

ENEMIES OF THE STATE

A good family burned by the feds. By Hank Vogler

When CJ asked me to write a story about Dwight and Susan Hammond and Hammond Ranches Inc. (HRI), my first thought was that should be easy. A quick overview and then go for the jugular of how the government that is supposed to serve the people tried to destroy this ranch family and the next generation of Hammonds by dragging down their youngest son, Steven.

I am going to start this story in 1971 when I first met Dwight and Susie, and it should scare you when you hear about the arrogance and the power of the government riding herd on the governed.

Our founding fathers called democracy

all kinds of bad names. Ben Franklin was given credit for saying, “Democracy is no more than two wolves and a sheep voting on what to have for dinner,” and “a well-armed sheep is freedom.” Thomas Jefferson was credited with saying, “A government in fear of its people is freedom and a people in fear of their government are slaves.” That is why we are supposed to have a *republic* form of government.

The Hammonds were distant neighbors in Diamond, Ore. They had a young family of three boys about the same ages as my four children who would meet at 4-H, school activities and dances. They were very hard-working people and taught the same virtues

to their children. Susie always was smiling and laughing. Dwight was always in good spirits as well. They were the western version of June and Ward Cleaver. In the sitcom or in this situation I was Eddie Haskell, the neighbor always getting them in trouble.

HRI includes nearly 13,000 acres of private property from 4,300- to 7,200-foot elevations, in addition to the federal grazing permits allowed on adjacent federal lands. These lands are interspersed with irregular ownership boundaries (left over from the Homestead Act) which are contradictory to natural boundaries. Very deep and treacherous 1,000- to 3,000-foot gorges are used as natural fences. Without grazing—and the more than 50-year-old “cooperative” management of these lands—there would be very little production or value economically.

The environmental movement was just getting legs in 1971. Ironically, a bunch of new rules and regulations were being signed into law by Republican President Richard Nixon. It was said that he was trying to placate the democratically controlled congress with seemingly innocuous issues in exchange for the Democrats laying off on Watergate. We now know how well that worked.

In the deserts of eastern Oregon, water is the central issue. Control the water, control the land. The Hammonds ran on the Malheur National Wildlife Refuge. All told, in 1971, about 62 different ranch families ran on the refuge. It became a showplace for the symbiotic relationship between ranching and wildlife.

My grandfather raised grain across the fence from the refuge. The ducks and geese would blacken the sky. He had water rights on the Silvies River, both the west and the east forks. A neighbor used to say that when Old Man Vogler got through with the water it was no good because he ran it around so much he took all the moisture out of it.

The Hammonds and other ranchers tied to the use of the refuge and other federal lands were being pressured from all sides by the new so-called environmentalists. Divide and conquer was the rule. The Hammonds had private-property grazing land and grazing rights on the Steens Mountains. They had a permit to run on the refuge. Total



PHOTOS COURTESY HAMMOND FAMILY

From left: Earlyna and Steve, Susie and Dwight, plus little Emery, Claire and Corbin.

interdependence was the norm. The government seemed to imply that if you said nothing—as it systematically eliminated different ranch families with changes in their permits—you would be the beneficiary of the destruction of others. At the same time, the refuge managers changed and rather than use their adjudicated water rights in P Valley, they let the water run into Malheur Lake, a body of water that was in the Great Basin. There was no outlet to the ocean so the lake grew, covering additional private and public property and infrastructure, including the only highway to town.

My family was affected by this policy. The lake that used to provide fall and winter feed for cattle for the ranchers in the Lawen area was being drowned out by the rising lake. A couple of wet winters and dozens more ranch families were destroyed.

For meeting after meeting, Dwight, Susie and I seemed to be thrown together in opposition to the government's policy changes. One day we met with a water engineer from Idaho. We were going to try and file suit against the feds to force them to start irrigating with their state adjudicated water rather than use it as a weapon to ruin local ranch families. This engineer's conclusion was that no precedence of law allowed for the forcing of the use of water. The law was clear that if you could prove abandonment of the water, and could use that water elsewhere for beneficial use, you could claim it. The Hammonds did that and the war began. The feds were extremely indignant that "inholders, civilians, interlopers, or NGOs" (nongovernmental organizations) could get their water rights.

When the refuge was fenced by the Civilian Conservation Corps in the '30s, a water gap was made every five miles all around its edge. In many instances, it was the only water to be found in many BLM allotments. After years of use, suddenly to save the world, fencing the Hammond ranch from a water hole that they had used for decades was of the highest priority. At every turn, this family was violating some rule. Dwight was hauled off in handcuffs because he used the water he had rights to and then had the audacity to ask for due process. The family prevailed, but not without having a file built against them as malcontents. A case was even being built to show that all the fires for years in the area were started by the Hammonds.

It was ignored that the fires were a result



ABOVE: Grandkids play in the reservoir where water the family won from the refuge is stored to irrigate hay. BELOW: Antelope and other wildlife love it. Thanks to the Hammonds, it now looks like the refuge of days gone by.

of fire suppression by the feds and the removal of livestock from the range. Government agents were creating a perfect storm for fire and were using the Hammonds as whipping boys. Just because a fire starts on your area of use and you might benefit from improved forage doesn't mean you set the fire. To the rumormongers, it is easy to connect the dots. The environmentalists have further exacerbated this situation and rather than these so-called earth guardians and managers realizing they may have made a mistake, the Hammonds provided them with an alibi for their own failings.

Fire in the West is now big business. I once had a firefighter tell me, "Black trees mean green pockets." The bigger the fire, the

more sensational the report, and the more money is thrown at the situation. Firefighters are always heroes. Congress is more willing to fund rehabilitation after a fire than they are to prevent and manage before one gets started. The fuel loads throughout the West have grown and grown. The crazy thing is that with the new infrastructure of firefighting, one must let the fire grow large enough to justify its huge expense. The term "Holstein Fire" was coined—meaning, "Milk it baby, milk it."

Once again a solution to problems or even admitting that, as a manager, you are going in the wrong direction is like Superman handling kryptonite. A huge cottage industry has grown around fire. Support ser-



vice to firefighters and rehabilitation is a money pit. The bigger the fire, the longer you can earn.

In reality, many of the fire camps at night resemble a fraternity party. Once a fire gets some size to it, you can't do much but watch and mop up. Costs involved are enormous. No consideration is given for the fact that replicating Mother Nature with controlled fire would bring more balance to the range. Oops, that would be a commonsense solution. We can't have that. Solutions eliminate jobs. That is bad karma, dude.

Now let's examine the plight of Dwight and Steven Hammond. Nearly every fire that happened in the Diamond and Frenchglen areas between 1981 and the present, the Hammonds allegedly caused. I believe young Steven was around 12 or so in 1981. One of the fires that they were accused of setting started while I was visiting their ranch. We took pictures of the reservoir where the water the family had won from the refuge was stored to irrigate hay fields. It was so full of wildlife it looked like the refuge of days gone by. The lightning started and Susie told the kids, "Three strikes and you are out." She no more than said those words and it was everybody out of the water. The next morning the valley was filled with smoke and that was no surprise with all the light fuels around. The conditions were right and lightning provided the spark.

As we left the ranch well after daylight to return to Nevada, the only place that live flames were visible was behind the Frenchglen BLM fire camp. As we drove by, the chain was still across the driveway. Stand back folks, nothing here to get excited about. Well, yes, there was for the Hammond family. It was their range that was burning and their livestock was in danger. I called Susie and they headed for the mountains to open gates to turn their cattle out so as not to get anything burned alive.

This is huge country. The response time, even if anyone might have been remotely trying to help, was in hours not minutes. All over the West, there are government billboards showing how to protect your home from wildfire. To someone living in a rural area raising livestock, isn't it conceivable that they should want to protect their home and their forage?

Steven set a backfire to prevent the loss of feed for his livestock and to help control the erratic fire. It was successful. In conversation with BLM employees, all agreed that it worked. In the real world, Steven should have been commended because the backfire basically put the main fire out.

The other fire related to Steven was communicated to the BLM Interagency Fire Center prior to setting on private lands. An audio recording was played in the courtroom during the Pendleton, Ore., trial. Permission was asked of the agency personnel and permission was given, noting no restrictions were in effect. The agent said she was sure it would be fine as the BLM had two other "controlled burns" going nearby. One-hundred-and-forty-eight acres were burned.

Following approximately two-and-a-half years of invasive investigation by the federal government into Hammond Ranches Inc. and Dwight and Steven and their families, federal charges included conspiracy and 19 felony arson charges. At least three federal prosecutors and investigators have retired from their positions since the inception of these charges, and more have replaced them.

Steven and Dwight were convicted of "intentionally and maliciously" setting fires on federal land in 2001 and 2006. All other charges were dropped. Even though the Hammonds were found guilty by a jury, the federal judge in Pendleton seemed to understand the weakness of the case but had no choice but to order hard time in federal prison. Instead of the mandatory five-year sentences, Steven was given a year and a day and Dwight got 90 days. To help keep the ranch running, the judge chose to stagger their sentences. The Hammonds' attorneys agreed and said, "Let's get the jail time over with, and start as soon as possible." Dwight, 71, went to federal prison on January 4.

Following the eight-day trial, Judge Hogan stated: "The suppression cost of \$15,000 argument was there, but the evidence was not. I am not going to count that as part of the loss. In the case of Dwight, the damage was juniper trees and sagebrush, and there might have been \$100—but it doesn't matter. I am not sure how much \$100 worth is. I think Mother Nature's probably taken care of any injury. I can't

think that is the question. There is a civil proceeding going on in Pendleton and they can take care of that there."

How can a vindictive bunch of bureaucrats, who have done more harm than good, do such a thing? The government is still pursuing a civil suit for \$750,000 in damages against the Hammonds. If that is what it costs to "fight a fire" that burned a little fence and 148 acres, imagine what it costs to fight the million-acre fires that happened last summer—mostly due to bad federal land management.

Last fall, I testified at the trial to what I saw at the aforementioned incident. The Hammonds are proud people and I am sure they will serve out their time. But how will the world be better off by this? Will the world ever know that the feds told this good ranch family that all the charges would be dropped if they would deed their Steens Mountain land over to the government? Could that be interpreted as extortion? Will the world ever learn that proactive management is better than reactive management? Will the fire set by the BLM this last summer that burned up Gary Miller's cows put BLM personnel in jail? Will all the people who lost livestock to fire last summer cause the environmentalists to readjust their hatred of family ranchers? Will the 342 men and women who sat and watched a fire that burned on one of my allotments feel guilty for having a sleepover while getting paid and watching a fire do what fire does?

The Oct. 30, 2012, sentencing of both Hammonds has been appealed by the government to the 9th Circuit Court in San Francisco. The sentence by Judge Hogan on his last day of service as a federal judge for the district of Oregon—after 38 years on the bench—was appealed as inadequate.

We have got to get management of the West orchestrated locally. One size does not fit all. All fires are not created equal. This tragic lesson in vindictive behavior against ranch families must cease.

"We all agree that we live in the greatest country in the world," Dwight says. "However, we have allowed people who do not have the best interest of the country in mind to call the shots." ■

Hank Vogler ranches in eastern Nevada. For more agony due to federal government actions, check the Hage saga, "Eye of the Storm," Winter 2013, at www.rangemagazine.com and "Shell Game on Drakes Estero" on page 26.



Even Assistant U.S. Attorney Papagni admitted that the Hammonds "have done many wonderful things for the community."