranchers' responsibility, until fences and range improvements can be put in place. And that's BLM's responsibility.

The permittees wanted NRST there. So did Washington, D.C., and Nevada State BLM leadership. There was a general agreement in mid-April which hopefully will be fleshed out into a legal settlement by the principals and their attorneys. Summer grazing permits have been approved. Right now Doug Furtado is saying a lot of the right things, but it remains to be seen what he does after the circus leaves town. ■