

## THE WAY I SEE IT

## A Case of Scientific Fraud

*The foxes are loose in the henhouse.*

*By Alston Chase*

One of the great mysteries these days is why Bill Clinton allows preservationist zealots in his administration to anger the very states he must carry to win re-election. Thanks to his old-growth forest plan, he can kiss the Pacific Northwest goodbye. Likewise, California may be lost, since the fairy shrimp—species that are even less popular in the Golden State than illegal aliens—have been listed as endangered or threatened.

But more is at stake than the Arkansan's future. By promoting policies based on quack science, the White House invites ecological disaster.

The depths of this misguided fanaticism surfaced recently in a study released by the Interior Department's National Biological Survey, which, as reported by *The New York Times*, claims that more than half of America has "declined to the point of endangerment." Altogether, the report says, 30 ecosystems have declined more than 98 percent and are considered "critically endangered."

With this study, the administration reveals it has turned the foxes loose in the henhouse. One of its authors, Reed F. Noss, occasional contributor to the radical *Earth First Journal*, is an architect of the Wildlands Project. This plan, according to *Science* magazine, seeks to turn nearly half the country into wilderness or protected zones, but does not say what will happen to those who are displaced.

Indeed, the Survey's real intent seems to be scaring people into parting with their lib-

erties. Its true-believers are so obsessed with deconstructing society they ignore both the political and ecological consequences. For the real truth about preservation lies on the ground, far from Washington, and tells a very different story.

***The Survey's real intent seems to be scaring people into parting with their liberties. Its true-believers are so obsessed with deconstructing society they ignore both the political and ecological consequences. For the real truth about preservation lies on the ground, far from Washington, and tells a very different story.***

Consider recent research by independent scholar Charles Kay at a sheep experiment station in Montana's Centennial Mountains. Comprising 16,646 acres, the station was graded every year since its establishment in 1922. But recently, a mounting chorus of critics have insisted the area is overgrazed. Apparently believing that only its control can "save" the area, the Bureau of Land Management—which would like to own this land but doesn't—insisted, without a shred of evidence, that overgrazing was causing sediments to fill in Red Rock Lakes, a national wildlife refuge. And an environmental group, the Greater Yellowstone Coalition which advocates turning the region into wilderness, has called for closing the station.

To help settle the issue, in 1993, Mr. Kay was asked to examine the grazing impact. And what he found after two years of study was not comforting to critics.

Surveying willow communities along riparian (streamside) areas, where overuse would be most visible and most likely to cause soil erosion, Mr. Kay found few signs of distress. And what he did discover was caused by wildlife, not sheep. Many willows, aspen and subalpine fir "showed extensive signs of repeated browsing by wild ungulates, not domestic sheep....

Moose browsing also appears to be limiting willow catkin and seed production."

Nevertheless, the station's willow communities, he discovered, are in far better condition than those in nearby Yellowstone National Park, thereby confirming a 1993 paper by another researcher, which found that large numbers of elk had caused 100 times more erosion inside the park than out. Along streams at the sheep station, Mr. Kay found willow cover averaged 93 percent and plant height ranged from 47 inches to 13 feet, while in Yellowstone, the canopy was only 14 percent and the median height of plants was 13 inches!

Additionally, Mr. Kay searched for beaver in both places, recognizing that the presence or absence of this animal, which builds dams that slow runoff, is an important barometer of erosion. Finding no beaver in Yellowstone and "at least 44 active dams and seven active colonies" on the station's Odell Creek, he concluded there is "more beaver activity in the 12,885 acres of Odell drainage than there is on Yellowstone National Park's entire northern range (approximately 200,000 acres)."

Thus, Mr. Kay concluded, blaming sheep for erosion was misguided. Surprised, he looked everywhere for data that might establish this mythical connection, but was unable to find any.

Later, he learned a reason why; Cathy Whitlock, a University of Oregon geographer who studied the erosion prehistory of the refuge, had found that the highest rates of sedimentation at upper Red Rock Lake occurred during the later 1700s! After 1906, Miss Whitlock wrote, there was "a dramatic decrease... From 1914 to the present day, the accumulation rate has remained lower than the pre-1906 level!"

Thus did Mr. Kay's experience reveal the growing disparity between political claims and scholarly evidence. Preservation policy is a product of scientific fraud, pure and simple. In the short run, Mr. Clinton will pay for this mistake at the polling booth. In the long run, both people and nature will suffer. ■

*Scholar/journalist Alston Chase writes a nationally syndicated newspaper column on the environment, distributed by Creators Syndicate. Story reprinted by permission of the author. ©Alston Chase*

## THE WAY I SEE IT

# A Journalist's Guide To Scientific Correctness

*Fashion is in the jeans. Like owning Calvin Kleins, you either have it or not, and I don't. That's why I can't keep up with the changing whims of environmental science. By Alston Chase*

**W**hen it comes to keeping up with styles, I'm hopelessly out of it. I still sport the same chino slacks, button-downed shirts, tweed jackets and narrow ties I wore in college nearly 40 years ago, and somehow over the years managed to avoid double knits, Nehru jackets and those funny-looking baggy bombachas that my rich San Francisco friends were wearing last year.

Likewise, my political ideas haven't kept pace with the times. In the 1950s I was a card-carrying liberal; and while my views haven't changed, everyone else's have. The same opinions which prompted the U.S. Army to declare me a security risk back then are now cited by some late model liberals as proof positive I work for Attila the Hun. Go figure.

Fashion is in the jeans. Like owning Calvin Kleins, you either have it or not, and I don't. That's why I can't keep up with the changing whims of environmental science.

No field is more faddish. At the turn of the century, saving big game animals was the rage. Officials fed elk, bred bison and bashed wolves. Today they do the opposite—batter bison, breed wolves and encourage hunters to shoot elk. A generation ago old growth forests were called "biological deserts." Now they are revered for "biodiversity." Over the years, the field known as "restoration ecology" went into, then out of, then back into popularity, without once having been tried. Likewise, wildfires were first thought good, then bad, then good, and seem to be on their way out again. Ditto, the mysterious doctrine called "sustainable development."

Clearly, it is easier to trace changes in hemlines than to follow the mercurial vagaries of science. That's why I was so puzzled after reading scholarly articles challenging what I had been taught about forests and rangelands.

For years experts favored trees over grasses. Forests, they insisted, are "sinks" that trap carbon dioxide, which otherwise would remain in the atmosphere, causing runaway global warming. And logging and grazing, they intoned, "destroyed" forests and rangeland.

But the articles I read suggested these claims were wrong. "Temperate grasslands," observed University of Colorado biologist T. R. Seastedt and his University of Kansas associate A.K. Knapp, "are superior soil car-

bon sinks when compared to forests." Carbon stored by grass stays in the root system, whereas much forest carbon escapes after a wildfire. Meanwhile, increased atmospheric carbon dioxide may stimulate grass growth, thereby accelerating storage of this substance and reducing the risk of global warming.

Similarly, several papers noted the virtues of "disturbances" such as moderate logging and grazing. Seastedt and Knapp reported "grazing opens the canopy, maintains the foliage in a young physiological state, improves water relations for photosynthesis, and increases nitrogen availability to plant roots." It also discourages forests from encroaching on grasslands. Augustana College professor Larry L. Tieszen, along with colleagues from his biology department and The Nature Conservancy, found that along the Niobrara River in Nebraska, "Woodland expansion... has occurred since European settlement" due in part to fences, which limit grazing.

These articles confused me more than ever. Grazing can be good, they suggested; rangeland is a deterrent to global warming, yet preservation efforts are causing it to shrink. This means the Clinton administration's "War on the West"—that includes a clampdown on timber harvests and rangeland grazing—might be based on a mistake.

"Wow," I marveled, "these papers could revolutionize the grazing debate." But then I realized some were published more than four years ago. Why had they not captured headlines in the *Washington Post*?

Puzzled, I telephoned Professor Weathervane Grantgrabber, an expert on sci-

entific trends. "What determines political success of a scientific theory?" I asked.

"It must justify federal intervention," he said succinctly. "It should please environmental lobbyists, agency bosses, Washington journalists. And it should offer career opportunities to scientists. The researcher who says grazing is good might starve to death. But the one who predicts it will cause galactic meltdown gets the fat National Science Foundation stipend."

I hung up the phone, troubled. Grantgrabber's observation, I mused, means the end of science as a liberating force. In the 17th century this inquiry freed society from coercive church orthodoxies. But scientists have been losing their independence. In the 18th century they formed professional societies and became a bit less autonomous. By the 19th, they were salaried employees of

**"What determines political success of a scientific theory?" I asked.**

**"It must justify federal intervention," an expert on scientific trends said succinctly.**

**"It should please environmental lobbyists, agency bosses, Washington journalists.**

**And it should offer career opportunities to scientists.**

**The researcher who says grazing is good might starve to death.**

**But the one who predicts it will cause galactic meltdown gets the fat National Science Foundation stipend."**

universities. And today most earn a living, directly or indirectly, from government. If they feel pressure to justify coercion, then science has returned to where it was on June 22, 1633, when the Catholic Inquisition compelled the great physicist, Galileo, to deny the earth moved.

Thank goodness, I concluded, nonconformists such as Seastedt and Tieszen are still around, freely following intellectual curiosity. And I wondered, do they wear tweeds and chinos too? ■

©Alston Chase

***A corrupt system of preservation science muzzles the government's own honest scholars. By Alston Chase***

Is there a Dark Side? You don't have to be Luke Skywalker to know the answer is "yes."

African Americans are often victims of the Dark Side—the stealth racism that pervades America. Loggers and ranchers encounter the Dark Side when they are driven off the land by the maneuvers of greens and their bureaucratic allies. Corporate and government whistle-blowers meet the Dark Side when they dare to expose their employers' follies.

The Dark Side is silent conspiracy, accomplished with nods, winks and confidential memos, that seeks to harm individuals whose actions are troublesome to the powerful. And it could not exist without the tacit acquiescence of the majority. When it strikes, most folks look the other way.

Many believe in a Dark Side, but selectively. Liberals see it only in big business, conservatives just in government. But some institutions remain above suspicion by nearly everyone. Such is the status of science, which enjoys such a lofty reputation that few challenge its authority.

But science has a Dark Side too, that lurks in the shadowy realm of environmental research. In this fecund habitat it thrives, shielded from exposure to the bright light of truth. But occasionally the covers are pulled back, revealing this netherworld of false scholarship.

Such was the experience of attentive observers at congressional oversight hearings on National Park Service science, held in February. This event revealed that not only is the agency's poor research a national tragedy, but that this failed effort is corrupting the institution of scholarship itself.

The meeting began ordinarily enough. A gentleman from the General Accounting Office testified to what experienced observers already knew: that service science is grossly inadequate. This presentation was followed by the usual self-aggrandizing testimony of the feds' favored scientists who said, in effect, that if Congress would give them more money everything could be fixed. To this they added a now familiar twist: that parks should be maintained as laboratories for themselves, where they can satisfy their curiosity at taxpayers' expense.

Then the deliberations got interesting. Three scholars testified that the service was allowing overly abundant elk and deer to destroy biodiversity throughout the park system. One of these individuals, Richard Keigley of the Biological Resources Division of the U.S. Geological Survey, then added a zinger: His work, he said, is being suppressed by Interior Department authorities.

Fearing elk are eliminating critical vegetation in Yellowstone National Park, Keigley sought to investigate whether this is so. But officials wouldn't let him. They even tried to prevent his testifying at this hearing.

Another witness, Charles Kay from Utah State University, had analogous experiences. He told the congressmen how influential scholars, co-opted by Park Service monies, regularly suppress articles in supposedly "independent" journals that do not support federal management. This was shocking stuff. Yet many congressmen listening from the dias seemed unmoved. Aside from the few lawmakers hailing from states where the Interior Department is the big bully on the block, few showed curiosity about the plight of Keigley and none of the experiences of Kay. Congressmen from eastern states, in particular, monkeys who wanted to hear no evil, refused to believe that the Dark Side Keigley and Kay experienced, could exist.

But it does exist, within virtually every federal agency conducting conservation science. Keigley and Kay are merely the latest victims of the corrupt system of official science that muzzles its own honest scholars and even seeks to ruin the careers of independent professors who oppose it. Whistle-blowers are whistled right out of their agencies, and university professors who dare to question policy find their research funding and opportunities dry up and their own articles rejected by academic journals whose editors are on the government payroll.

Coverup has become the name of the game in federal bureaucracies and even in some university departments. And why is this happening? To prevent the public from learning this simple truth: that U.S. preservation policies rest on a fraudulent, pseudo-scientific hypothesis, and as a result, these policies are failing.

This policy is called "natural regulation" or "ecosystems management." It is based on the hypothesis that nature is composed of networks of interconnected parts which interact to keep everything in equilibrium. So long as these systems retain all their members (i.e., sustain their biological diversity), it is supposed, they'll remain healthy. But if they lose enough parts (i.e., species), their capacity for self-regulation fails and they become unstable.

This hypothesis is popular because it seems to explain what has gone wrong with the environment and how to fix it: Environmental health requires ecosystems to remain in balance—or within "the historic range of variability"—which in turn demands that they retain their biodiversity. And the best way to ensure these conditions is to leave ecosystems alone. Achieving preservation, according to the official policy, is to restore its "missing parts" (i.e., "reintroducing" creatures such as wolves) then "let nature take its course."

Hence, the aim of federal preservation is to restore habitats that supposedly existed before "ecosystems" were "damaged" by humans. In the federal lexicon, this is called "recreating pre-settlement conditions"—a notion that is written into every federal law and into the gamut of "ecosystem management" schemes of the U.S. Fish and Wildlife Service, National Park Service, U.S. Forest Service, Bureau of Land Management and other land management agencies.

And while this may look scientific, it's actually based on myth. The concept of a stable, self-regulating ecosystem, scientists concede, is fundamentally flawed. There is no "balance of nature." Original conditions never existed. Rather, landscapes are continually changing, in response to the vagaries of weather, volcanoes, floods, hurricanes and human activities. Random disturbance, not permanence or order, governs nature. Left alone, biological communities do not tend toward equilibrium, but fluctuate dramatically.

As the prominent ecological historian, Donald Worster explained, "the ecosystem has receded in usefulness, and in their place we have the idea of the lowly 'patch.' Nature should be regarded as a landscape of patches, big and little ... changing continually through time and space, responding to an unceasing barrage of perturbations."

# Endangered Species & Wetlands

By Jim Beers,  
Refuge Manager, Special Agent, & Wildlife Biologist  
U.S. Fish & Wildlife Service, retired.

All the ongoing hoopla about wetlands and the need for "more" federal authority, "more" public funds, "more" government land acquisition, and "less" Constitutional protection for private property owners, is like the endangered species con game.

The Endangered Species Act was sold to the politicians and the public by socialists, bureaucrats, and university professors, on false assumptions. Critters, like isolated minnows (snail darters), and birds (spotted owls) in reputed need of vast un-logged woodlands, and warm and fuzzy creatures like elephants, whales, and eagles were touted (irresponsibly) as on the verge of disappearing forever. Draconian new federal authorities, massive government expenditures, and bloated bureaucracies were created to "save" species. Today, we list as endangered: species, also endangered subspecies, races, populations, distinct populations, and distinct population segments. The concept of species was only a sales pitch, and it worked. Today, billions of dollars, and thousands of lost citizen's rights later, no species can be shown to have been saved by fettering the rights of American citizens, and taking millions of dollars worth of property rights without compensation. But hey, it has created lots of government jobs. Thousands of bureaucrats have retired

with bigger pensions. Universities have stopped graduating natural resource managers, and now churn out regiments of "evaluators," "planners," and researchers capable of utilizing satellites and computers to justify everything from government land acquisition, to centralized control of human activities, and global warming. Federal jurisdictions and authority have quadrupled, while state, local, and property owner authorities have dwindled, and in some cases, disappeared. It has become the same with "saving" wetlands.

Wetlands are low spots (basins) that are moist or wet, most or all of the time. They are either isolated (no outlet), or flood at a certain level, or they vary with water levels in connected creeks, rivers, lakes, or salt water bodies. They flood and cover unimaginable acreages in wet periods (think Mississippi floods.) They disappear in dry periods (think the Midwest in the Dust Bowl 1930's.) They usually have certain plants that distinguish them, but many like cattail, for instance, grow on wet soft spots on sheer cliffs below seeping springs on the cliff face. While their benefits are indisputable (bird and fish production, ground water recharge, welcome relief in developed landscapes) they are like

"endangered" species, misrepresented as on the verge of extinction, and justification for new government powers and spending.

The federal government has had jurisdiction over "navigable waters" for some time. This is the authority used to dredge interstate waterways and dam western rivers for power, irrigation, and recreation. Extending current federal jurisdiction to wetlands is a scam, just like endangered species. There are hundreds of millions of acres of wetlands already in the federal landholdings. When private wetlands are tiled, ditched or filled, the water that formerly accumulated there is often simply diverted to other basins or associated waterways. Today, when

housing areas or business sites are built, water-settling basins (a new feature that slows runoff after storms) are common and used by nesting birds. Drained agricultural fields' temporary



wetlands often divert the water to government wetlands, such as state wildlife areas. Wetlands change as they get less water or more water from nearby watersheds that may see a road constructed, homes built, or a periodic climate change. To say that wetland X ought to always have the same acreage or the same plants, is just like saying wolves ought to be in all the places they were 100 or 200 years ago. Both are silly assertions. But, if the Endangered Species Act is any fair indication of what is being perpetrated by calling for increased federal authority over another amorphous (wetlands) portion of the environment of the United States, we should all be skeptical and resist all but those most highly justified.

Use of government acquisition as only a last resort – with the consent of the state affected. Other authorities should remain with state governments, and local authorities.

Biologically, you cannot freeze the environment, anymore than a transplanted Californian can freeze the view from

his new mountain retreat in Idaho or New Mexico. Stop the logging, and eventually it all burns. Stop the hunting, and gradually big mammals decrease in numbers, and predators become more common and dangerous to men and their animals. Stop the roads and trails, trapping, horseback riding, and all kinds of recreation, and eventually, public land management withers, because no one supports higher taxes for it. Taxes from logging, grazing, hunting, fishing, trapping, etc. disappear. Stop the grazing, and ranches and rural communities wither as well – to the detriment of all.

The government owns enough wetlands. Government wetlands, more often than not, are either closed to or restricted for the very human activities they claim to “save” them for. Government wetlands bought with millions of dollars in hunters’ Duck Stamp dollars, for waterfowl production, were threatened with being changed into “Pre-Columbian, Native Ecosystems” under the last administration. That meant slowly stopping the water management for marshes on refuges and in parks, instead, using that money for playing with endangered species humbug, or other such “priorities,” and allowing the government-purchased wetlands to revert to dry or semi-dry uplands covered with whatever happened to grow there. That is how government conservation policies today, can be changed into tomorrow’s nightmare.

Government is no more reliable as a savior of wetlands than they are as a designator and caretaker for endangered species. The hidden agenda behind federal wetland authority is the same as the one behind endangered species authority. It is being pushed by the same environmental and animal rights sects that incorporate the same silent conservation partners in Washington, the same politicians, bureaucrats, and professors. The ultimate goal remains an all-powerful federal government, eliminating all the rights and freedoms that are the focus of environmental and animal rights radicals. Endangered species, wetlands, proposed invasive species authority, and continuing massive government land acquisition, are all intended to implement everything from Wildlands to Buffalo Commons, to

a United States free of hunting, fishing, trapping, ranching, logging, farming, and on, and on.

So the next time a news story murmurs about the need for more federal wetlands authority, or your politician says he supports more such authority, or they run an article in a magazine showing some pretty upper Midwest marsh in summer flowers surrounded by a band of trees, as an example of why we need more federal authority over wetlands, write a letter to the editor, and tell everyone you know, how dangerous and unnecessary it is to grow the federal estate and federal authority like this. Up until



now, saying things like this has been akin to criticizing affirmative action or questioning why we cannot manage whales and elephants like all other wildlife. Don’t let this topic of wetlands authority remain a sacred cow. Challenge it when it comes up, and try to make everyone think critically about what is going on, with both endangered species and wetlands. ☹

# Take Their Word?

By Jim Beers

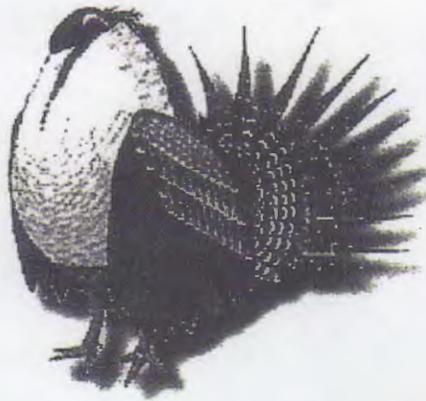
Refuge Manager, Special Agent, & Wildlife Biologist U.S. Fish & Wildlife Service, retired.

"Geez Beers, I saw more sharptails and sage grouse than I ever have or probably ever will in the rest of my life." So said a friend who had just returned from an annual, lengthy trip to Canada and Montana to hunt ducks, geese, pheasants, sharptails, and sage grouse. He has been hunting the prairies for fifty years and, like me, he is an educated and experienced wildlife biologist. I am hopeful that I might be invited to a dinner featuring some of those grouse, this fall or winter. The sharptails he served last fall were about as good as it gets.

After I hung up, I thought about endangered species scams and the National Hunting and Fishing Survey scam. I have received several requests, in the past year, to comment on the U.S. Fish & Wildlife Service push to list the sage grouse as threatened or endangered. The FWS, and their environmental and animal rights sleep-partners, have been touting doomsday for sage grouse for the last 3 or 4 years.

Low populations of sage grouse (like warm summers are to global warming) were the trigger for the usual suspects to murmur the nonsense to forward their hidden agenda. The tune went something like this, "sage grouse are approaching extinction because of overgrazing, roads, and human activities." "Sage grouse are true native indicator species that tell us about an environment in need of preservation." "Sage grouse will need enormous acreages to be set aside, and only through the Endangered Species Act can we do that."

I could go on, but you get the picture. Suffice it to say, that even under "pristine" or "native" or "Pre-Columbian" conditions, sage grouse populations and



distribution went up and down. Some years, Blackfeet and Sioux got belly aches from eating so many one year, and other years, never even tasted them. Today, however, such natural changes are legal reasons for federal seizure of state jurisdiction over these birds and justification for federal bureaucrats to close public lands, buy more private land, stop public uses like camping, hiking, hunting, grazing, ranching, dog hunting, and, probably, a whole list of things that you and I can't even imagine today.

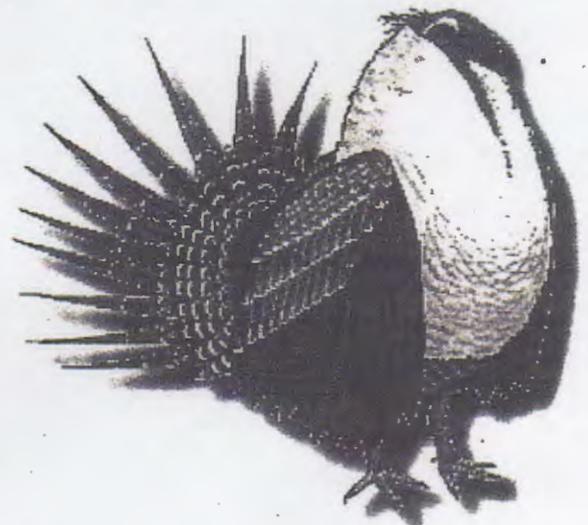
Remember, these guys and dolls making these somber pronouncements about the precarious status of sage grouse and what must be done to save them, are the same ones who told us "wild turkeys need virgin forests" (a lie) and "Canada geese would make nice additions to urban landscapes" (I leave that one to you.) They are also the same ones assuring us about the desirability, and environmental importance, of reintroducing wolves. Oh, they are also the ones assuring you that wolves are harmless, and don't decrease game populations. They sell Brooklyn Bridge shares in their spare time. Which brings us to the National Hunting and Fishing Survey.

For more than 15 years, millions of dollars are set aside each year, from the Pittman-Robertson (excise taxes on hunting equipment, guns, and ammunition) and Dingell-Johnson (excise taxes on fishing tackle) funds, to fund the National Hunting and Fishing Survey. A crew at the FWS pays contractors (some of whom, have in turn become millionaires,) and Bureau of the Census staff, to "analyze"

census data ostensibly regarding "fish and wildlife." There have never been any hunting or fishing advocates on the FWS staff, which has been economists and analysts, who occasionally admit to having hunted or fished, but hunting or fishing advocacy has never been allowed, or present. Advocacy of endangered species and what is termed "non-consumptive use of wildlife," has always been their purpose and guiding philosophy.

While the International Association of Fish and Wildlife Agencies and one of their Committees "oversee" the Survey, that oversight has always been perfunctory, and laced with hidden agendas. Convinced as they (state and federal bureaucrats) are that the days of trapping, hunting, and fishing are numbered; the Survey has always been something they point to, when accused of only being only a "hook and bullet" gang. It is something they will point to when we – hunters, fishermen, and trappers – have been banned, like English foxhunters.

While many lower-level state employees will tell you what a load of BS the Survey is, the mid-level and top guys protect it like a puppy. No matter that the questions and analysis have always been slanted to overstate the "eco-tourism, wildlife photography" stuff. The short shrift it has always given hunters, fishermen, and trappers is legendary. One example should suffice. While the funding comes from both P-R and D-J, only P-R funds can be used for non-hunting purposes. D-J funds, by law, can only be used for sport fish activities, but



There have never been any hunting or fishing advocates on the FWS staff... Advocacy of endangered species, and what is termed “non-consumptive use of wildlife,” has always been their purpose and guiding philosophy.

that has never proved an impediment for crafty bureaucrats.

Attending one of the Survey Committee Meetings or a Survey briefing has always been like attending a Women and Minority Government Contractor Convention. While someone like George Orwell would immediately recognize how words are used to mean the exact opposite of what they really mean, most people would never pick up on how they talk about a Hunting and Fishing Survey, but they are really discussing a “tissue of lies” about how hunting is dying, and photographers (who pay no excise taxes) will soon rule the world.

The conservation groups, from sport fishing to guns, and all the old line “conservation” groups have known about this, and colluded with them, for years. The FWS Survey crew plays them like a fiddle, giving them chestnuts for their members and making them feel like they are benefiting, too. The whole thing belongs in an old time carnival at a table with a guy in a straw hat, with three walnut shells and a pea.

Hunters are decreasing and birdseed sales are soaring, so what? Hunting is decreasing, in part, because of the expense, entry requirements, and age limits that have been increased beyond all sense, to smooch up to the anti-hunters

and anti-gun folks. State agencies have hired way too many people to do environmental and animal rights mischief in the game and fish departments. Just like the sage grouse “came back” without a bunch of bonus money appropriated for some bureaucrat, our hunting, fishing, and trapping would probably benefit significantly from fewer employees, concentrating on the species that generate funds, and intense interest from citizens, instead of every little nook and cranny of the “ecosystem.”

When hunters decrease, those of us who persist, enjoy more opportunity and less competition. This alone attracts hunters, and future hunters, into the sport. Because we are a “smaller” percentage of the population, we need to worry. Well, you better tell that to the guys who go to boxing matches, or the people who go to symphonies, or people who gather walnuts, or those who collect knives – “if you don’t constitute a majority, you will be erased, by those who object to what you do.” Trendlines, like economic forecasts and population predictions, go up and down, and most often, for reasons unbeknownst to experts.

It is time to quit listening to these self-serving bureaucracies as if they have our best interests at heart. They don’t! In these two cases, the states should demand

that FWS stop meddling in anything to do with sage grouse, and then they (the states who should be spending that P-R and D-J money on hunting and fishing) should stop approving any funding for the Survey, and apportion that funding to the states, where their whining for the past couple of years about not having money has been continuous and irritating. Anyone hear the states standing up? Nope. What about the “conservation” groups? Nope, they just attend the meetings at glitzy locations and get their meals paid for. Anyone hear the FWS say anything? Nope, not only is the Survey a way for them to get more employees; it is a way to skim “overhead,” and a source of propaganda when they need to justify some acquisition, endangered species thrust, or some particularly egregious harm to the citizenry, or rural area.

After all, “78.62% of the people support it, according to the National Survey,” and “the sage grouse populations are at all-time lows, and only if that land is bought and those practices are stopped, can they have any hope for recovery.” Baloney.

The last twenty years couldn’t be described by Mr. Barnum as a period when there was “a sucker born every minute,” rather, there were thousands born every minute. ☹

It is time to quit listening  
to these self-serving bureaucracies  
as if they have our best interests at heart.

They don’t!

# A RANGER'S REFLECTIONS

The nice thing about being a preservationist is that you might often be wrong, but you are never in doubt. *By J. W. Hart*

# #40

All the old cowboys are circling the wagons—they can actually see their lifestyles passing before their very eyes. They are considered by the preservationists to be a violation of the laws of natural selection.

My dad, who is an old cowboy, used to say that there are two kinds of people: those who do hard work and those who take credit. He told me to try to be in the first group because there is less competition there. I'm not sure where that saying originated but I'm sure the first group is made up of farmers and ranchers.

I didn't take my dad's advice at the time. I wanted to preserve and protect the environment. I went to college and studied Natural Resources, receiving a Bachelor's Degree in 1969. To keep in touch with environmental issues, I joined all the major groups rallying to defend the planet. I was a member of the Sierra Club, Save the Redwoods League, Audubon Society, The National Wildlife Federation, Wilderness Society, State Parks Foundation, et al. My hero was Edward Abbey and I was enamored with names like Leopold, Albright, Mather, Pinchot, etc.

Today I consider myself to be a nightmarish by-product of a flourishing environmental movement. Today I also realize that where a person stands on an issue depends mostly upon where they had been sitting. I spent a lot of time sitting indoors in large cities. The propaganda that I listened to and maybe even worshipped was insidious; it basically espoused this credo: "If you can't say something nice about someone, talk about a farmer or rancher who raises cattle."

I enjoyed being one of the environmental elite—a preservationist. The nice thing about being a preservationist, as I look back, is that you might often be wrong but you are never in doubt. I got



so good at talking environmental dogma that I was hired as a California State Park Ranger where I formulated and served as chairman, for several years, of the State Parks Environmental Issues Committee. In 1974 I was selected as the state's most outstanding ranger and worked on an exchange program with the National Park Service.

I returned to California State Parks and received promotion on top of promotion ending up as one of the highest paid managers of the Northern Regional Office of the California State Park System. If I would have spent more time indoors reading books and magazines about the environment, I probably would not have quit that high paying job.

Unfortunately, in 1977 I was assigned to an outpost position at Mitchells Caverns in the Mojave Desert. I discovered out there that reality is the greatest cause of stress to preservationists who are in touch with it. To be a good preservationist you must maintain this philosophy: "I know there are a lot of people who live in harmony with the land who may know more about it than I do...so what!"

At Mitchells Caverns I woke up every morning 65 miles from the nearest town. I had no form of communication—telephone, radio, etc. A generator supplied electricity and I had no refrigeration. The nearest neighbor was the Blair Ranch 12

miles of bad road away. I didn't realize it at the time but this assignment would change my outlook forever on being the true environmental elite.

For six years I spent every day of my life outside—I lived with the desert as my mistress. I learned that all the esoteric dogma contained in the countless ecology journals I had read did not take into account that nature is not static, but it is so complex that no one is completely right or wrong when

they make their particular observations. Nature is so dynamic and ever-changing that the closest we can come to truth is by properly arranging facts. Facts are a perception of reality based upon time which we call knowledge. As time and facts change, so does knowledge. After a prescribed fire the land looks terrible to the untrained observer, just as it does after intensive grazing. Both fire and grazing to the trained environmentalist are tools which enhance the landscape and the biological communities therein. The trick is to not look at it while it is still burning or being grazed and see that as the static end product.

I would like to cite an example to make a point. At Mitchells Caverns in 1976 and years previous there were regular weekly and often daily sightings of Desert Bighorn Sheep. These sightings are still recorded in park managers' daily diaries that go back into time to the early 1960s. In 1977, I was the Area Manager and my first resource management project was to construct a fence to eliminate cattle from the park. You can bet it was a well-built, four-strand fence, because I had devoted my life to preservation and protection of the environment.

After the fence was built we continued to see bighorn sheep, rabbits, coyotes, bobcats, ringtails, golden eagles, pack rats, etc. Every day was like a Disney movie in this area protected from cattle

trespass. In 1978 the galleta grass was really getting tall and thick without those bovine bulldozers. You couldn't imagine a more pastoral, esthetically pleasing view of nature. The park never looked more healthy. The grass had doubled in thickness and tripled in height. Each day looked better than the one before. I photographed and documented the outstanding accomplishments which I had performed as a duty to my department and to my own conscience. I really felt I was earning my money.

At the end of the summer we found two dead sheep and, lower down, a dead cow. My first thought was that some cow, carrying pathogen or disease, had killed the sheep. On closer observation I found that the sheep and the cow were badly impacted with galleta grass as thick as sticks balled up in their stomachs and intestinal tracts. The sheep that were sighted grazing on the huge clumps of galleta devoid of cattle had blistering noses which appeared to be a symptom that they showed before dying of impaction.

There were less sightings of live sheep and more sightings of dead sheep in 1979. By 1980, sightings of sheep were very rare and the lambing area had changed from the fenced blind spring location to the unfenced area in Gilroy Canyon, where cattle grazing still occurred.

I contacted a state park naturalist from Barrego Springs and took him and my supervisor to what had been the heart of the sheep lambing grounds. We could not even find old scat let alone fresh tracks. We went to the grazed area in Gilroy Canyon where we spotted 15 bighorn sheep scattered amongst 20 or more desert cattle—all were eating the shorter new growth on the clumps of galleta grass. Sheep sightings continued to be regular in Gilroy Canyon until it was fenced in 1980-81. The sheep sightings then dropped off correspondingly.

I had molded the environment to replicate pictures I had seen in Ranger Rick and other wilderness magazines. Everyone who visited took photographs and commented on how much healthier and esthetically pleasing to the eye the park had become. The sad truth was: none of those animals out there belonged to the environmental organizations that preached preservation. The sheep had not read the books. They could not eat the coarse but beautiful grass.

**Ecological  
bureaucrats are like  
the spotted owl—  
the more light you  
shine into their  
eyes, the less they  
can see.**



ABOVE: Desert bighorn rams travel in groups until rutting season, when they start fighting for their own band of ewes. OPPOSITE PAGE: Scenic vista of Mitchells Caverns showing galleta grass.

The sheep were not all that was affected. There was a marked drop in the number of rodents, including rabbits and pack rats. The number of regular sightings of predators reported by park visitors shifted to sightings outside park boundaries—in the area still grazed on by cattle. All of this occurred at a time when we were receiving abundant rain and sunshine.

My management actions, however well-intentioned, not only eliminated the exotic cattle but they drastically affected the entire food chain and the interrelatedness of native organisms from mice, rats, rabbits, owls, hawks, eagles, ring-tails, kit fox, sheep, etc. I repeatedly pointed this scenario out to department officials throughout my career—but ecological bureaucrats are like the spotted owl—the more light you shine into their eyes, the less they can see.

The people who visit and live at Mitchells Caverns today don't feel deprived of this animal life because it was already gone when they arrived. You can't miss an experience you never had. Today park visitors and employees can revel in the fact that the landscape sure looks good to the eye. The same analogies can be made to those who manage and set department resource directives—what they are doing sure looks good to the eye. The same can also be said of the various

resource management groups which had such a profound influence on me, my career, this park and its resource—they sure sound good to the ear.

I reflect back once again upon what my dad said about the two groups of people. There are those who do hard work and those who take the credit. I have a resume that is brim full of credits. Now I realize that if the second group is successful in claiming credit and asserting blame, they may eventually eliminate the first group which has done the most for this environment.

It may be too late but I am joining the first group. I'm not sure if my dad was right about there being less competition. If this group is not competitive they will lose the way of life which has been passed down to them for generations. It's time to ride for the brand. Saddle the best horse you have out of the remuda and hope that it doesn't fall down in the stampede. ♦

*J. W. Hart was born in Curry County, New Mexico. He is 45 years old and he has spent half of his life as a conservationist working on ranches and half of it working as a preservationist for state and national parks. The park rangers always claimed J.W. was a rancher, and the ranchers always claimed he was a ranger, so he was a man without an occupation. In 1991, he quit his job as manager for California State Parks and is currently a working cowboy and owner of the Sage Hollow Ranch, a 9,000-acre cow-calf operation in central Oregon.*

## Lynx hoax perpetrators receive government bonuses

Scientists employed by the U.S. Forest Service and the Fish and Wildlife Service knowingly submitted falsely labeled samples of lynx fur in a survey of lynx populations in two Washington state national forests.

- The General Accounting

Office has issued a report saying the scientists knew they should not have done so and some supervisors were aware of what was happening but took no action.

- Some members of Congress are convinced they did so in order to rig the study so as to restrict

recreational activities on public lands.

- The lynx is listed as an endangered species.

Residents of wilderness areas in some Western states have long contended that researchers in various federal agencies have been introducing false evidence in order to skew their findings — and lock the public out of national forests on the grounds of potential harm to endangered species.

The names of four federal biologists who participated in the scheme were included in the GAO report. Although they were initially reprimanded for their actions, they later received government bonuses for their work.

When asked why supervisors who were aware of the ploy did not take action to halt the false sample submissions, Congressman Scott McInnis (R-Colo.), chairman of the Resources Committee subcommittee on forests and forest health, replied "they did take action; they gave them bonuses."

SOURCE: Audrey Hudson, "GAO: Lynx Fur Hoax Was Widely Known," Washington Times, March 7, 2002; Ronald Malli (acting managing director for special investigations), "Canada Lynx Study: Unauthorized Hair Samples Submitted for Analysis," Testimony before the House Committee on Resources, GAO-02-496T, March 6, 2002.

## They lied about the owl data too

Hot on the heels of the scandal involving the falsification of government "scientific" reports on lynx populations in the Northwest comes evidence that U.S. Forest Service officials knowingly used false data on spotted owl habitats to block logging in a California forest. The revelation comes from court documents obtained by the *Washington Times*.

• The agency did not have a "rational basis" for halting a timber sale, according to the previously undisclosed ruling of Federal Claims Court Judge Lawrence S. Margolis, who called the action "arbitrary" and "capricious."

• This revelation of junk science follows other questionable actions taken by federal officials in the name of protecting endangered species.

• In addition to false samples in the lynx survey and falsified data on spotted owl habitats,

faulty information was uncovered in a study of endangered fish species — and used as justification to deny water to farmers in several states.

• The federal government has already had to pay out \$15 million to more than 30 lumber companies in compensation for falsifying spotted owl data, which led to canceled timber sales.

In addition, the federal government agreed recently to pay one company another \$9.5 million for canceling four sales — a cancellation the judge found to be "arbitrary, capricious and without rational basis."

He also found that the officials knew their findings were faulty at the time they ordered the sales canceled.

One so-called spotted owl expert, Gerry Verner, testified that after driving through vast swaths of forests, it was his "gestalt notion" that there were spotted owls around — although he never saw any.

SOURCE: Audrey Hudson, "Owl Data Knowingly Faulty," Washington Times, March 14, 2002.

## Editorials...

# Hard evidence refutes 'spotted owl' contentions

Evidence has been presented to demonstrate that the "spotted owl" campaign being waged to interdict the U.S. timber industry is as bogus as any of the spurious outrages committed earlier by ecology nuts bent on delivering harm to American citizens.

The pitch has been that a spotted owl won't live anywhere except in an "old growth forest," and this peculiarity is said to mean that federal coercion must be applied to halt the cutting of trees that are mature and ready to be harvested.

All this expansion of government, encroachment against individual freedom and expropriation of private property and wealth is to be done on the pretext of protecting spotted owls and based upon the contention that spotted owls will die unless old growth forests are preserved in extravagant abundance.

An Associated Press account circulated during the past weekend, however, presented hard evidence that this fundamental contention about spotted owls is false. AP writer David Foster reported from California that Lowell Diller, a biologist employed by Simpson Timber Company, demonstrated for reporters and 17 biologists employed by the California Department of Fish and Game spotted owls are common and thriving on forest land owned by his company.

"We have owls practically everywhere," Diller declared as he took the group on a tour of the company's 400,000 acres of timber land. He backed up his prediction by imitating the call of the spotted owl as he travelled through the forest. Foster reported that in a matter of a few hours Diller "had summoned eight spotted owls for inspection, and the state biologists were impressed. Diller's methods were solid, his findings well documented, they said."

Foster related, "Nobody would mistake Simpson's industrial timber land for the kind of forest wilderness that environmentalists want set aside for owls. The company started logging giant old redwoods here at the turn of the century and now is clear-cutting a second generation of trees.

"But spotted owls seem to thrive here. Diller has banded more than 125 owls since March. He estimates there is a nesting pair of owls per 1,000 acres, one of the highest densities ever reported. The birds nest in trees as young as 30 years old... Rather than avoid clear-cuts, many nest in patches of trees near them, perhaps to hunt the abundant wood rats, Diller said."

Foster also reported the state biologists chose to ignore the plain facts Diller had showed to them. He wrote, "To Simpson Timber's chagrin, the state biologists remained firm in their belief that, over most of its range, the owl depends on 'old-growth' forest."

In this way, the bureaucrats from the California Department of Fish and Game revealed that the 'spotted-owl' caper is just as phony as was the snail-darter escapade. The ecology nuts don't care about the facts; they just want to spread grief among American citizens on whatever pretense they might be able to fabricate.

12 - 14 - 01

# Lynx fur in forests to be investigated

ASSOCIATED PRESS

WASHINGTON — Lawmakers want an investigation into whether government wildlife biologists planted lynx fur in two national forests to make it appear the animals were there so people would be kept out.

The Forest Service and Fish and Wildlife Service are tracking the rare Canadian lynx to determine how many there are and where they live. Data from the four-year survey will be used to determine how best to protect the lynx, which is classified as "threatened."

During the 2000 sampling session, biologists planted three samples of lynx fur on rubbing posts in parts of the Wenatchee and Gifford Pinchot national forests in Washington state, areas not normally home to the lynx. Fur taken from the posts is used to indicate if the wildcats have been in the area.

The seven biologists — three from the Forest Service employees, two from the Fish and Wildlife Service and two from the Washington State Department of Fish and Wildlife — admitted they planted the samples to test whether the lab could accurately identify the lynx fur.

The cats, 3 1/2 feet long and 40 pounds at their largest, have brownish-gray fur, black-tufted ears and prey on snowshoe hares. Efforts to protect lynx habitats are under way in 57 forests in 16 states.

None of the seven biologists remain in the lynx survey program. Six were reassigned and one retired.

House Resources Committee Chairman James Hansen, R-Utah, and Rep. Scott McInnis, R-Colo., chairman of the House forests subcommittee, called that "grossly inadequate punishment given the magnitude of this offense."

They said if it is found that the intent was to skew the study, the biologists should be fired.

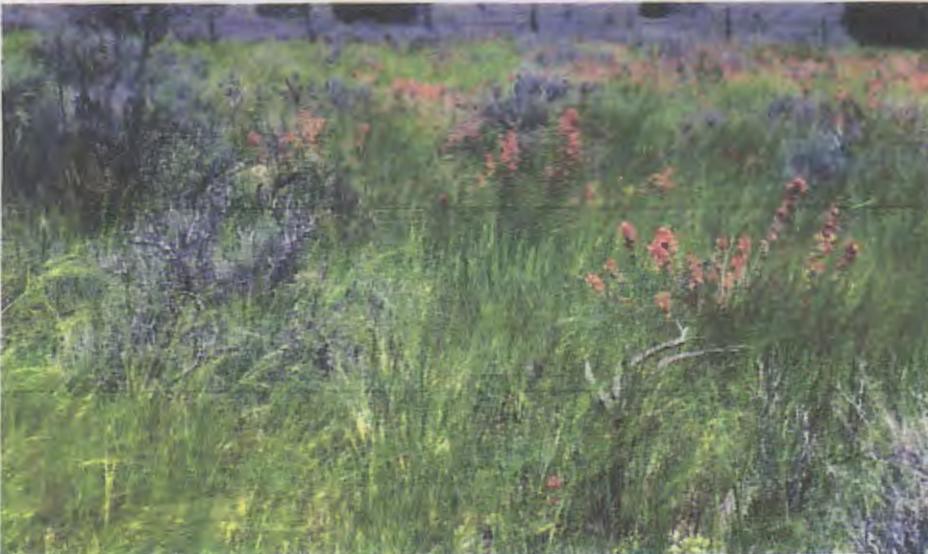
"These offenses minimally amount to professional malfeasance of the highest order," they wrote Tuesday in a letter to Agriculture Secretary Ann Veneman and Interior Secretary Gale Norton, whose agencies administer the lynx program.

Some proposed changes to protect the lynx include limiting the thinning of forests to improve the habitat for the snowshoe hares and to restrict snowmobiling and some other winter activities.

# MYSTERIOUSER & MYSTERIOUSER

*Nature and astonishing non sequiturs. Words & photos by Steven H. Rich.*

**M**ystery is the great and abiding refuge of the incompetent. Nature is in danger because of the emotionally charged influence of a few hundred academics who lack the skill to solve real problems in nature so they reduce everything to an antihuman mind game. The quality of logic from this group is silly. The same absolutist reasoning would require humanity to give up love, music, sex, art, religion, thinking, commerce, theatre, parenting, policing and anything else people have done clumsily or unethically.



**ABOVE:** Root plowed to thin sage in the 1960s, this land has been grazed since the 1960s. Native grasses and flowers coexist with sage and other woody species. There is no erosion.  
**BELOW:** Rested since the 1940s, biodiversity is minimal. Most perennial grasses and flowers are gone. Mysteriously, activists still expect biodiversity to increase from prolonged rest.



You can easily tell when a professor, bureaucrat or activist has become a priest or acolyte of the mystery religion of nature. Nature, they grandly tell us, is too complex for humans to understand. We should strive for knowledge (i.e., keep paying for their collection of “supporting evidence”) but wisdom lies in human noninterference.

Mystery priests speak in global symbolisms, which they apparently believe contain all possible truth. For scientists, on the other hand, a very complex entity like livestock grazing manifests many effects. Lots of them are wonderfully beneficial: services like increased seedling production and survival; greater biodiversity; improved nutrient cycling; better forage quality and habitat, closer plant spacing; and better watershed and soil fertility. They are created by carefully managing timing intensity and frequency of grazing and other factors. Here’s how the mystery gang handles all this: “Livestock grazing is bad and not natural!” (No matter how much good it does.)

Fire is another complex entity with effects ranging from selective healing to horrendous destruction. These vary according to timing, duration, frequency and intensity, and the species and soils being burned along with moisture content and other factors. To the mystery cultists, fire is always good! And natural (even if they light it). Management is bad! Not natural. All human influences are bad, not natural, and alter nature! Altering is bad and not natural. Nature is good and natural. Any disagreement is a sentimental human-value judgment.

The above pretty much sums up the whole mystery religion of nature—other than its desire to get rid of humans entirely. These global symbolisms allow their adherents to speak with all the scientific and managerial precision inherent to grunts, burps and blows with blunt objects.

You may notice that speaking in simplistic global symbolisms is common to a lot of nasty radical all-or-nothing notions and “isms”—like racism, sexism, fascism, communism. The mystery religion of nature and other hallucinatory philosophies share the trait of having vast bodies of so-called “supporting evidence.” All one does to accept this evidence is plug one’s ears, close one’s eyes and hum loudly when critics want to discuss the actual governing principals (like timing, intensity, frequency, etc.) or objective standards against which to evaluate the supporting evidence.

The actual purpose of the supporting evi-

dence is to hijack science. They create an appearance of order and deliberate thought by rhetorically focusing on isolated facts. They use these data outside the context of the study or make points through studies structured to give only one possible result.

It's actually pretty slick stuff. Since only "they" get to say what's natural, they can alter nature and whatever happens is natural. "They" can slather fire all over the place and call it "hands off," especially if blessed by the great mystery with a lightning strike. Their "protected" wildlife can overgraze like crazy. No problem. This logic also magically means that hundreds of millions of tons of CO<sub>2</sub> and other greenhouse gases emitted by forest fires



*Wildflower seeds concentrate in a cow track. Hoofprint seedbeds in dropping-fertile, active soil is a powerful restoration process. Further trampling covers seeds and creates compacted microsities which hold water.*

should not ever be considered in thoughts about global warming. If one does consider this, the mystery types just smile tolerantly and point out the reflective and shading properties of ashes and soot. (Honest, they really do.) It is sacrilege at such moments to ask why we all don't just burn raw coal then.

Scientists who object to the destruction of nature by these hands-off policies are condescendingly shouted down for wanting to use objective scientific standards (human value judgments?) to assess the consequences of hot-season fire, long-term livestock removal, no management and other like disasters. How dare these scientists question the mystery with their feeble minds? Of course biological diversity, ecosystem health and function are to be fiercely defended—from human contamination! They should never be defended from the sacred mystery. Fire, drought, disease, insect infestations, floods and the like are all blessings and judgments of the unquestionable mystery. Aggressive species may do



*TOP: Grazed 150 years, this 8" rainfall grassland has cool and warm-season grass and many forbs and shrubs. Pronghorns, deer, rodents, reptiles and many birds use this land. Without water and management provided by quality ranching, there would be less wildlife. Mysteriously, activists can't see any of this. BOTTOM: Foreground has been rested for 60 years. Despite being showered with seeds from grazed areas, little grows there. The reproduction rate is much slower than the death rate. Behind the fence, the presence of humans, their livestock and science has blessed nature on this well-managed ranch, grazed 150 years.*

whatever they do as long as they are native! This is exactly the logic of the activists who want to kill Knute, the baby polar bear, to spare him from being pampered by humans in the Berlin Zoo. The non sequiturs in all this are far too many to count.

Look, folks, nature is and may remain for the foreseeable future too complex for us to fully comprehend. It does *not* follow, however, that humans cannot beneficially interact with nature. The abundant pre-Columbian or pre-European settlement condition was in

almost all areas created and defined by large numbers of native humans making a living directly from the land and managing nature for their economic, safety, security, spiritual and esthetic needs. Biodiversity and ecosystem health and functioning are in great danger when left to "naturalness"—i.e., mercilessly random abiotic forces like fire, floods, droughts and the equally merciless competition of aggressive species.

What is really natural—in the sense that species and ecosystems are actually adapted to



**ABOVE:** Pinion/juniper woodland once crowded out all other plants on this site. Using bulldozers and cool-season fire, this gambel-oak grassland "alternate state" opening was created for wildlife and livestock. It has remained healthy and increasingly diverse since the 1960s.

**INSET:** Paintbrush, penstemon, grasses and a florist shop of other wildflowers grow in pinion/juniper woodland creatively altered from a barren state by progressive ranchers.

**RIGHT:** The foreground Interstate 15 right-of-way north of Scipio, Utah, has been rested since 1983. Planted perennial grasses have mostly died out, replaced by cheatgrass and annual mustard weed.

Western wheatgrass, needle and thread, and other perennials dominate ranch land grazed since the 1850s (far side of fence). A wildfire swept both sides of the fence. Grazed perennials lived, overrested perennials covered with years of hot-burning decadent material died.



it—is large numbers of native well-adapted humans (not idiots) managing prehistoric America for their cultural and economic needs, as in Australia, Africa, Europe, Asia and almost everywhere else. For many prehistoric Native Americans, spiritual and esthetic requirements were at least as important as economic and other values. Their needs were viewed holistically. Life was impoverished without all of them.

People with no notion of microbiology still manage to make babies, brew beer, fertilize crops with dead fish or manure, create

probiotic, intensive, high-production gardening and farming methods, and develop hundreds of food-crop and livestock strains. Organic farmers and gardeners, for example, can perceive by experience (and a good sense of smell) the carbon/nitrogen ratios, inoculants, aeration methods and amendments to make good compost. Of course, scientists can add refinements and sophistication to the process. Soils, beneficial soil organisms, plants and wildlife respond positively to the compost. If the amended soil is later turned to pasture or forest, the legacy of years of com-

posting remains as a blessing whether anybody along the way really "gets" how the tiny bugs did it or not.

For two generations of primarily urban Americans—with almost no direct life-and-death knowledge of nature—to force the abandonment of the experience and knowledge our ancestors paid so dearly to gain, is unspeakably mindless and arrogant.

Human beings have for centuries and are at this moment successfully managing forests, farms and grazing lands, enhancing and protecting biodiversity and all ecosystem values.



*Using mysterious logic, activists' lawsuits allowed beetles to kill millions of trees in Dixie National Forest near Cedar City, Utah. They prevented both therapeutic beetle removal and salvage logging. Billions of dollars worth of logs will rot and fall in tangles. Inevitable fire will sterilize everything.*

Their methods should be studied and emulated because these people pay their own way. They deliver healthy ecosystems to future generations.

Land and living communities benefit from experienced management with clear, comprehensive goals and a solid feedback loop. Look at South Africa. South African Web sites claim there are more wildlife there than before European colonization. They

claim over 10,000 white rhinos (not long ago almost extinct) in South Africa alone. The government accomplished this at no cost to taxpayers. It simply gave the wildlife to both private and communal landowners. Suddenly the incentives lined up. The rarer the animal was, the more value there was in raising more of them. Fish, wildlife and habitat conservation among private ranchers and other landowners in the United States is an acceler-

ating, rip-roaring success as well.

The Bureau of Land Management and Forest Service budgets and missions could be geometrically leveraged by creating a climate where federal-land ranchers dare to invest their own money on federal-land habitat improvement, without the fear of pennies-on-the-dollar confiscation. If these ranchers then get a share of buck and bull game tags like private landowners do, both game and nongame wildlife would be utterly secure on great habitats.

Until we acknowledge that nature is by definition a natural/socio-political/economic/esthetic-spiritual system and cannot be anything else we will fail as a society and mess up nature. Our country and the world would be blessed if we cut off all funds to political types until they've read "The Unsettling of America" by Wendell Berry, and gotten some notion what the depopulation of the rural United States continues to do to this country.

What nature needs is more people on the land behaving according to the values just described. Nature is not and cannot be safe without them. The terrible irony is that rural America was just getting really good at living with and blessing nature. If things don't change, in another generation there will be a pitiful few remaining who know much about that. ■

*Steven H. Rich is president of Rangeland Restoration Academy in Salt Lake City, Utah. Steve Rich can be reached at <steve@rangelandrestoration.org>.*



*ABOVE: Terribly severe but politically correct "fire-use policy" killed everything. Now completely destabilized, new washes are cut in formerly beautiful and stable watershed/habitat. Canyon bottoms had no washes in this area before bungled "fuel reduction" fire under "mystery" policy. RIGHT: With enough force to roll boulders and cobblestones and cut new washes where none existed, fire-caused flood waters from huge fuel-reduction burn traveled 28 miles several times. Some saw this as beneficial because it "added carbon" to about 10 acres in Houserock Valley. The proportions in this logic are mysterious.*

AFFIDAVIT  
OF  
Fred J. Wagstaff  
State of Utah  
County of Wasatch

I Fred J. Wagstaff being duly sworn on oath and under penalty of perjury do hereby swear or affirm that the assertions of this affidavit are true.

I Fred J. Wagstaff reside at 1900 east Oakhill Lane, Wallsburg, Ut and have there resided for the past five years.

In 1983 I was employed by the U.S. Forest Service as a research scientist stationed at the Shrub Sciences Laboratory, Provo, Utah. AS part of my official duties, I negotiated a cooperative research project with Dr. Bruce Godfrey of Utah State University located in Logan, Utah. The purpose of the study was to determine what happened to wild horses and burros adopted by private parties from the federal government under the provisions of the wild horse and burro act. This study plan was reviewed and approved by my project leader and officials at the Intermountain Research Station headquartered in Ogden, Utah and funding was approved. The cooperative research agreement was then signed by the Director of the Intermountain Research Station and Director of the Agricultural Experiment Station, Utah State University.

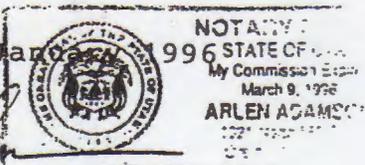
Before the study was fully underway I received word from Assistant Intermountain Research Station Director R. Duane Lloyd that Bobby Williamson, Director of Range Management in the Washington Office, of the Forest Service had demanded that the study be stopped immediately. At this time, no specific reasons were given for halting the study. I immediately contacted Dr. Godfrey and told him we could not proceed with the study. I was instructed to not tell him the reason by to say funding had been cancelled. Work on the joint project was then stopped.

In February of 1984 while attending the Society for Range Management annual meeting in Rapid City South Dakota I talked with Mr. Williamson about this study and asked why it was so offensive to him. He told me that no one would use Forest Service funds to do a study like this while he was Director of Range Management. He stated there were some things the public shouldn't know and that as far as he was concerned, it was important that the truth about the wild horses and Burros which had been adopted not reach the public. He further stated that if I valued my career I had better avoid any controversial subjects in future research studies.

Subscribed and Sworn before me

this 19<sup>th</sup> day of Jan

Notary Public



Further affiant sayeth not...

signed this day of January 19<sup>th</sup> 1986

Fred J. Wagstaff

## VERNON BOSTICK

No, I never found any evidence that cattle are harmful to Desert Tortoise. In fact all the data that I've ever found indicates that cattle are beneficial to Desert Tortoise.

In fact it was at the very time that we had the greatest numbers of livestock on the ranges, in the drought years of the 1930's, that we had the greatest number of tortoise.

In study after study, out here on the Desert Sheep Range, on the Nevada Test Site, on the Beaver Dam Slope, wherever cattle have been removed desert tortoise numbers have declined.

Kristin Berry and a lot of other people would like to get cattle off the range. They make continuous claims that cattle are destroying tortoise habitat, but they have no scientific data to back up their claims. The truth is there were almost no desert tortoise throughout this region before settlement.

During the time I was researching the desert tortoise issue I spent several days at the University Library here in Las Vegas going through journal after journal and I couldn't find one pioneer account that even mentioned tortoises. Only in an account found by Karl Weikel was there mention of tortoise, and in that account, Henrich Mollhausen writing in 1854, said that in all of his travels he had never seen a live desert tortoise, that the only evidence of tortoise he had seen were shells at old Indian camps. It was his belief that the Indians had hunted the tortoise to near extinction.

The truth is, that the reason that the earliest accounts never mentioned Desert Tortoise was because those people never saw any.

No, Kristin Berry and a lot of other people would like to make everyone believe that man is destroying the tortoise, but if you challenge their source of information, you won't find sufficient data to support their accusations.

The truth is that it's not the public or the private sector that is destroying the Desert Tortoise but the government itself.

The tendency for people in government to suppress the truth is not new. It's been going on for some time.

I graduated from Colorado State University with a degree in Range Management in 1935. Then after spending a year teaching Forestry and Range Management at Washington State College I accepted a position with the Forest Service working in New Mexico and Arizona.

I spent a year in grazing surveys, two years in engineering surveys, then was Assistant Ranger for two years. Then with the help of Philip Woodhead, I was assigned to the research division doing range condition and trend studies under Ken Parker.

It was after I had been in research for five years that I was assigned to do research on the Kiabab.

I didn't fully understand what I was getting into at the time, but was warned by the head of Range Research that the people behind the study were prejudice and would not necessarily be interested in the facts, but hoped I would do an honest job.



## Rural Heritage Preservation Project

### Finding of Facts Historical, Scientific and Economic Analysis

#### **Finding # 1                      History of fire in the Great Basin**

The first trappers and explorers to enter the west saw many burned over areas on the Snake Plains and throughout the Mid West, but not in the Great Basin. Apparently, even though the Indians of the Great Basin did burn from time to time for various reasons, the practice must have been rare indeed, for hardly anyone traveling through the Great Basin mentioned seeing burned over areas during the period, 1825 through 1900. Most wrote of traveling through valleys filled with artemisia, wormwood or creosote brush.

Many wrote of the difficulty they were having in places, making it through heavy brush, up to three inches in diameter. Yet no one ever mentioned coming to areas where travel was made easier because the brush had been burned away. Nor was there mention that the travelers had reached an area where there was an abundance of feed because of past fires. The most abundant animals found at that time were rabbits. And its no wonder, jack rabbits, pigmy rabbits and cottontail do well when a country is covered with large mature sage brush, greasewood, or rabbit brush, or a combination of all three. Jack rabbits, cottontail, and pigmy rabbits cannot survive in areas where sagebrush has been removed.

It=s no wonder the Indians were not burning a lot back at that time. Rabbits were an important food source for them. Burning would only eliminate the rabbit=s habitat, which in turn would eliminate the rabbits themselves. The Indians knew this. (*Pioneering the West, by the Egan Family, p. 36*) Keep in mind, the harvest of rabbits was far more important to the Indians at that time than was the harvest of bighorn, antelope or deer, simply because there were not a lot of bighorn, deer, or antelope around.

So why than, were there so few fires when it was recorded that there was a good deal of brush throughout the country? Just because there was a lot of brush in the country at that time does not mean that there was a lot of grass under or between the brush, or that the brush was as healthy or as thick as it may have been at a later date. When there is not a lot of grass growing between and under the sage brush to help carry the fire, and a lot of the brush is half dead and not doing well, it makes it difficult for a fire to spread.

Allen Savory, Steve Rich  
And the Testimony of Jedediah Smith

As has been shown by Allen Savory and Steve Rich, when desert plants are not impacted by grazing on a regular basis, they often become unproductive and wolfy, to such a degree they often die. (See Document 21-c.), Plant frequency, plant health and plant vigor improve when plants are regularly impacted by large numbers of ungulates. (See testimony of Loyd Sorensen,

Document 3-a., p 7. See also, Kipuka Study Sites, 50-a.).

Most historians believe Jedediah Smith was the first white man to cross through the Great Basin to the coast of California. In 1826 with 14 men and 28 horses, Smith left Cache Valley (Utah) traveling south. He passed through the tip of today=s Nevada, then followed the Majove River into southern California. Jedediah had agreed to meet his two trapping partners, David Jackson and William Sublette, the following June for a rendezvous in Cache Valley. So in June of 1827, Jedediah took two of his best men and set out up the American River of the Sierra Nevada=s and across central Nevada to keep his commitment. Later, in a letter to William Clark, Smith described the trip:

After traveling 22 days from the east side of Mount Joseph (Sierra Nevada=s), I struck the southwest corner of the Great Salt Lake, traveling over a country completely barren and destitute of game. We frequently traveled without water, sometimes for two days, over sandy deserts where there was no sign of vegetation and when we found water in some of the rocky hills we most generally found Indians who appeared the most miserable of the human race When we arrived at the Salt Lake, we had but one horse and one mule remaining, which were so feeble and poor that they could scarcely carry the little camp equipage which I had along. The balance of my horses I was compelled to eat. (See Document, 1-a.)

Most historians believe that Smith and his men came out of the mountains just south of Walker Lake, and very likely crossed through Nevada very near where the towns of Manhattan, Belmont and Current are now located - which areas, during the early 1900's have supported thousands of cattle and sheep

If Jedediah Smith=s testimony regarding vegetative condition found within the Great Basin in the early 1800's is correct, then one must conclude that the findings of Allen Savory, Steve Rich, Loyd Sorensen and the Kipuka Study are correct, plant health and frequency is improved by grazing impact.

One must conclude as well, the reason that the earliest explorers and trappers were not seeing many burned over areas in the Great Basin in the mid 1800's was because of the lack of vegetative frequency.

Up until the 1970's, most fires (which typically were started by lightening) rarely burned more than an acre or two. Once in a while, when conditions were right, a fire would get out of control and burn as much as one or two hundred acres, but nothing like the fires experienced in recent years. (See Document 52-a. and 52-f.)

The catastrophic fires that have been occurring since the late 1970's, which have resulted in the loss of millions of acres of wildlife habitat, correlate with federal and state policy which has called for reduced livestock grazing. (See Tony Lesperance Report, Document 52-h. See too Documents, 52-i., 52-j., 52-l., 52-b. and 43-d.)

## **Finding # 2                      History of vegetative cover in northern Nevada**

There are a number of authoritative accounts giving descriptions of vegetative cover which existed within the Great Basin during the later part of the 1880's and early 1900's. The King Expedition, which traveled across Great Basin during 1867, 68 and 69, included a plant biologist named Sereno Watson, who kept extensive notes describing the various plant species he encountered. Capt. James Simpson also thoroughly described the vegetative cover he saw when he crossed through the Great Basin in 1858 and 1859. (See Document 6-d., See too, Book 13-39, *Report of Explorations across the Great Basin of the Territory of Utah For a Direct Wagon- Route From Camp Floyd To Genoa, In Carson Valley, in 1859, pp 29,30,31*)

Less scientific, but important as well are the writings of Joe Meek, Zenos Leonard, Peter Skeen Ogden, Jedediah Smith and James Clayman, who gave good accounts of their experiences when crossing through the Great Basin. They wrote not only of vegetative conditions, but also of the kinds and numbers of wildlife they were encountering. Later there were accounts by Lieutenant E. G. Beckwith, Howard Egan and Edward Kern. Collectively, these writings tell of little feed, starving horses and no game. (See, I-a. and 5-b., see also Book 13-39, pp 29,30,31.)

Despite modern perceptions by some that the native rangelands of Nevada or elsewhere in the West were hurt or destroyed by the settlement of the region, the opposite seems to be true. The area that is now known as Nevada went from a place where the first explorers said the country could not support their horses while crossing through the Great Basin to an area that was feeding over a million sheep and over 500 thousand cattle in the early to mid 1900's. (See Document I-a., see too, Book 3-1, Northeast Nevada Frontier) In this regard too, one should read the book, "When And If It Rains" (Document II-a. or Book 26-1) which includes accounts of a good many of the early settlers of the West who testified that the rangelands improved dramatically once livestock were introduced. (See too, Document 21-c.)

## **Finding # 3                      History of effects of livestock grazing in Nevada**

There never has been the destruction of the range by livestock grazing as has been alleged by so many within the various resource management agencies, who's purpose it has been to gain a management position over the western public lands. (See documents 9-a. & 10-a.) There have been prolonged droughts at times of course, when it appeared that the range was deteriorating, but then when good years have come, it always seems that there is grass and feed everywhere. Desert plants are tremendously resilient, and the feed that will grow on the best years can be phenomenal. (See Document, 11-a.)

### **The Yager Journal**

Perhaps, one of the more interesting aspects of early exploration and travel in the west accrued along the Humboldt River. The very earliest trappers and explorers to travel the Humboldt found feed exceedingly poor. Within a short period of time however, even though thousands and thousands of horses and cattle had been driven along the Humboldt corridor, all testimony indicates that feed conditions were improving rather than deteriorating as many now believe.

To give an idea of just how large many of the wagon trains were, in 1862, James Yager wrote, At camp Weaver River our train was joined by eight or nine wagons & this morning we were joined by the train that camped by us last night fifteen wagons making in all about forty wagons & seventy men. @ Five days later Yeger wrote, APetersons= train of thirty one wagons & (L)ouises of fifteen became connected at one time this morning, making a train of eighty nine wagons and a carriage. @ You would think, with all the thousands of cattle and horses and people traveling along the Humboldt during that time - with all the impacts of setting up camp, then repacking again - all the livestock coming and going and watering twice a day, plus all the feed that was being consumed, there would have been much talk of everything being eaten off and abused. But such was not the case. Yeger and others traveling along the Humboldt during the latter years of the migration to California, mentioned over and over, how good the grass was.

Interesting too, is that the immigrants that were passing through the Great Basin in the very late 1850's and early 60"s were seeing more sage grouse than the earlier travelers had seen. Does this testimony not indicate that resource conditions were improving rather than deteriorating because of the impacts of large hoofed animals traversing the area? We think it does.

#### Lewis and Clark, Peter Skeen Ogden and John Work

When Lewis and Clark were traveling up the Missouri River in 1804 and 1805 - wherever they found buffalo they found other wildlife such as elk, deer and antelope as well. Peter Skeen Ogden and John Work had similar experiences. Ogden had to leave the Humboldt during the winter of 1828 and 29 because his party was facing starvation. When they reached the eastern snake plains and buffalo they found a good many elk and antelope as well. In 1831, John Work also found elk, antelope and even mountain sheep to be more numerous where there were buffalo, both on the eastern snake plains and in southwestern part of today=s Montana.

The reason there may have been more deer, elk and antelope found in areas where large numbers of buffalo are found may have been twofold. First, buffalo, because they were more numerous and in ways more vulnerable to predation, may have acted as a buffer drawing predators away from other species. And two, everything seems to benefit when herds of large hoofed animals such as buffalo or cattle impact an area. Insect production increases, mice become more numerous, marmot and ground squirrel populations increase. Deer, elk, antelope and even bird life become more abundant.

#### Spanish Colonization in California

Spanish efforts to colonize Alta California in the late 1700's revealed a similar circumstance . As was recorded in the book, *Old Spanish Trail*, by LeRoy R. Hafen and Ann W. Hafen: Once decided upon, the project to colonize Upper California was carried out in typical Spanish fashion , soldier and friar marching side by side to found the twin outposts of presidio and mission... Expeditions were to proceed both by land and by sea.

Two small vessels, sent from Lower California in 1769 were loaded with men and supplies for the new enterprise. Agricultural implements, seeds, tools, provisions, and church paraphernalia were taken aboard.

The land contingent was formed in two parties. The first, led by Captain Rivera, comprised Spanish soldiers and Christian Indians who drove along some 400 animals...

Portola and Sierra, with the second land party, followed the Rivera Trail and reached San Diego on July 1<sup>st</sup> [1769]... Conditions were not heartening. Ninety-three of the would-be colonizers had perished on shipboard or since landing... Of the nearly 300 who had undertaken the venture only 126 [remained]...

Frantically, one ship was sent back for supplies. while Portola, true to his orders, pushed northward by land with most of the able-bodied men for Monterey... Portola and his men succeeded in their heroic march to Monterey and on the journey accidentally discovered important San Francisco Bay. Supplies ran low on the return trip, writes Portola:

I ordered that at the end of each day=s march, one of the weak old mules which carried our baggage and ourselves, should be killed. ...we shut our eyes and fell on that scully mule (what misery!) like hungry lions, we ate twelve in as many days... At last we entered San Diego. smelling frightfully of mules.

[Upon his return] Portola found things in a deplorable state. Numbers of the sick had died; hostile Indians had pillaged the camp; provisions were running low. Some urged the abandonment of the venture... Finally the relief ship came; to the friars it was an answer to their novena, a nine-day vigil of prayer.

It is hard now to understand how, in a land of such bountiful natural resources, there was then such poverty in California and such utter dependence on the importations of food and supplies from elsewhere. But crops were not raised successfully during the first years, and it took time for domestic animals to increase.

By 1820, forty years after livestock had been introduced to southern California, horses had grown so numerous they were a nuisance and had to be controlled. Jose del Carmen Lugo, native of Los Angeles, recalled:

When I was eight or ten years old, that is, from 1821 to 1824, there were great numbers of wild and very troublesome horses. They would come to the very outskirts of town and eat the pasturage, leaving the gentled horses without food even often coaxing them away. The government finally decided, in agreement with the pueblo [Los Angeles], to have a general killing of these wild horses.

By 1841, California had changed dramatically. A Frenchman, Dufiat de Motras making an inspection for his government described Los Angeles:

The pueblo of Los Angeles is extremely rich... Within an area of 15 or 20 square leagues. local residents own over 80,000 cattle, 25,000 horses, and 10,000 sheep. Vineyards yield 600 barrels of wine, and an equal amount of brandy...

In late October of that same year, the Bidwell-Bartleson party (recognized as the first American immigrants to reach California by way of the Great Basin) had reached the upper San Joaquin Valley. The passage over the Sierras had been extremely hazardous; the whole company was gaunt and worn. On Oct. 30, as the party was descending the west side of the Sierras:

Bidwell was only too happy to breakfast on the wind-pipe and lights - lungs of a fat coyote shot by one of the company. By nightfall, however, he was able to turn to his journal in almost a delirium of delight: A...Joyful sight to us poor famished wretches!! Hundreds of antelope in view! Elk tracks, thousands! Killed two antelopes and some wild fowls, the valley of the river was very fertile and the young tender grass covered it, like a field of wheat in May. (*The Humboldt, highroad of the west, by Dale L. Morgan*)

In May of 1844, as Fremont traveled south through the San Joaquin Valley, he noted the favorable environment and abundant animal life about them:

Flowers and oaks were only part of the wild beauty of this valley. There were vast herds of wild horses and cattle, tule elk, pronghorn antelopes, and blacktail deer. Overhead there were flights of ducks and geese that passed like small storm clouds... [And later]: They crossed the Tuolumne, Merced, Kings and Kern Rivers,... In this part of the San Joaquin Valley the wild horse herds were larger than any the men had ever seen. Horses roamed the grassland like herds of buffalo on the Great Plains... he noted the favorable environment and abundant animal life about them. (*Fremont, Explorer for a Restless Nation, by Ferol Egan*)

It was not until large herds of cattle and horses began to appear across the West, that western range lands that wildlife began to increase. In fact it was in the 1940's and 50's, at the very time that our range lands were alleged to be in their poorest condition, that we were seeing the greatest number of mule deer, sage grouse, ducks and even song birds throughout the Great Basin.

#### **Finding #4            Custom and Culture, Settlement and Predator Control**

The environmental movement is based on the assumption that all was optimum prior to the coming of white man; that grass was tall, lakes and rivers were crystal clear and wildlife was evident at every turn. But historical records and first-hand accounts indicate otherwise. When Jedediah Smith, Peter Skeen Ogden and John Fremont first made tracks throughout the West, they found the rivers muddy, the grass poor and game hard to find. These men and others like them, in order to survive, learned to live as the Indians lived, relying at times on insects, their dogs or horse

meat in order to survive. (See Documents, I-a., 5-a., 5-b. And 5-c.)

Once white man began settling the region, many changes began to occur. First, these people from far-off lands had been exposed to ideas and practices developed throughout the world. They had knowledge of agriculture, cloth, metal and gun powder. They had domestic animals, horses, cattle, chickens and pigs. Rather than spending their time moving from place to place they took up land, remained in one place, dependent on their agriculture. Their greatest need was to protect their crops, their pigs, their chickens and their livestock. And this they did with guns, traps, or by whatever means.

By the turn of the century every country store across America was selling reasonably priced, 22 caliber rifles. Stevens, Winchester, Savage, Marlin and Remington were making, 22 rifles that sold for \$1. 98 to \$7.00 a piece, depending on the make and model. Every boy, white and Indian, along with their fathers and many of their sisters were controlling predators. By 1910 large numbers of men in every community were trapping during the winter months. School age boys, too, had trap lines that they tended going and coming from school. Coyotes, bobcats, badgers, skunks and weasels, nearly all fur-bearers were fair game. Crows, magpies, and "chicken-hawks" were shot on sight. Then in 1912 there was a major outbreak of rabies in central Nevada. So bad was the epidemic, that rural families had to keep their children and dogs locked up or fenced in. See Documents, 3-a. through 3-j., see also, Book 3-1, Northeast Nevada Frontier)

By 1914 the rabies epidemic had spread to nearly all the western states. It became a national health problem. In July of 1916, Senator Key Pittman of Nevada sponsored a bill through Congress appropriating \$25,000 for rabies control. In the 1930's toxins (primarily strychnine) and airplanes were being used to control predators. The results were phenomenal, coyotes, skunks and crows and other predators became few, while deer herds exploded. In many areas sage chickens could be harvested "by the gunny sack full". Ducks and other waterfowl clouded the skies and song birds were everywhere. (See Book, 3-1, Northeast Nevada Frontier, see also Documents, 30-a., 45-a., 45-b., 45-d. and 45-e., see too, Documents 6-a. through 6-c.)

But then, in the 1950's the federal government began reducing predator control, first by discontinuance of bounty systems, and by requiring absolute proof that predators were destroying livestock before action could be taken, then later by outlawing the use of toxins, reductions in predator control funds and by not allowing predator control in wildlife refuges and wilderness areas. Such measures have had a profound effect. Not only has the curtailment of predator control helped put thousands of families out of the sheep business over the years, but deer, duck, upland game and song bird populations have declined as well. (See Documents, 55-a., 55-f.)

It is recognized however, reductions in predator control have not been the only factor which has had adverse affects on local communities. The inability of local citizens to influence outcomes of public land policy have also had an adverse affect the economic well-being of ranching communities. (See Documents, 13-a. through 13-c.)

## **Finding #5                    History of mule deer in the Great Basin**

It's not hard to trace the history of mule deer in the Great Basin. The logs, diaries, journals and other accounts which were written by those who crossed through the American West during the 1800's hardly ever mentioned deer. Some have said that the reason that deer were not seen during that period was because the earliest explorers and trappers were only traveling down the valleys and along the rivers where they would not have seen the deer which were in the mountains. But nearly all the trapping parties had one or two men with them whose responsibility it was to scout the country in all directions, looking for game and new trapping areas. Every stream and every pond that could be trapped, and every canyon that may have held game was sought out. And when no game was found, as was often the case, then it was beaver tail and horse meat that sustained the trappers. (See Documents, 1-a., See also, book 13-30, *Peter Skene Ogden's Snake Country Journals -1824-25 and 1825-26*)

The explorers and trappers did find a few antelope from time to time however, but not often. Perhaps the most telling, was the condition of the American Indians at that time. By every account it seems the Indians were so poor, hardly any of them wore moccasins. Nor is there evidence that they had cradle-boards for their little ones. It wasn't that they did not have knowledge of such things; rather they didn't have the material to make them. Apparently, on rare occasions, when the native people of the Great Basin were able to harvest an antelope or deer, the hide of the animal was used for making bags for storing food stuffs which they often carried with them. (See book, 13-39, *Report Of Explorations Across The Great Basin of the Territory of Utah For A Direct Wagon-Rout From Camp Floyd To Genoa, In The Carson Valley, In 1859*, see too, Document, 7-a. pp 20,21,22 and 23)

Deer did not become plentiful until the late 1930's - after sheep and cattle had been introduced into the country and effective predator control programs had been put in place. Records kept by Forest Service personnel monitoring the Toiyabe Mountains and Ruby Mountains during the early history of Forest Reserves bears this out. In the Ruby Mountains, 10 deer were seen in 1921-followed by a steady increase until an estimated 3,000 animals were seen in 1939. By the mid 1940's deer numbers on the Ruby Mountains were in the thousands. No one knew how many there were for certain. In California, Utah, Oregon, Washington, Idaho, Colorado, Wyoming, everywhere it was the same, as predator control practices improved, so too were there more wildlife. Deer, sage grouse, song birds, every pray animal seemed to benefit from predator control. (See pages 5 and 6, document 22-a. See also, 3-a. through j., see also, 54-a. and 55-d.)

Early history indicates that there were very few, if any, mountain lions in the Great Basin at the time of early exploration and settlement. Research by employees of the Nevada Department of Wildlife found only one early reference, wherein the Territorial Enterprise (Virginia City) on June 27, 1867, reported that a "catamount" was killed in the Six Mile Canyon area. The writer stated that "This is the first animal of its kind we have ever heard of in this region" Apparently, there were no lions seen again anywhere in Nevada until sometime in the early 1920's. (See, *Division of Wildlife Comprehensive Mountain Lion Management Plan, 1995*)

Perhaps one of the greatest testimonies in this regard was that which is revealed in the book *Beltran: Basque Sheepman of the American West*. Beltran Paris came to the United States in 1912. Soon after he arrived he went to work for the Williams sheep outfit which summered in the Gold

Creek and Bruneau areas of northern Elko County and wintered near Frenchman and Gabbs Nevada. After working for Williams for several years, Beltran went into the sheep business for himself in Butte Valley. Beltran's brother Arnaud also worked for Williams for a number of years, but later went to work for Baker Ranch, and then the Adams and McGill outfit. This meant that both Arnaud and Beltran had spent a good many years in the outdoors, covering vast areas throughout Nevada, yet, neither Beltran nor Arnaud had seen or heard of a lion until the early 1920's.

Beltran wrote: "My brother Arnaud was the first to find out about the lions. He was campending for Adams and McGill and one morning when they were trailing their sheep south to the desert his herder came and told him eight of his big ewes were dead. Arnaud thought maybe they ate something bad so he went over there. He saw right away an animal had killed them. Well, bobcats were worth a little money and he kept two number three traps in his camp. He set them around the dead sheep and then told the herder to move his bunch out of there. The next day Arnaud went back and he sure was surprised. There was a great big lion in his traps. He was pretty scared but the lion didn't do anything. They don't want to hurt their foot. Anyway, Arnaud shot that one and skinned it out. His boss was so happy he gave Arnaud a ten-dollar reward. That was the first lion any of us ever saw in this country."

Historical evidence indicates that the great deer herds of the 40's and 50's and 60's were a product of settlement and predator control - and that mountain lions in Nevada are a product of our deer herds.

Interestingly, according to the Division of Wildlife, Comprehensive Mountain Lion Management Plan (1995), in 1994 a male lion that was radio-collared in Idaho moved 250 miles to central Nevada. Certainly, if mountain lions are capable of traveling so far - if there had been an abundance of deer in the Great Basin in the 1800's, there should have been large numbers of mountain lions in the Great Basin as well.

## **Finding # 6                      History of Sage Grouse within the Great Basin**

Perhaps Sage Grouse, is a good indicator for determining the general well-being of a number of species found within northern Nevada. The period of greatest sage grouse abundance in the 1940's and 50's, coincides with the period when there were the most mule deer, song birds, rodents, snakes and frogs and so forth throughout northern Nevada. (See, 57-a., 4-a., and 4-b., 5-b. and 6-b., see too, 45-a., 45-b., 45-d., 45-e., 30,a and 3-a.)

Records show there were no sage grouse seen in the Great Basin during early exploration. Jedediah Smith never mentioned them when he told of crossing through the Great Basin in 1827. Peter Skeen Ogden never mentioned them when he was trapping the Humboldt in 1828 and 29. Zenos Leanard never mentioned sage grouse when crossing through the region now known as Nevada. Nor did Milton Sublet, Joe Meek or James Clayman mention them. (See I-a. and 5-b.) A few sage grouse were seen in the Great Basin in the 1850's however. Capt. E.G. Beckwith, while conducting a survey for a possible railroad-route along the 41st parallel in 1854, wrote of seeing "sage cock" on one occasion, while traveling north "on the plain" east of the Franklin

River in Ruby Valley. Captain James .H. Simpson also encountered "sage cock" while crossing through the Great Basin and back in 1858 and 59 - once at Pacific Spring, once in Ko-bah Valley west of Eureka, and once in Spring Valley on their return trip. (See book, 13-51, Report by E.G Beckwith -*For a Railroad Route South of the 40<sup>th</sup> Parallel, See too, Book, 13-39, Report Of Explorations Across The Great Basin of the Territory of Utah For A Direct Wagon-Route From Camp Floyd To Genoa, In The Carson Valley*)

Perhaps the best accounts indicating the early status of sage grouse in the Great Basin were those written by Julian Steward and Robert Ridgway. Robert Ridgway, served as the zoologist for the King Expedition during the time when that party was making its geological assessments along the 40<sup>th</sup> Parallel during 1867, 68 and 69. The significance of Robert Ridgway's "ornithology report" or assessment of bird life, which took place over the three year period when they were covering a good deal of the area between Sierras and the Wasatch Mountains of Utah, was that, during all of that three year period, while inspecting one valley after another and climbing mountain after mountain, Mr. Ridgway only mentioned seeing "sagehen" (*centrocercus urophasianus*) five times. One sighting was on Peavine, just north of Reno, one was near Wadsworth, on the north end of the Virginia Mountains, one was near Fort Ruby, where Ridgway observed a "sage hen" being pursued and then taken by two eagles, one was near Secret Pass at the north end of Ruby Valley, and one was near the City of Rocks in southern Idaho (See Document, 6-c.)

Equally important to Robert Ridgway's work was that of ethnologist Julian Steward. Between 1931 and 1936, Julian Steward made numerous trips throughout Nevada, southern Idaho, western Utah and the Owens Valley area of California, interviewing native people and recording, among other things, the food items used by all the various groups in each of the valleys he visited. Most of the people he interviewed were in their 70's or 80's. So most of them were born in the 1860's or 70's, and had gained much of their knowledge from their parents and grandparents. (See Document, 7-a.)

The significance of Julian Steward's work was in discovering testimony showing just how scarce game was in the 1800's. As an example, in all of Mr. Steward's interviews, elk are mentioned only once, and that was in regards to hunting elk in the area of Yellowstone. Sage grouse was only mentioned once as well, and that was of Temoke, hunting sage grouse in Ruby Valley.

In contrast to the above, persons living in the 1940's and 50's and 60's told of encountering large numbers of sage grouse during their lives. (See testimony of Frank Temoke, 45-d., Frank Delmue, 45-c., Steve Sewell, 45-d., Jake Reed, 17-b., Dave Hage, 45-a., Raymond Mendive, 3-a., and Jack Walther, 45-b.).

## **Finding #7                      History of bitter-brush, then and now**

Testimony by the earliest trappers and explorers regarding vegetative cover in the Great Basin, mirrors, to a great degree, testimony regarding sage grouse. By every account, the country was barren and the feed was poor in the 1820's and 30's. But then, it seems that those who traveled throughout the Great Basin in the 1850's and 60's, found better feed. Perhaps the country, at that time, was experiencing dry periods and wet periods, no different than what has been witnessed

since that time.

The more detailed records of Captain James H. Simpson and Sereno Watson indicate that the vegetative cover (in terms of the kinds and types that were found) of that period was similar to that of recent times. Capt. Simpson, after traveling from Camp Floyd in Utah to Genoa and back again in 1858 and 59, described the plains and valleys as being vast areas dominated by sagebrush, with very little grass. He wrote of mountain ranges clothed with pinion and juniper, with some quaking aspen in the larger basins and draws. He also wrote of mountain mahogany, and of timber being on the tops of some mountain ranges.

Sereno Watson's accounts were more detailed and scientific than were those of Capt. Simpson. Records indicate that Watson found bitterbrush, (*purshia tridentata*), on nearly all of the mountain ranges from Sierras to the Uinta Mountains in northern Utah.

Some argue that overgrazing of grasses in the late 1800's and early 1900's caused sagebrush and bitterbrush to increase throughout the Great Basin. Others say that bitterbrush was overgrazed during that same period by sheep. Regardless, when the agencies began restricting livestock use in the 1970's it generally took only a year or so of rest, and the plants, from grass to browse, would burst forth with lush foliage. Pictures taken at that stage were used to show how the range had improved. However, what is not shown is how these same plants within a short time become decadent and unproductive when left ungrazed. (See Document 54-a, *Vegetative Stagnation in Three-Phase Big Game Enclosures*, by Paul T. Tueller and Jerald D. Tower) In truth plants of all kinds need to be routinely grazed or hedged in order to remain productive.

**Finding # 8                      Effects of wildfire has had on bitter-brush communities and mule deer throughout Nevada**

The biggest changes in plant communities and range condition have come about since the 1970's, after the agencies began cutting permits and removing livestock from the range. It was then that we began experiencing the out-of-control fires that have been raging throughout the west in recent years. And it has been because of the fires that we have been losing so much of our range and wildlife resources (as Dr. Tony Lesperance predicated would happen, back in 2000). (See Document, 52-h., see too, 52-a., through 52-f., see too, 52-e. & 52-f.)

Some have said that mule deer can live in areas where there is no bitterbrush. That may be, but for the most part, it has always been in those areas where there have been good stands of bitterbrush that mule deer have flourished. In northern and western Nevada, in eastern Nevada, in Utah, Idaho and California, wherever there have been good stands of bitterbrush, and where effective predator control programs have been ongoing, is where there has been good deer production over the years. (See Document, 54-b.)

Every year it seems, we are losing more and more bitterbrush to wildfire. Which is something that we can no longer allow to happen - for in truth, we have lost most of our best deer habitat already. Why is that you might ask? Well its simple really, wherever you see bitterbrush growing, you can be assured you are in an area that not only grows good bitterbrush, but grows a lot of grass as well.

Which means, that if little grazing has occurred and lightening strikes, it is these areas that burn first. (See Documents, 52-b., 52-e. and 52-f.)

However it doesn't end there, for the agencies then require that such areas not be grazed for at least two years, even though such policy is not backed by science. And so, unfortunately, the stage is set for more and more cheat grass growth, which in turn sets the stage for more and more wildfires, which spread over more and more area. And so, on and on we go, destroying more and more wildlife habitat, destroying more and more of our native rangelands, destroying more and more deer and sage grouse habitat, while at the same time endangering and destroying the economic viability of ranching operations. (See Document, 52-g.)

**Finding # 9                    Importance of private land ownership and the effects of such  
regarding the preservation of bitter-brush communities**

If a person drives around the base of the Ruby Mountains today, that person might notice that there are areas along the foothills which appear darker than others. These darker areas generally include a good stand of different kinds of brush - mostly bitter-brush. It may also be noticed that in contrast, there are other areas where it appears that such stands of brush have been removed by wildfire. Interestingly, in most instances, the areas where the brush has been removed by wildfire are areas that are managed by the Forest Service, whereas the areas that remain covered with healthy stands of mountain sage and bitterbrush are generally privately held lands.

Simply put, the reason for all this is, while it has been the policy of those within the federal agencies over the last 30 years or so, to leave fifty percent or more of the available feed within allotments each year - which policy has led to the situation where we are now experiencing the terrible fires we are having, the ranching community has continued to graze their lands in a manner which prevents excessive fuel buildup. Which indicates, of course, that its been a very good thing that lands surrounding the Ruby Mountains have been in private ownership for all these years, for if there hadn't have been, the deer would have suffered even more than they have over the last several years.

For years, ever since the early 1940's, the Ruby Mountains have been recognized as the finest deer producing area in the state. Certainly, there are other mountain ranges that have the same potential for producing as many deer as do Ruby Mountains. So why the difference? It's obvious really, ranching and private land management have not only had a positive effect on reducing wildfire over the years, but ranchers also do a good job of controlling predators, which does not often occur on Forest Service or BLM lands, because of ever increasing regulation and public pressure to protect predators. Perhaps more lands should be transferred into private ownership, rather than the other way around.

**Finding # 10                    Importance of solar reception, and what happens when overstory  
becomes excessive**

If any one of us were to walk out to our front yards during summer and place an object on the ground covering an area, say, 6" long by 6" wide, and we were to leave it there for three or four

days, we would find at the end of that period, that the grass which was covered by the object would have turned yellow. And we know that if we were to leave it there long enough, that the grass would die completely. The reason being of course, plants simply cannot survive without sunlight.

The same thing happens when a layer of dead grass is left on a mountain meadow from year to year. Within a short time fine stemmed grasses and plants of lower stature, such as dandelion and clover, soon die and plant diversity is lost. (See Documents, 23-a. through 23-h.)

Rangeland grasses also deteriorate and die away when they are not impacted as they should be by regular grazing. It's true, overgrazing can lead to weakened plants and reduced production. But the opposite is even worse. Take the 1940's and 50's as an example; right at the time when we were running the greatest number of sheep and cattle on our rangelands, was when we had the most deer and sage grouse in the country. And they all did well too. In fact, evidence indicates that the sheep and cattle and deer were healthier and bigger and fatter than then they are today. And so, what does this mean, except that the reductions in grazing that have occurred since the 1970's have been wrong from the beginning. And now, the only thing we are accomplishing by continuing to ignore the truth is to cause more and more fuel buildup on our rangelands - which not only jeopardizes the public health and safety of our citizens, but leads to the loss of thousands and thousands of acres of prime wildlife habitat as well. (See Documents, 23 -a through 23-h., see too, Document 21-c.)

### **Finding # 11                      Historical effects of grazing on riparian areas**

It became popular in the 1980's and 90's for the Forest Service to set utilization standards for grazing on riparian areas. For example, if a rancher turned his livestock out on the range where there were riparian areas, such as along a creek or meadow area, and his cattle were to eat more than 40 to 45 percent of the feed in one of the riparian areas, it didn't matter if the cattle had only been in the pasture for a very short time, or that less than ten percent of the feed had been utilized on the surrounding lands, the rancher was to remove to his livestock immediately, for if he did not he would have his permit reduced by as much as 25 percent. Needless to say, such policy has caused great hardship for a good many permittees. (See Documents, 13-a. through 13-c. and 17-a. through 17-c.)

The discerning thing about the whole affair is, after nearly a decade had passed it was learned, that the very policy, which had by then put a great many people out of business, was not supported by sound science. And in fact was repudiated by studies which had been completed at the Starkey Experimental Station in Oregon - which studies show conclusively that the removal and reductions of livestock use on riparian areas can not be supported scientifically. (See Document, 19-a. through 19-c.)

#### **The Starkey Experimental Studies**

Over a period of 12 years, graduate students and scientists measured the effects of cattle grazing on every riparian value imaginable. They applied rest rotation grazing, season long grazing, short

duration grazing, deferred rotation, and non-use. They monitored and determined effects on soil compaction, infiltration rates, streambank erosion, sediment loads, biological content of the water itself, effects on fish redds, impacts on streamside vegetation, vegetative health and feed production. And when it was all said and done, they found that nearly all riparian area values were not harmed, and if anything, benefitted from livestock grazing. An Environmental Impact Statement addressing these issues should be initiated as soon as possible so as to prevent continuing degradation of riparian areas found throughout the state of Nevada.

**Finding # 12                      Knowledge gained more recently**

It has been more than twenty years now, since the Forest Service first implemented its riparian utilization standards throughout much of central Nevada. Great change has occurred since that time. The sheep industry is nearly nonexistent now. Nearly half the cattle which once grazed upon the public lands in the 1950's are now gone. As a result, great social-economic harm has been done to the livestock industry throughout Nevada. (See Documents, 17-a. through 17-c.)

Adverse impacts on environmental values are also a concern. We know now that because of the removal of livestock from riparian habitats, such areas have now become overgrown with dead and decadent willow growth which shades out the majority of grasses and other understory that existed formerly. In many places, such detrimental overgrowth has made it nearly impossible for a person to get through thickets and creek bottoms, even on foot. (See Documents, 20-a. and 20-c. See also documents 45-c. through 45 f.)

Accumulative, long term, and short term impacts are becoming more and more evident year by year, including degraded riparian habitats, loss of riparian understory, increased fuel buildup, ever increasing loss of wildlife habitat - and a range livestock industry that is now on the verge of collapse because of adverse policy set forth by state and federal agencies.

**Finding # 13                      Possible reductions in water flow**

There is a good deal of scientific information which indicates, that when grazing is reduced or livestock are removed from typical mountain pastures in Nevada and elsewhere throughout the Inter-mountain West, woody vegetation increases to such a point that more often than not, it causes significant reductions in water production. (See Documents, 43-a. through 43-f.) Rural Heritage Preservation Project finds that one of the greatest mistakes ever made was when the public allowed the USDA Forest Service to go forward with its policy of reducing livestock grazing on Forest lands in the 1980's and 90's without forcing them to complete an Environmental Impact Study regarding all possible, cumulative, long term and short term, adverse effects which would result because of reduced livestock grazing; including, reductions in production of water flow; the destruction of wildlife habitat, due to ever increasing wildfire, and overstory production within riparian areas; and the effects of such on the livestock industry and local economy.

**Finding # 14                      Mismanagement of our nation's wildlife refuges**

Nowhere, at any time, in the history of the world has socialist management of land and resources

worked. It did not work in Russia, nor is it working here in the United States. Yet more and more lands here in the United States are being put into the hands of government - to the detriment of wildlife, to the detriment of our economy and to the detriment of the future of this nation. (See Documents, 40-a. through 40-f., see too, Documents, 22-a. through 22-i.)

### **Findings # 15                    Importance of removing mature vegetative cover**

Those who did a lot of hunting back in the 1950's and 60's report there were not only a lot more deer at that time, but that the deer were fatter than they are today. When skinning a deer back then, there would always be a layer of hard fat, an inch or so thick over the rump - something you seldom see these days. Much of the difference appears to be the greater number of sheep that were present in the country in the 1950's and 60's. Back then it seemed, there were bands of sheep moving through the country nearly everywhere, and as they would move through, they would take a little from nearly every plant. They would nibble the tops off of the grass; they would eat the weeds back; they would take a little quaking aspen, a little chokecherry, and a little rosebush, nearly everything. And then they would move on, returning again the following year. It was the very closest thing to being the ultimate way of achieving short duration grazing ever known. The various range plants benefited tremendously. It would not be long until all the vegetation that had been impacted was bursting forth again with new foliage, which nearly always was richer in nutrient value than it would have been if all the plants had not been hedged. (See Documents, 45a., 55-a., and 53-e.)

In the 1970's, some began suggesting that livestock were hurting the range - that cattle were taking too much of the deer's feed. Their focus seemed to be on bitterbrush - claiming that there was little winter feed left for deer. Soon, demands were being made, calling for the removal of livestock from the range. Finally, a study was initiated to determine the truth of the matter, whereby there were enclosures built at different locations throughout the state, so that cattle could be excluded, and the effects of grazing could be determined. The results were not what many expected. Instead of finding that there was more feed produced when livestock were excluded, the plants (mostly bitterbrush) yielded less production. (See Document, 55-a.) This finding confirmed that vegetation if left unpruned becomes decadent and unproductive. The most effective way of pruning range plants is by livestock grazing.

Nothing demonstrates this better than those areas where livestock have been removed altogether. Wherever livestock removal occurs, it is not long until deer, elk, and even birds began to leave the so called "protected areas" for places where livestock grazing is ongoing. Think of it, if you were an elk would you want to feed in an area where every time you reached for mouthful of grass, you would get a mouthful of feed which was half dead matter left from the previous year's growth? Of course not. If such were the case, it would not be long until you would move to an area where the majority of feed had been removed the year before. This is true for deer, sage grouse, blue grouse and every other animal. Plants of every kind are made more palatable, healthier, more productive, and more nutritious, when areas are grazed by domestic livestock (See Documents, 22-a., 22-b., 22-f., 21-d., 45-g., 23-a. and 23-c.)

### **Finding # 16                    Importance of grazing impact on sage grouse production**

In 1986, Carol Evens completed a thesis in partial fulfillment of the requirements for the degree of Master of Science in Renewable Natural Resources, titled, The Relationship of Cattle Grazing to Sage Grouse Use of Meadow Habitat on the Sheldon National Wildlife Refuge. Perhaps this study, more than any other, depicts the importance of grazing to sage grouse.

The study found that sage grouse tend to avoid meadow areas of dense rank vegetation but would use areas once they were "opened up" by grazing, particularly late in summer when sage grouse nutritional needs are met by eating succulent regrowth, high in protein, which is found to be more prevalent where livestock have been grazed. (See Documents 3-b., 45-g., and 45-h., see also, Document 23-a.)

Many persons within the various resource management agencies have acknowledged that grazed meadows are more beneficial to sage grouse than are ungrazed meadows, but are quick to point out that the season long grazing practices the past were detrimental to sage grouse. We find that history and science do not support such a conclusion. To this time, we have found no studies which show that the season long grazing practices of the 1930's, 40's or 50's, were anything but beneficial to sage grouse.

**Finding # 17                      History of cheatgrass and the effect cheatgrass has had on wildfire frequency and intensity within northern Nevada**

There has been a lot of criticism of cheatgrass in recent years - that it is nothing but a weed that crowds out native vegetation, serves no useful purpose, and causes increased intensity and frequency of wildfire. The reason we are experiencing the huge catastrophic fires of recent times is not because there is more cheatgrass around now than there was back in early part of the 1900's. Cheatgrass has been around for a long time. Records indicate that cheatgrass was identified in each of the eleven western states as early as 1910. The large fires that have been occurring recently are caused by reductions in grazing. If we were to allow livestock grazing to occur as it did in the 1940's, 50's and 60's, we would not have the huge catastrophic wildfires we are now experiencing. (See Document, 52-h.)

Truth is cheatgrass is one of the most important sources of feed for both livestock and wildlife that is found in the Great Basin. Mule deer, with their small muzzles often reach beneath existing sagebrush during winter in order to nibble new little shoots of green cheatgrass when green feed is unavailable elsewhere. Chukar too, use these same green shoots of cheatgrass during winter - to such a degree it is doubtful they can survive without it.

Cheatgrass is a good source of feed even when it is in a cured condition. Livestock, like people, tend to like a variety of foods. Some plants, like shrubs and browse, are often high in protein while dry grass is often a good source of energy. So if a cow, or a horse, depending on the kind of country they're in, can eat a little desert shrub or maybe some grease-wood - or if they are in the mountains, some quaking aspen or rosebush, or chockcherry, along with cheatgrass, they get along fine. In fact, it is not uncommon to see cattle or horses during winter on a cheatgrass range that look better than cows and horses that are sometimes being fed a full ration of hay during winter

months. (See Documents, 51-a. and 51-b.)

And, as far as the theory, that cheatgrass crowds out native grasses is concerned, there is considerable evidence indicating that such is not the case. Beginning in 1979, there was a 14-year study done in southeastern Oregon soon after scientists found two isolated areas deep within large lava flow areas where livestock had never grazed, nor had cheatgrass been introduced. During the study several things were learned. First of all, contrary to popular belief, it was found that the frequency of plants (number of plants per square yard) was not what had been expected. At the Eastern Site it was found that 59 percent of the ground was barren of vegetation, while at the West Site, ground barren of vegetation ranged from 84 percent in 1980 to 76 percent in 1991. (See Document, 50-a.)

These findings support what the earliest explorers and trappers had to say about the country in its pristine state. Jededia Smith, Peter Skeen Ogden and Fremont all described the country as barren and unproductive. (They also support findings of Steve Rich, see Document 21-c.)

Most significant was the increase in cheatgrass which occurred at the West Site beginning in 1980. Apparently, there was an unintended introduction of cheatgrass by the scientist themselves. Soil previously barren of vegetation became populated by cheatgrass, yet no loss of perennial grasses, forbs, or shrubs was noted during the remainder of the study. Cheatgrass does not crowd out native vegetation as so many allege.

**Finding # 18                      History of western settlement and the establishment and recognition of road rights-of-way, ditch rights-of-way, mineral claims, water rights, and the right of bonafide residents and settlers to the use of wood, stone, gravel and clay**

Up until the time when settlement began in earnest west of the Mississippi, it had always been the practice of Congress to sell large tracts of land to speculators who in turn would sell said lands to those who wanted a place of their own. This of course, had never gone well with those who were settling the land. So when it was learned that Mexico and Canada were issuing patents in recognition of claims of land and mineral rights, so that the lands would be claimed under the name of either Mexico or Canada, it wasn't long until representatives in Congress began receiving letters from their constituents urging the passage of legislation recognizing the right of preemption - suggesting that, should the citizens of the United States not be allowed the right to lay claim to lands, water rights and mineral deposits on the open lands in the West, then, perhaps many settlers would have little choice, but to file claims with the Mexican or Canadian governments. Not long after, Congress did begin passing laws recognizing peoples right to take up homesteads and lay claim to mineral rights. (See Document, 16-a. and 16-b.)

However, it was not until William Stewart, the first Senator from the newly formed State of Nevada, introduced a bill in Congress (which was adopted on July of 1866) that mineral claims, claims to the use of waters which arise on public lands, claims of ditch rights-of-ways, and road rights-of-ways were fully recognized by Congress.

The 1866 Act, did not however, establish procedure whereby settlers and miners could file their claims with the federal government. Instead, language within the 1866 Act required that rights of settlers be recognized "by local law and custom and rules of the courts". Which language was interpreted by the courts to mean, that, it was to be the states which were to establish mechanisms for the recognition of claim of rights on the open and public lands found throughout the western United States. And so it is to this day, that State law dictates the manner by which claims for water rights, road rights-of-way, ditch rights-of-way and mineral claims are to be recognized and established.

Unfortunately, it seems that persons working within government do not like the idea that Arights@ can be recognized on our nation=s federal or public lands. As a consequence, persons within the various resource management agencies have, for years, carried on a constant political campaign, working to rid the country of any legal precedence which might force the recognition of mineral rights, the right to prospect, a rancher=s right to graze, ditch rights of way, road rights of way, the right of bonafide citizens and settlers to the free use of wood, stone, gravel and clay found on federal or public lands, or the right of individuals to recreate and camp wherever they so chose upon the public or federal lands which are found within the western United States. (See Documents, 3-a., 5-a., 5-c., 6-b., 8., 9-a., 9-b., 10-a., 12-a., 12-b., 13-a., 13-b., 13.c. 14., 14-b., 14-c., 15-a, 15-b., 15-c., 15-d., 16-a., 16-b., 17-a., 17-d., 17-d., 18-a., 18-b., 18c., 19-a., 22-a., 22-b., 22-g., 22-h., 24-a., 24-b., 24-c., 24-c., 25-a., 25-b., 25-c., 26-a., 27-a., 33-b., 33-c., 36-a., 36-b., 36-c., 37-a., 39-a., 39-b., 39-c., 39-d., 39-e., 39-f., 39-g., 39-i., 40-a., 40-b., 40-c., 40-c., 40-d., 40-e., 43-a., 43-b., 43-c., 44-a., 44-b., 44-c., 44-d., 47-a-1. 47-a-2, 63-a., 63-b., and 63-c.

**Finding # 19                      History, of the recording of claims of road rights-of-way by the general public and county commissioners and the attempt by Forest Service personnel to extinguish such rights**

The fact that it has been the goal of leading officials working for the Department of Interior and the Department of Agriculture that all rights historically established and recognized, should be terminated is not unclear. (See Document, 9-a. & 1a-a.) Conflicts between rights holders and those within Interior and Agriculture, who believe that the government should have full and complete authority over all government resources have been in constant play since the very beginning. (See Documents, 12-a. & 12-b., 13-a. through 13-c., 15-a. through 15-d. and 8-a. through 18-c.) (See too, 24-a. through 24-d., 25-a. trough 25-d., 26-a., 27-a., 28-a. through 28-g., 33-a.& 33-b.) (Also, see the book, Storm Over Range Land) In truth, the history of the USDA Forest Service and Bureau of Land Management is a history of attacks on the range livestock industry and other rights holding interests.

It was for this reason that citizens of Elko County wanting to lay claim to road rights-of-way, filed maps marked, Map Case 328522, Exhibits A-I through Tool, Sheets 1 through 40, at the County Recorders office, on September, 26, 1992.

It was for this same reason that the Elko County Board of Commissioners set forth claims to these same roadways by Resolution No. 14-98 on the 6<sup>th</sup> day of January, 1999.

As well, it is our finding said roads as claimed by citizens of Elko County and the Elko County Board of Commissioners, are roads which were developed and used during the very early days of settlement for the purpose of securing wood, stone and other earthly materials from the public lands for the purpose of accomplishing settlement; and that such roads, and all of them, were established long before Forest Reserves were created; and that such roads, and all of them, continue to be used for a variety of purposes, including fire protection, hunting, access to water diversions, fence fixing, caring for livestock, prospecting, mining, moving livestock, weed control, pinenuting, gathering wild berries, post cutting, wood gathering, outings, educational events and sightseeing, and are in fact, roadways which are recognized pursuant to "the Act of July 26, 1866. Which rights are best understood when reading the following decision written by Federal District Judge, Peirson M. Hall.

In the case UNITED STATES v. 9,947.71 ACRES OF LAND, Federal District Judge, Peirson M. Hall wrote; "It ... arises from the sheer logic of the proposition that, when the government granted mining rights on the vast mountainous, and often impassable, areas of the west which were in public domain, assessable only by passing over the public domain, it granted, as a necessary corollary to mining rights, the right not only to pass over the public domain but also a property right to the continued use of such roadway or trail, once it was established and used for that purpose. To realize the force of the proposition just stated, one need but to raise their eyes, when traveling through the West to see the innumerable roads and trails that lead off, and on, through "the public domain, into the wilderness where some prospector has found a stake (or broke his heart) or a homesteader has found "the valley of his dreams and laboriously and sometimes at very great expense built a road to conform to the terrain, and which in many instances is the only possible surface access to the property by vehicles required to haul heavy equipment, supplies and machinery. If the builders of such roads to property surrounded by the public domain had only a right thereto revocable at the will of the government, and had no property right to maintain and use them after the roads were once built, then the rights granted for development and settlement of the public domain, whether for mining, homesteading, town site, mill sites, lumbering, or other uses, would have been a delusion and a cruel and empty vision, inasmuch as the claim would be lost by loss of access, as well as the investment therein, which in many cases of mines required large sums of money, before a return could be had."

**Finding #20                      Importance of road rights-of-way to ranchers, mining and recreationist**

The founders of this nation did not want the people to have to go to the government to be permitted or licensed before they could do or accomplish things. They wanted the people to have "rights" so that they might be secure in their investments and their ability go forward and get things done. They didn't want the people to be beholden to the government for every little thing. That's why our fathers and our grandfathers left their homelands. That's what freedom was all about. They knew from experience, that once a government, or a king gains control of people's lives or their businesses, via permitting processes, or by regulation, or both, and there is no longer recognition of property interest, then soon comes economic stagnation, favoritism, corruption, payoffs and tyranny.

That's why, during the early history of this nation, and during western settlement, "that such rights as the right of persons to use certain waters, or to clean their ditches, or to use certain roads were granted and recognized. When the settlers arrived in the unsettled West, there were no coal mines, saw mills, or lumber yards. There was only the material at hand, and so the settlers took up their shovels and their axes and they went upon the mountains and they cut logs and poles for making their homes, their corrals and their outbuilding, and they used the clay from the valley floors for their roofing.

And soon the pioneers were turning their livestock upon the rangelands, and economically viable units were born. To farm in the harsh environments found in the West was not always feasible, but the environment did lend itself to raising cattle and sheep. And soon there were mines and mining operations, and towns, and a railroad that crossed through the county. And so more roads were developed and cattle and sheep were driven from one range to another, or from certain ranges to various towns and to shipping points. And for anyone to say today, that there was not a road or trail created up every canyon and every draw, long before the Forest Reserves were created, is to avoid the truth and ignore the past. And to say that such was bad for the environment or bad for wildlife, is also to ignore the past, and to ignore the truth.

**Finding #21                      Importance of road rights-of-way to certain wildlife**

It is the finding of the Rural Heritage Preservation Project, that public roads, which are often graded and maintained by county governments, are beneficial to goshawk and other avian predators. It has been found that ground squirrels, native to the state Nevada are frequently found in large numbers along such roads. Apparently, roads of this type provide the kind of habitat ground squirrels need, in that a balance is created whereby the road-ways provide open areas adjacent to desirable feed which is necessary for their survival.

When a survey was conducted in the Harrison Pass area, southeast of Jiggs, NV, a far greater number of avian predator nests were found in the quaking aspen along the old road-way leading from Ruby Valley to Jiggs, than were found along either the Green Mountain Creek drainage to the north, or the Road Canyon drainage to the south. Neither were ground squirrels found in the Road Canyon drainage, or the Green Mountain Creek drainage, whereas, ground squirrel were found to be numerous along the road in Harrison Pass.

Before new policy is implemented which might cause harm to such species as the Richardson's ground squirrel or Northern goshawk, further investigation needs be completed?

**Finding # 22                      Right of due process, Federal Administrative Procedures Act**

One of the greatest infringements in individual rights, that has occurred, regarding public land management and oversight by the Federal government has been the outright abolishment of a citizens right to due process. Somewhere along the line, it became acceptable in the minds of many court justices and within the various agencies, that governmental actions could be arbitrarily imposed so long as the "experts" within government "thought" certain actions could be beneficial and by so doing, have been ignoring altogether the peoples right that evidential hearings be held

for determining possible infringement on investment backed expectations; or determining by scientific method, whether or not a public good would in fact be achieved once the action was advanced.

Such abandonment of the peoples right of due process runs so foul to the original intent of the notion of free government it should not be tolerated at any time, or at any level within society - particularly, when law is now in place which calls for such processes to occur under the U.S. Administrative Procedure Act, and / or the Nevada Administrative Procedure Act.

**Finding # 23                      History and effects of off-road or four-wheeler traffic within the Jarbidge, Mountain City and Ruby Mountains Ranger Districts.**

It is our finding, that if the Forest Service were to follow mandates as are set forth in the "Final Rule" dated, November 9, 2005, which states; "Current regulations prohibit trail construction Sec. 261.10(a) and operation of vehicles in a manner damaging to the land, wildlife, or vegetation" , then it would be the new "four-wheeler" roads that would be considered for closure, and not the existing RS 2477 road rights-of-way which extend through private lands. For it is the very nature of four-wheelers, that they must be driven up a ridge in a perpendicular manner or else they will tip over, which cause tracks to be created whereby higher than ordinary erosion occurs.

Clearly, if the new rule calls for the protection of rights-of-way which are recognized pursuant to RS 2477 of the United States Code, then all roads which were constructed by those who settled the lands prior to the creation of Forest Reserves, which roads have now been recognized by Elko County, must be recognized by the Forest Service.

The importance of keeping traditional road rights-of-way open for continued use can not be overstated - for in truth, it is these roads, which were created and made better by the use of teams traveling to and from the mountains, hauling logs, and firewood. And because it was not easy for persons with a team and wagon to make their way up a canyon and back with a loaded wagon, the very best routes were taken, following terrain which offered the least obstacles and steepest grades, that roads were created which cause the least amount of erosion possible.

**Finding # 24                      Importance of road rights-of-way and livestock grazing - and how each serve to protect against out-of-control wildfire and destruction of native plant communities**

Road rights-of-ways traditionally used and recognized are not only important in that they allow for quick access to areas where wildfire may start - but they often serve as fire breaks as well - perhaps not by themselves entirely - but can, with little more effort, be made to play a significant part in stopping the spread of wildfire.

Livestock grazing too, is critically important, not only because grazing removes such a large percentage of the fuel which feeds wildfire, but also because livestock create trails at intervals throughout allotments which tend to cool fires down and make them burn more slowly. It can not be denied that when fires burn cooler and more slowly, they are far easier to bring under control.

And too, it must be remembered, when fires do burn at cooler temperatures, there are fewer plants lost. And when there are fewer plants lost, the range generally returns to its original state sooner because of the natural reseeding that occurs during years that follow.

**Finding #25                    The situation ranching families find themselves in under present circumstances**

As it stands today, if a member of a ranching family happens to start a fire, which then spreads to lands managed by either the Forest Service or Bureau of Land Management, the cost for fighting the fire can be billed to that person or ranching family who owns the premises where the fire started - which cost can be in the hundreds of thousands, or even millions of dollars. Yet on the other hand, if a fire happens to have started on public lands, for whatever reason, and it crosses over onto private land, and is to burn buildings, haystacks and standing feed, or even a home, it is unlikely that the ranching family effected will be reimbursed.

And then you couple that with the fact that it is the government that is now creating the very situations which are causing the largest, the most ferocious and the most catastrophic fires known since the time of first settlement - plus the fact that its been the unwritten policy of both the state Department of Forestry and the BLM and the Forest Service to let fires burn unless it threatens a home or a structure. Then you began to understand what a terrible situation ranching families are facing today.

This is why it is so that the right for local communities to regain control over the affairs of their local communities once more. Its about the right of local self government, and the right to protect one's property, one's life and ones family.

**Finding # 26                    Importance of seeding crested wheat grass to areas which are burned over by wildfire**

The practice of seeding crested wheat grass to rangelands began in northern Nevada in the late 1940's or early 50's, and today some of the very best deer habitat is found in those areas which were seeded to crested wheat grass in the past. It is a fact, that bitterbrush and many other native plants, including grasses, often come back sooner, and do a better when crested wheat grass is planted. And since crested wheat grass burns cooler, if fires do reoccur, they burn with less intensity than they would otherwise. And too, of course, when a fire burns cooler and with less intensity, fewer bitterbrush and native grass plants are lost. There is no question, the planting of crested wheat grass is a win, win situation.

As for sage grouse. The whole notion that crested wheat seedings are bad is false. In the 1940's there were sage grouse everywhere in Ruby Valley; and there were a good many sage grouse strutting grounds as well, both on the west side of the valley and on the east side of the valley. Most of the strutting grounds which were in existence at that time were located on the white sage flats south of Medicine Spring on the east side of the valley. Since then, there has been no change in vegetation cover in that area, yet sage grouse no longer strut there. Today there is only one known sage grouse strutting ground being used in south Ruby Valley, and that is located within a

crested wheat seeding south of Harrison Pass. Today's problem is not that we have been destroying sage grouse strutting grounds by seeding crested wheat grass; the problem is we have far too many predators killing sage grouse. Without question, seeding burned over areas to crested wheat grass is the best possible solution for obtaining desirable condition for the benefit of a wide variety of wildlife. (See 51-a and, 3-b.)

**Finding # 27                    Local volunteer fire fighters shall be allowed to use whatever equipment which is at their disposal when fighting wildfire within Nevada**

There is probably no one, anywhere, that faces greater threat to life and property than those citizens now living within the rural communities of Nevada whose homes and ranches lay adjacent to the public lands. Not only because the various resource management agencies have so dramatically reduced livestock grazing, which in places is causing two or more years of fire fuel to accumulate, but also because of current policy which often disallows private individuals the use of farm and ranch equipment to suppress wildfire on public lands.

In the past, citizens living within many of the outlying areas of Nevada have been told, that they cannot use their dozers or loaders in suppressing wildfire because of the need to protect archaeological sites, and that permission must be granted before any equipment can be used for the suppression of wildfire on public lands. (See Documents, 52-a. through 52-d.)

It is our finding there is no group of people that are better acquainted with the history and archaeological features of rural communities than are the people that live there. It is our recommendation that the various resource management agencies adopt policy, requiring personnel to hold public meetings within the various local communities for the purpose of gaining information as to where known archaeological sites are, in order that such places be mapped so that they can be protected at times when wildfire suppression and mop up is occurring.

**Finding # 28                    Importance of the right of individual home and property owner to fight wildfire in the traditional manner as they have since the west was settled**

For anyone reading the Declaration of Independence, it becomes abundantly clear that one of the greatest problems those living within New England prior to the American Revolution faced was not being able to freely conduct local self government. Not only were King George and the people of Great Britain imposing whatever laws they so desired upon the people of New England, but in addition, they were interfering with the people's ability to adopt policy and ordinances for the protection and management of everyday affairs within their communities.

In many ways, the situation the founders found themselves in is not much different from that which many persons living within the public land states face today. Think of it. If those living in the various communities in New England needed to put in structures for the purpose of flood control, as and example, the local people had no way of collecting taxes or passing law or policy

as a means of accomplishing such an objective - for it was the people of England that had control, and for them such concerns were of no interest.

That's what persons living within the rural areas of Nevada face today. For when it comes to the Public Lands, its not the local people that have the say - rather its people living in New York or Denver or Las Vegas that get to decide just how the majority of lands that lay within our communities are to be governed, and they certainly aren't going to be effected by wildfire; or because there may be too many predators taking down calves; or that the lack of grazing on the Forest lands is causing reductions in water production, or that ranching families are no longer able to make a living because of some unfair act by the BLM or Forest Service. And so those who live in the rural areas of Nevada go on and on, year after year, facing the fact that they don't really have control over fire policy, or grazing policy or anything else that goes on the public lands upon which they are dependant.

As it stands today, if the Forest Service so chooses, citizens living within the rural areas in Nevada can be denied even the right to go onto the public lands with their tractors or a shovel without agency permission. Issues involving the Public Health and Safety and general well-being of local communities must be decided by those who's lives and property are most effected. To do otherwise runs in direct conflict to the most dear principles of a free and just society.

**Finding # 29                      Nothing is more important than Quick Response when fighting wildfire**

We find that such road rights-of-way as have been recognized and claimed by the Elko County Board of Commissioners are critically important for aiding in the prevention of catastrophic wildfire, which, as everyone knows, can be the greatest threat to human life and safety known in our area. (See 52-a. through 52-c.) **Keeping the roads leading into the mountains open is "a public health and safety" issue!**

One of the greatest threats to life and limb, is when persons responsible for the property and lives of family members takes it upon themselves to do whatever it takes to stop a wildfire - which wildfire may or may not have gotten out of control because of excessive fuel loads brought on by irresponsible management of our public lands, or the unwillingness of governmental officials to see that everything is done that can be done to see that fires are put down when conditions are such that they can be put down.

Anyone who has ever fought fire over a period of years, comes to realize at one point or another, that certain conditions often arise, when the winds that are driving a fire may go down; or began to blow in a different direction; or a light rain may come; or the temperature drops, which allow for persons to get on a fire and get it put out - which conditions may not occur again for quite a while - or even worse, conditions can turn worse, where the humidity may go down, the temperature may rise and a seventy or eighty mile an hour wind come up, which can only result in disaster.

Too often in the past, its been an unwritten policy that wildfire can be ignored to some degree

until such time as when a structure is in harms way. We cannot allow that to happen any longer. **All fires must be put down when conditions are right for putting them down.**

It is our finding that one of the greatest mistakes made is not getting on the fires immediately. Quick response is critically important, for the bigger a fire becomes the more difficult it is to put out. And the more difficult a fire is to put out, the greater chance there is that it will destroy the homes and property or even the lives of citizens within local communities.

### **Finding # 30                      Effects of predator control**

The sound and effective predator control practices that were put in place during the late 1930's and extending through the 1960's did more to create an abundance of wildlife of every kind than all else combined. And, if it were not for the on-going predator control practices that continue to this day (even though they have been dramatically cut back and reduced over the years) wildlife numbers would be similar to those of pre-settlement times.

### **Finding # 31                      The history of Bighorn Sheep in Nevada**

Research thus far completed by Great Basin Consulting indicates there were far fewer bighorn sheep found in the Great Basin during the early 1800's than many originally thought. Of all the many accounts which were written during the period, 1924 through 1900, thus for only three references' have been found wherein bighorn may have been seen in the Great Basin.

First; hunters accompanying the John Work party while trapping throughout today's northern Nevada in 1831 saw tracks but no bighorn until they reached today's southeast Oregon where they saw four sheep near the Owyhee River.

And second: Cartographer Charles Preuss while traveling south on a rout taking the Fremont party from Fort Vancouver (Washington) to Pyramid Lake in 1843, saw mountain sheep somewhere in today's Humboldt County or Washoe County, "bound across some high cliffs, too quickly to get a shot".

In 1849, Elisha D Perkins, bought three "mountain goats", while traveling along the California trail near Rock Springs in today's Northeastern Elko County from Shoshone Indians, which were "about the color of a deer, tho not standing quite so high but something of the same form, with horns much like a fish hook with a long shank projecting forward from directly over their eyes" which may have been bighorn sheep – but from the description of the animal's horns, it may be assumed that the animals were probably antelope rather than bighorn sheep.

Only two instances where sheep were seen during a 78 year period, from 1824 through 1900, is practically no sheep at all when considering all the thousands of miles that were traveled by the mountain men, explorers and emigrants during that period.

Certainly, pictographs depicting mountain sheep are found at different locations throughout the Great Basin, but to say that sheep were abundant historically because there were images of sheep

found does not make it so.

Perhaps the best work done which can shed light on the question of sheep abundance during the period immediately preceding western settlement was that which was completed by ethnologist Julian Steward. Between 1931 and 1936, Julian Steward made numerous trips throughout much of the State of Nevada, southern Idaho, western Utah, and the Owens Valley area of California, interviewing native people and recording, among other things, the food items used by the various groups in each of the valleys he visited. Most of the people he interviewed were in their 70's or 80's and had gained much of their knowledge from their parents and grandparents.

The significance of Julian Steward's work was in discovering testimony showing just how scarce game was in the 1800's. As an example, in all of Mr. Steward's interviews, elk are mentioned only once, and that was in regards to hunting elk in the area of Yellowstone. Sage grouse was only mentioned once as well, and that was of Temoke, hunting sage grouse in Ruby Valley. The same can be said of mountain sheep. Just because the natives mentioned that their forefathers hunted mountain sheep from time to time does not mean they were not scarce and difficult to obtain.

That there were very few large game of any kind to be found anywhere within much of western America during that period, is indicated by the fact that the native people lived in brush shelters rather than skin lodges during winter; that moccasins were rare, and that no cradle boards were mentioned. What skins were acquired were mostly used for food storage apparently. Even successful rabbit hunts had to have been the exception rather than the norm, for testimony indicates that there were never enough rabbit skin robes for more than a few persons.

Small game was of relatively great importance. Reptiles, rodents, and insects all supplied food. Rodents and other small mammals held several advantages over large game. They remained in restricted localities and did not require a long chase as is the case when large animals are hard to find. Insects were of great importance. During some years, grasshoppers and Mormon crickets were abundant and could be taken in quantities that would last for months. Plant foods were also important. Unfortunately, even they were inadequate.

On good years pine nuts could be had over much of the Great Basin, but even then, good crops of pine nuts only occurred on occasion. Even on good years it was difficult for family groups to gather enough pine nuts during the naturally short harvesting period to last all winter. Consequently, starvation was not uncommon among the native people during that period.

Perhaps one of the best accounts ever written depicting just how harsh conditions may have been for many of the native people in the 1800's was written by Meriwether Lewis, of the famed Lewis and Clark expedition. In 1805, it was the plan of Meriwether Lewis to make contact with the Shoshone people on the west side of the continental divide, where he thought, they could trade for food and horses and lay over a few days before crossing the Lolo Pass. However, "the Chief informed us that they had nothing but berries to eat and gave us some cakes of serviceberries and chokecherries which had been dried in the sun; of these I made a hearty meal..."

The following day, Meriwether Lewis; “sent Drewyer and Shields before this morning in order to kill some meat as neither the Indians nor ourselves had anything to eat... “after the hunters had been gone about an hour we set out. We had just passed through the narrows when we saw one of the spies [one of the Indians who was following and watching the white hunters] coming up... he had come to inform us that one of the whitemen had killed a deer... “in an instant they all gave their horses the whip... as I was without [s]tirrups and an Indian behind me the jostling was disagreeable I therefore reigned up my horse and forbid the Indian to whip him who had given him the lash every jum[p] for a mile fearing he should loose a part of the feast. The fellow was so uneasy that he left me and the horse dismounted and ran on foot at full speed I am confident a mile.”

“...when they arrived where the deer was which was in view of me they dismounted and ran in tumbling over each other like a parcel of famished dogs each seizing and tearing away a part of the intestens which had been previously thrown out by Drewyer who killed it; the seen was such when I arrived that had I not have had a pretty keen appetite myself I am confident I should not have taisted any part of the venison shortly. Each one had a piece of some description and all eating most ravenously. Some were eating the kidnies the smelt (spleen) and liver and the blood runing from the corners of their mouths, others were in a similar situation with the paunch and guts but the exuding substance in this case from their lips was of a different description. One of the last who att[r]acted my attention on particularly had been fortunate in his allotment or reather active in the devision, he had provided himself with about nine feet of the small guts one end of which he was chewing on while with his hands he was squeezing the contents out at the other. I really did not until now think that human nature ever presented itself in a shape so nearly allyed to the brute creation.” (Spelling left unchanged)

Keep in mind, Lewis and Clark at this time, were right in the midst of some of the best bighorn sheep country found anywhere within the North American continent. If there was an abundance of bighorn sheep and other game in those presettlement times, why was it that the Shoshone people were starving as they were? Why was it that they had only one skin lodge within their camp while all the other inhabitations were brush wickiups? And why was it that the tribe had not gathered and dried large quantities of meat during the season?

(References can be found on line at, *gardnerfiles.com*)

End.

**RURAL HARITAGE PRESERVATION PROJECT**  
**Finding of Facts**  
**Historical, Scientific and Economic Analysis**

**Finding # 1                      History of fire in the Great Basin**

The first trappers and explorers to enter the west saw many burned over areas on the Snake Plains and throughout the Mid West, but not in the Great Basin. Apparently, even though the Indians of the Great Basin did burn from time to time for various reasons, the practice must have been rare indeed, for hardly anyone traveling through the Great Basin mentioned seeing burned over areas during the period, 1825 through 1900. Most wrote of traveling through valleys filled with artemisia, wormwood or creosote brush.

Many wrote of the difficulty they were having in places, making it through heavy brush, up to three inches in diameter. Yet no one ever mentioned coming to areas where travel was made easier because the brush had been burned away. Nor was there mention that the travelers had reached an area where there was an abundance of feed because of past fires. The most abundant animals found at that time were rabbits. And its no wonder, jack rabbits, pigmy rabbits and cottontail do well when a country is covered with large mature sage brush, greasewood, or rabbit brush, or a combination of all three. Jack rabbits, cottontail, and pigmy rabbits cannot survive in areas where sagebrush has been removed.

It=s no wonder the Indians were not burning a lot back at that time. Rabbits were an important food source for them. Burning would only eliminate the rabbit=s habitat, which in turn would eliminate the rabbits themselves. The Indians knew this. (*Pioneering the West, by the Egan Family, p. 36*) Keep in mind, the harvest of rabbits was far more important to the Indians at that time than was the harvest of bighorn, antelope or deer, simply because there were not a lot of bighorn, deer, or antelope around.

So why than, were there so few fires when it was recorded that there was a good deal of brush throughout the country? Just because there was a lot of brush in the country at that time does not mean that there was a lot of grass under or between the brush, or that the brush was as healthy or as thick as it may have been at a later date. When there is not a lot of grass growing between and under the sage brush to help carry the fire, and a lot of the brush is half dead and not doing well, it makes it difficult for a fire to spread.

Allen Savory, Steve Rich  
 And the Testimony of Jedediah Smith

As has been shown by Allen Savory and Steve Rich, when desert plants are not impacted by grazing on a regular basis, they often become unproductive and wolfy, to such a degree they often die. (See Document 21-c.), Plant frequency, plant health and plant vigor improve when plants are regularly impacted by large numbers of ungulates. (See testimony of Loyd Sorensen, Document 3-a., p 7. See also, Kipuka Study Sites, 50-a.).

Most historians believe Jedediah Smith was the first white man to cross through the Great Basin to the coast of California. In 1826 with 14 men and 28 horses, Smith left Cache Valley (Utah) traveling south. He passed through the tip of today's Nevada, then followed the Majove River into southern California. Jedediah had agreed to meet his two trapping partners, David Jackson and William Sublette, the following June for a rendezvous in Cache Valley. So in June of 1827, Jedediah took two of his best men and set out up the American River of the Sierra Nevada's and across central Nevada to keep his commitment. Later, in a letter to William Clark, Smith described the trip:

After traveling 22 days from the east side of Mount Joseph (Sierra Nevada's), I struck the southwest corner of the Great Salt Lake, traveling over a country completely barren and destitute of game. We frequently traveled without water, sometimes for two days, over sandy deserts where there was no sign of vegetation and when we found water in some of the rocky hills we most generally found Indians who appeared the most miserable of the human race. When we arrived at the Salt Lake, we had but one horse and one mule remaining, which were so feeble and poor that they could scarcely carry the little camp equipage which I had along. The balance of my horses I was compelled to eat. (See Document, 1-a.)

Most historians believe that Smith and his men came out of the mountains just south of Walker Lake, and very likely crossed through Nevada very near where the towns of Manhattan, Belmont and Current are now located - which areas, during the early 1900's have supported thousands of cattle and sheep

If Jedediah Smith's testimony regarding vegetative condition found within the Great Basin in the early 1800's is correct, then one must conclude that the findings of Allen Savory, Steve Rich, Loyd Sorensen and the Kipuka Study are correct, plant health and frequency is improved by grazing impact.

One must conclude as well, the reason that the earliest explorers and trappers were not seeing many burned over areas in the Great Basin in the mid 1800's was because of the lack of vegetative frequency.

Up until the 1970's, most fires (which typically were started by lightening) rarely burned more than an acre or two. Once in a while, when conditions were right, a fire would get out of control and burn as much as one or two hundred acres, but nothing like the fires experienced in recent years. (See Document 52-a. and 52-f.)

The catastrophic fires that have been occurring since the late 1970's, which have resulted in the loss of millions of acres of wildlife habitat, correlate with federal and state policy which has called for reduced livestock grazing. (See Tony Lesperance Report, Document 52-h. See too Documents, 52-i., 52-j., 52-l., 52-b. and 43-d.)

**Request No. 1, please send us a copy of all the documented evidence you may have indicating that our interpretation of the testimony given by the earliest explorers, trappers and**

**emigrants to enter the Great Basin is wrong regarding wildfire frequency during the period, 1825 through 1900.**

**Request No. 2. please send us a copy of all the documented evidence you may have indicating that our interpretation of the testimony of Jedediah Smith, Allen Savory, Steve Rich, Loyd Sorensen, and the Kipuka study regarding pre-settlement plant health and frequency is incorrect.**

**Request No. 3. please send us a copy of all the documented evidence you may have indicating that the findings in the Lesperance Report (referenced above) are incorrect.**

## **Finding # 2                      History of vegetative cover in northern Nevada**

There are a number of authoritative accounts giving descriptions of vegetative cover which existed within the Great Basin during the later part of the 1880's and early 1900's. The King Expedition, which traveled across Great Basin during 1867, 68 and 69, included a plant biologist named Sereno Watson, who kept extensive notes describing the various plant species he encountered. Capt. James Simpson also thoroughly described the vegetative cover he saw when he crossed through the Great Basin in 1858 and 1859. (See Document 6-d., See too, Book 13-39, *Report of Explorations across the Great Basin of the Territory of Utah For a Direct Wagon- Route From Camp Floyd To Genoa, In Carson Valley, in 1859, pp 29,30,31*)

Less scientific, but important as well are the writings of Joe Meek, Zenos Leanard, Peter Skeen Ogden, Jedediah Smith and James Clayman, who gave good accounts of their experiences when crossing through the Great Basin. They wrote not only of vegetative conditions, but also of the kinds and numbers of wildlife they were encountering. Later there were accounts by Lieutenant E. G. Beckwith, Howard Egan and Edward Kern. Collectively, these writings tell of little feed, starving horses and no game. (See, I-a. and 5-b., see also Book 13-39, pp 29,30,31.)

Despite modern perceptions by some that the native rangelands of Nevada or elsewhere in the West were hurt or destroyed by the settlement of the region, the opposite seems to be true. The area that is now known as Nevada went from a place where the first explorers said the country could not support their horses while crossing through the Great Basin to an area that was feeding over a million sheep and over 500 thousand cattle in the early to mid 1900's. (See Document I-a., see too, Book 3-1, *Northeast Nevada Frontier*) In this regard too, one should read the book, "When And If It Rains" (Document II-a. or Book 26-1) which includes accounts of a good many of the early settlers of the West who testified that the rangelands improved dramatically once livestock were introduced. (See too, Document 21-c.)

**Request No. 4, please send us a copy of all the documented evidence you may have indicating that our interpretation of the testimony of Sereno Watson, Capt, James Simpson, Joe Meek, Zenos Leanard, Peter Skeen Ogden, James Clayman, Lieutenant E.G. Beckwith, Howard Egan and Edward Kern regarding conditions in the Great Basin in the 1800's is incorrect.**

**Request No. 5, please send us a copy of all the documented evidence you may have indicating that the testimony within the book, "If and When it rains" indicating that the rangelands of western America were improved by the introduction of livestock is incorrect.**

### **Finding # 3                      History of effects of livestock grazing in Nevada**

There never has been the destruction of the range by livestock grazing as has been alleged by so many within the various resource management agencies, who's purpose it has been to gain a management position over the western public lands. (See documents 9-a. & 10-a.) There have been prolonged droughts at times of course, when it appeared that the range was deteriorating, but then when good years have come, it always seems that there is grass and feed everywhere. Desert plants are tremendously resilient, and the feed that will grow on the best years can be phenomenal. (See Document, 11-a.)

#### The Yager Journal

Perhaps, one of the more interesting aspects of early exploration and travel in the west accrued along the Humboldt River. The very earliest trappers and explorers to travel the Humboldt found feed exceedingly poor. Within a short period of time however, even though thousands and thousands of horses and cattle had been driven along the Humboldt corridor, all testimony indicates that feed conditions were improving rather than deteriorating as many now believe.

To give an idea of just how large many of the wagon trains were, in 1862, James Yager wrote, At camp Weaver River our train was joined by eight or nine wagons & this morning we were joined by the train that camped by us last night fifteen wagons making in all about forty wagons & seventy men. Five days later Yager wrote, A Peterson's train of thirty one wagons & (L)ouises of fifteen became connected at one time this morning, making a train of eighty nine wagons and a carriage. You would think, with all the thousands of cattle and horses and people traveling along the Humboldt during that time - with all the impacts of setting up camp, then repacking again - all the livestock coming and going and watering twice a day, plus all the feed that was being consumed, there would have been much talk of everything being eaten off and abused. But such was not the case. Yager and others traveling along the Humboldt during the latter years of the migration to California, mentioned over and over, how good the grass was.

Interesting too, is that the immigrants that were passing through the Great Basin in the very late 1850's and early 60's were seeing more sage grouse than the earlier travelers had seen. Does this testimony not indicate that resource conditions were improving rather than deteriorating because of the impacts of large hoofed animals traversing the area? We think it does.

#### Lewis and Clark, Peter Skeen Ogden and John Work

When Lewis and Clark were traveling up the Missouri River in 1804 and 1805 - wherever they found buffalo they found other wildlife such as elk, deer and antelope as well. Peter Skeen Ogden and John Work had similar experiences. Ogden had to leave the Humboldt during the winter of

1828 and 29 because his party was facing starvation. When they reached the eastern snake plains and buffalo they found a good many elk and antelope as well. In 1831, John Work also found elk, antelope and even mountain sheep to be more numerous where there were buffalo, both on the eastern snake plains and in southwestern part of today=s Montana.

The reason there may have been more deer, elk and antelope found in areas where large numbers of buffalo are found may have been twofold. First, buffalo, because they were more numerous and in ways more vulnerable to predation, may have acted as a buffer drawing predators away from other species. And two, everything seems to benefit when herds of large hoofed animals such as buffalo or cattle impact an area. Insect production increases, mice become more numerous, marmot and ground squirrel populations increase. Deer, elk, antelope and even bird life become more abundant.

### Spanish Colonization in California

Spanish efforts to colonize Alta California in the late 1700's revealed a similar circumstance . As was recorded in the book, *Old Spanish Trail, by LeRoy R. Hafen and Ann W. Hafen:* Once decided upon, the project to colonize Upper California was carried out in typical Spanish fashion , soldier and friar marching side by side to found the twin outposts of presidio and mission... Expeditions were to proceed both by land and by sea.

Two small vessels, sent from Lower California in 1769 were loaded with men and supplies for the new enterprise. Agricultural implements, seeds. tools, provisions, and church paraphernalia were taken aboard.

The land contingent was formed in two parties. The first, led by Captain Rivera, comprised Spanish soldiers and Christian Indians who drove along some 400 animals...

Portola and Sierra, with the second land party, followed the Rivera Trail and reached San Diego on July 1<sup>st</sup> [1769]... Conditions were not heartening. Ninety-three of the would-be colonizers had perished on shipboard or since landing... Of the nearly 300 who had undertaken the venture only 126 [remained]...

Frantically, one ship was sent back for supplies. while Portola, true to his orders, pushed northward by land with most of the able-bodied men for Monterey... Portola and his men succeeded in their heroic march to Monterey and on the journey accidentally discovered important San Francisco Bay. Supplies ran low on the return trip, writes Portola:

I ordered that at the end of each day=s march, one of the weak old mules which carried our baggage and ourselves, should be killed. ...we shut our eyes and fell on that scully mule (what misery!) like hungry lions, we ate twelve in as many days... At last we entered San Diego. smelling frightfully of mules.

[Upon his return] Portola found things in a deplorable state. Numbers of the sick had died; hostile Indians had pillaged the camp; provisions were running low. Some urged the abandonment of the venture... Finally the relief ship came; to the friars it was an answer to their novena, a nine-day vigil of prayer.

It is hard now to understand how, in a land of such bountiful natural resources, there was then such poverty in California and such utter dependence on the importations of food and supplies from elsewhere. But crops were not raised successfully during the first years, and it took time for domestic animals to increase.

By 1820, forty years after livestock had been introduced to southern California, horses had grown so numerous they were a nuisance and had to be controlled. Jose del Carmen Lugo, native of Los Angeles, recalled:

When I was eight or ten years old, that is, from 1821 to 1824, there were great numbers of wild and very troublesome horses. They would come to the very outskirts of town and eat the pasturage, leaving the gentled horses without food even often coaxing them away. The government finally decided, in agreement with the pueblo [Los Angeles], to have a general killing of these wild horses.

By 1841, California had changed dramatically. A Frenchman, Dufiat de Motras making an inspection for his government described Los Angeles:

The pueblo of Los Angeles is extremely rich... Within an area of 15 or 20 square leagues. local residents own over 80,000 cattle, 25,000 horses, and 10,000 sheep. Vineyards yield 600 barrels of wine, and an equal amount of brandy...

In late October of that same year, the Bidwell-Bartleson party (recognized as the first American immigrants to reach California by way of the Great Basin) had reached the upper San Joaquin Valley. The passage over the Sierras had been extremely hazardous; the whole company was gaunt and worn. On Oct. 30, as the party was descending the west side of the Sierras:

Bidwell was only too happy to breakfast on the wind-pipe and lungs of a fat coyote shot by one of the company. By nightfall, however, he was able to turn to his journal in almost a delirium of delight: A...Joyful sight to us poor famished wretches!! Hundreds of antelope in view! Elk tracks, thousands! Killed two antelopes and some wild fowls, the valley of the river was very fertile and the young tender grass covered it, like a field of wheat in May. (*The Humboldt, highroad of the west, by Dale L. Morgan*)

In May of 1844, as Fremont traveled south through the San Joaquin Valley, he noted the favorable environment and abundant animal life about them:

Flowers and oaks were only part of the wild beauty of this valley. There were vast herds of wild horses and cattle, tule elk, pronghorn antelopes, and blacktail deer. Overhead there were flights of ducks and geese that passed like small storm clouds... [And later]: They crossed the Tuolumne, Merced, Kings and Kern Rivers,... In this part of the San Joaquin Valley the wild horse herds were larger than any the men had ever seen. Horses roamed the grassland like herds of buffalo on the Great Plains... he noted the favorable environment and abundant animal life about them. (*Fremont, Explorer for a Restless Nation, by Ferol Egan*)

It was not until large herds of cattle and horses began to appear across the West, that western range lands that wildlife began to increase. In fact it was in the 1940's and 50's, at the very time that our range lands were alleged to be in their poorest condition, that we were seeing the greatest number of mule deer, sage grouse, ducks and even song birds throughout the Great Basin.

**Request No. 6, please send us a copy of all the documented information you may have indicating that our findings regarding the testimony of James Yager, Lewis and Clark, Peter Skeen Ogden, LeRoy and Ann Hafen, Charles Fremont and James Bidwell which indicate that wildlife habitat is improved when large numbers of ungulates began impacting an area on a regular basis is incorrect.**

#### **Finding #4            Custom and Culture, Settlement and Predator Control**

The environmental movement is based on the assumption that all was optimum prior to the coming of white man; that grass was tall, lakes and rivers were crystal clear and wildlife was evident at every turn. But historical records and first-hand accounts indicate otherwise. When Jedediah Smith, Peter Skeen Ogden and John Fremont first made tracks throughout the West, they found the rivers muddy, the grass poor and game hard to find. These men and others like them, in order to survive, learned to live as the Indians lived, relying at times on insects, their dogs or horse meat in order to survive. (See Documents, I-a., 5-a., 5-b. And 5-c.)

Once white man began settling the region, many changes began to occur. First, these people from far-off lands had been exposed to ideas and practices developed throughout the world. They had knowledge of agriculture, cloth, metal and gun powder. They had domestic animals, horses, cattle, chickens and pigs. Rather than spending their time moving from place to place they took up land, remained in one place, dependent on their agriculture. Their greatest need was to protect their crops, their pigs, their chickens and their livestock. And this they did with guns, traps, or by whatever means.

By the turn of the century every country store across America was selling reasonably priced, 22 caliber rifles. Stevens, Winchester, Savage, Marlin and Remington were making, 22 rifles that sold for \$1.98 to \$7.00 a piece, depending on the make and model. Every boy, white and Indian, along with their fathers and many of their sisters were controlling predators. By 1910 large numbers of men in every community were trapping during the winter months. School age boys, too, had trap lines that they tended going and coming from school. Coyotes, bobcats, badgers,

skunks and weasels, nearly all fur-bearers were fair game. Crows, magpies, and "chicken-hawks" were shot on sight. Then in 1912 there was a major outbreak of rabies in central Nevada. So bad was the epidemic, that rural families had to keep their children and dogs locked up or fenced in. See Documents, 3-a. through 3-j., see also, Book 3-1, Northeast Nevada Frontier)

By 1914 the rabies epidemic had spread to nearly all the western states. It became a national health problem. In July of 1916, Senator Key Pittman of Nevada sponsored a bill through Congress appropriating \$25,000 for rabies control. In the 1930's toxins (primarily strychnine) and airplanes were being used to control predators. The results were phenomenal, coyotes, skunks and crows and other predators became few, while deer herds exploded. In many areas sage chickens could be harvested "by the gunny sack full". Ducks and other waterfowl clouded the skies and song birds were everywhere. (See Book, 3-1, Northeast Nevada Frontier, see also Documents, 30-a., 45-a., 45-b., 45-d. and 45-e., see too, Documents 6-a. through 6-c.)

But then, in the 1950's the federal government began reducing predator control, first by discontinuance of bounty systems, and by requiring absolute proof that predators were destroying livestock before action could be taken, then later by outlawing the use of toxins, reductions in predator control funds and by not allowing predator control in wildlife refuges and wilderness areas. Such measures have had a profound effect. Not only has the curtailment of predator control helped put thousands of families out of the sheep business over the years, but deer, duck, upland game and song bird populations have declined as well. (See Documents, 55-a., 55-f.)

It is recognized however, reductions in predator control have not been the only factor which has had adverse affects on local communities. The inability of local citizens to influence outcomes of public land policy have also had an adverse affect the economic well-being of ranching communities. (See Documents, 13-a. through 13-c.)

**Request No. 7, please send us a copy of all the documented information you may have indicating the implementation of the American system of government which recognizes and protects the right of property has not led to the greatest prosperity for those living within our boarders than any other that provided anywhere throughout the history of the world.**

**Request No. 8, please send us a copy of all the documented information you may have indicating that reductions in predator control practices as were implemented by state and federal agencies beginning in the late 1950's has not caused great declines in wildlife here in the West.**

**Request No. 9, please send us a copy of all the documented information you may have indicating that the quality of lakes, streams and rivers was not improved by western settlement as is indicated by documents, 5-a., 5-b., and 5-c.**

## **Finding #5                    History of mule deer in the Great Basin**

It's not hard to trace the history of mule deer in the Great Basin. The logs, diaries, journals and

other accounts which were written by those who crossed through the American West during the 1800's hardly ever mentioned deer. Some have said that the reason that deer were not seen during that period was because the earliest explorers and trappers were only traveling down the valleys and along the rivers where they would not have seen the deer which were in the mountains. But nearly all the trapping parties had one or two men with them whose responsibility it was to scout the country in all directions, looking for game and new trapping areas. Every stream and every pond that could be trapped, and every canyon that may have held game was sought out. And when no game was found, as was often the case, then it was beaver tail and horse meat that sustained the trappers. (See Documents, 1-a., See also, book 13-30, *Peter Skene Ogden's Snake Country Journals -1824-25 and 1825-26*)

The explorers and trappers did find a few antelope from time to time however, but not often. Perhaps the most telling, was the condition of the American Indians at that time. By every account it seems the Indians were so poor, hardly any of them wore moccasins. Nor is there evidence that they had cradle-boards for their little ones. It wasn't that they did not have knowledge of such things; rather they didn't have the material to make them. Apparently, on rare occasions, when the native people of the Great Basin were able to harvest an antelope or deer, the hide of the animal was used for making bags for storing food stuffs which they often carried with them. (See book, 13-39, *Report Of Explorations Across The Great Basin of the Territory of Utah For A Direct Wagon-Rout From Camp Floyd To Genoa, In The Carson Valley, In 1859*, see too, Document, 7-a. pp 20,21,22 and 23)

Deer did not become plentiful until the late 1930's - after sheep and cattle had been introduced into the country and effective predator control programs had been put in place. Records kept by Forest Service personnel monitoring the Toiyabe Mountains and Ruby Mountains during the early history of Forest Reserves bears this out. In the Ruby Mountains, 10 deer were seen in 1921-followed by a steady increase until an estimated 3,000 animals were seen in 1939. By the mid 1940's deer numbers on the Ruby Mountains were in the thousands. No one knew how many there were for certain. In California, Utah, Oregon, Washington, Idaho, Colorado, Wyoming, everywhere it was the same, as predator control practices improved, so too were there more wildlife. Deer, sage grouse, song birds, every pray animal seemed to benefit from predator control. (See pages 5 and 6, document 22-a. See also, 3-a. through j., see also, 54-a. and 55-d.)

Early history indicates that there were very few, if any, mountain lions in the Great Basin at the time of early exploration and settlement. Research by employees of the Nevada Department of Wildlife found only one early reference, wherein the Territorial Enterprise (Virginia City) on June 27, 1867, reported that a "catamount" was killed in the Six Mile Canyon area. The writer stated that "This is the first animal of its kind we have ever heard of in this region" Apparently, there were no lions seen again anywhere in Nevada until sometime in the early 1920's. (See, *Division of Wildlife Comprehensive Mountain Lion Management Plan, 1995*)

Perhaps one of the greatest testimonies in this regard was that which is revealed in the book *Beltran: Basque Sheepman of the American West*. Beltran Paris came to the United States in 1912. Soon after he arrived he went to work for the Williams sheep outfit which summered in the Gold Creek and Bruneau areas of northern Elko County and wintered near Frenchman and Gabbs

Nevada. After working for Williams for several years, Beltran went into the sheep business for himself in Butte Valley. Beltran's brother Arnaud also worked for Williams for a number of years, but later went to work for Baker Ranch, and then the Adams and McGill outfit. This meant that both Arnaud and Beltran had spent a good many years in the outdoors, covering vast areas throughout Nevada, yet, neither Beltran nor Arnaud had seen or heard of a lion until the early 1920's.

Beltron wrote: "My brother Arnaud was the first to find out about the lions. He was campending for Adams and McGill and one morning when they were trailing their sheep south to the desert his herder came and told him eight of his big ewes were dead. Arnaud thought maybe they ate something bad so he went over there. He saw right away an animal had killed them. Well, bobcats were worth a little money and he kept two number three traps in his camp. He set them around the dead sheep and then told the herder to move his bunch out of there. The next day Arnaud went back and he sure was surprised. There was a great big lion in his traps. He was pretty scared but the lion didn't do anything. They don't want to hurt their foot. Anyway, Arnaud shot that one and skinned it out. His boss was so happy he gave Arnaud a ten-dollar reward. That was the first lion any of us ever saw in this country."

Historical evidence indicates that the great deer herds of the 40's and 50's and 60's were a product of settlement and predator control - and that mountain lions in Nevada are a product of our deer herds.

Interestingly, according to the Division of Wildlife, Comprehensive Mountain Lion Management Plan (1995), in 1994 a male lion that was radio-collared in Idaho moved 250 miles to central Nevada. Certainly, if mountain lions are capable of traveling so far - if there had been an abundance of deer in the Great Basin in the 1800's, there should have been large numbers of mountain lions in the Great Basin as well.

**Request No. 11, please send us a copy of all the documented information you may have indicating that our findings regarding the history of mule deer is incorrect.**

## **Finding # 6                    History of Sage Grouse within the Great Basin**

Perhaps Sage Grouse, is a good indicator for determining the general well-being of a number of species found within northern Nevada. The period of greatest sage grouse abundance in the 1940's and 50's, coincides with the period when there were the most mule deer, song birds, rodents, snakes and frogs and so forth throughout northern Nevada. (See, 57-a., 4-a., and 4-b., 5-b. and 6-b., see too, 45-a., 45-b., 45-d., 45-e., 30,a and 3-a.)

Records show there were no sage grouse seen in the Great Basin during early exploration. Jedediah Smith never mentioned them when he told of crossing through the Great Basin in 1827. Peter Skeen Ogden never mentioned them when he was trapping the Humboldt in 1828 and 29. Zenos Leanard never mentioned sage grouse when crossing through the region now known as Nevada. Nor did Milton Sublet, Joe Meek or James Clayman mention them. (See I-a. and 5-b.) A

few sage grouse were seen in the Great Basin in the 1850's however. Capt. E.G. Beckwith, while conducting a survey for a possible railroad-route along the 41st parallel in 1854, wrote of seeing "sage cock" on one occasion, while traveling north "on the plain" east of the Franklin River in Ruby Valley. Captain James .H. Simpson also encountered "sage cock" while crossing through the Great Basin and back in 1858 and 59 - once at Pacific Spring, once in Ko-bah Valley west of Eureka, and once in Spring Valley on their return trip. (See book, 13-51, Report by E.G Beckwith -*For a Railroad Route South of the 40<sup>th</sup> Parallel, See too, Book, 13-39, Report Of Explorations Across The Great Basin of the Territory of Utah For A Direct Wagon-Route From Camp Floyd To Genoa, In The Carson Valley*

Perhaps the best accounts indicating the early status of sage grouse in the Great Basin were those written by Julian Steward and Robert Ridgway. Robert Ridgway, served as the zoologist for the King Expedition during the time when that party was making its geological assessments along the 40<sup>th</sup> Parallel during 1867, 68 and 69. The significance of Robert Ridgway's "ornithology report" or assessment of bird life, which took place over the three year period when they were covering a good deal of the area between Sierras and the Wasatch Mountains of Utah, was that, during all of that three year period, while inspecting one valley after another and climbing mountain after mountain, Mr. Ridgway only mentioned seeing "sagehen" (*centrocercus urophasianus*) five times. One sighting was on Peavine, just north of Reno, one was near Wadsworth, on the north end of the Virginia Mountains, one was near Fort Ruby, where Ridgway observed a "sage hen" being pursued and then taken by two eagles, one was near Secret Pass at the north end of Ruby Valley, and one was near the City of Rocks in southern Idaho (See Document, 6-c.)

Equally important to Robert Ridgway's work was that of ethnologist Julian Steward. Between 1931 and 1936, Julian Steward made numerous trips throughout Nevada, southern Idaho, western Utah and the Owens Valley area of California, interviewing native people and recording, among other things, the food items used by all the various groups in each of the valleys he visited. Most of the people he interviewed were in their 70's or 80's. So most of them were born in the 1860's or 70's, and had gained much of their knowledge from their parents and grandparents. (See Document, 7-a.)

The significance of Julian Steward's work was in discovering testimony showing just how scarce game was in the 1800's. As an example, in all of Mr. Steward's interviews, elk are mentioned only once, and that was in regards to hunting elk in the area of Yellowstone. Sage grouse was only mentioned once as well, and that was of Temoke, hunting sage grouse in Ruby Valley.

In contrast to the above, persons living in the 1940's and 50's and 60's told of encountering large numbers of sage grouse during their lives. (See testimony of Frank Temoke, 45-d., Frank Delmue, 45-c., Steve Sewell, 45-d., Jake Reed, 17-b., Dave Hage, 45-a., Raymond Mendive, 3-a., and Jack Walther, 45-b.).

**Request No. 12, please send us a copy of all the documented information you may have indicating that our findings regarding the history of sage grouse is incorrect.**

## **Finding #7                    History of bitter-brush, then and now**

Testimony by the earliest trappers and explorers regarding vegetative cover in the Great Basin, mirrors, to a great degree, testimony regarding sage grouse. By every account, the country was barren and the feed was poor in the 1820's and 30's. But then, it seems that those who traveled throughout the Great Basin in the 1850's and 60's, found better feed. Perhaps the country, at that time, was experiencing dry periods and wet periods, no different than what has been witnessed since that time.

The more detailed records of Captain James H. Simpson and Sereno Watson indicate that the vegetative cover (in terms of the kinds and types that were found) of that period was similar to that of recent times. Capt. Simpson, after traveling from Camp Floyd in Utah to Genoa and back again in 1858 and 59, described the plains and valleys as being vast areas dominated by sagebrush, with very little grass. He wrote of mountain ranges clothed with pinion and juniper, with some quaking aspen in the larger basins and draws. He also wrote of mountain mahogany, and of timber being on the tops of some mountain ranges.

Sereno Watson's accounts were more detailed and scientific than were those of Capt. Simpson. Records indicate that Watson found bitterbrush, (*purshia tridentata*), on nearly all of the mountain ranges from Sierras to the Uinta Mountains in northern Utah.

Some argue that overgrazing of grasses in the late 1800's and early 1900's caused sagebrush and bitterbrush to increase throughout the Great Basin. Others say that bitterbrush was overgrazed during that same period by sheep. Regardless, when the agencies began restricting livestock use in the 1970's it generally took only a year or so of rest, and the plants, from grass to browse, would burst forth with lush foliage. Pictures taken at that stage were used to show how the range had improved. However, what is not shown is how these same plants within a short time become decadent and unproductive when left ungrazed. (See Document 54-a, *Vegetative Stagnation in Three-Phase Big Game Enclosures*, by Paul T. Tueller and Jerald D. Tower) In truth plants of all kinds need to be routinely grazed or hedged in order to remain productive.

**Request No. 13, please send us a copy of all the documented information you may have indicating that our findings regarding the history of bitter-brush is incorrect.**

## **Finding # 8                    Effects of wildfire has had on bitter-brush communities and mule deer throughout Nevada**

The biggest changes in plant communities and range condition have come about since the 1970's, after the agencies began cutting permits and removing livestock from the range. It was then that we began experiencing the out-of-control fires that have been raging throughout the west in recent years. And it has been because of the fires that we have been losing so much of our range and wildlife resources (as Dr. Tony Lesperance predicated would happen, back in 2000). (See Document, 52-h., see too, 52-a., through 52-f., see too, 52-e. & 52-f.)

Some have said that mule deer can live in areas where there is no bitterbrush. That may be, but for the most part, it has always been in those areas where there have been good stands of bitterbrush that mule deer have flourished. In northern and western Nevada, in eastern Nevada, in Utah, Idaho and California, wherever there have been good stands of bitterbrush, and where effective predator control programs have been ongoing, is where there has been good deer production over the years. (See Document, 54-b.)

Every year it seems, we are losing more and more bitterbrush to wildfire. Which is something that we can no longer allow to happen - for in truth, we have lost most of our best deer habitat already. Why is that you might ask? Well its simple really, wherever you see bitterbrush growing, you can be assured you are in an area that not only grows good bitterbrush, but grows a lot of grass as well. Which means, that if little grazing has occurred and lightning strikes, it is these areas that burn first. (See Documents, 52-b., 52-e. and 52-f.)

However it doesn't end there, for the agencies then require that such areas not be grazed for at least two years, even though such policy is not backed by science. And so, unfortunately, the stage is set for more and more cheat grass growth, which in turn sets the stage for more and more wildfires, which spread over more and more area. And so, on and on we go, destroying more and more wildlife habitat, destroying more and more of our native rangelands, destroying more and more deer and sage grouse habitat, while at the same time endangering and destroying the economic viability of ranching operations. (See Document, 52-g.)

**Request No. 14, please send us a copy of all the documented information you may have indicating that our findings regarding the effects of fire on bitter-brush is incorrect.**

**Finding # 9                    Importance of private land ownership and the effects of such  
   regarding the preservation of bitter-brush communities**

If a person drives around the base of the Ruby Mountains today, that person might notice that there are areas along the foothills which appear darker than others. These darker areas generally include a good stand of different kinds of brush - mostly bitter-brush. It may also be noticed that in contrast, there are other areas where it appears that such stands of brush have been removed by wildfire. Interestingly, in most instances, the areas where the brush has been removed by wildfire are areas that are managed by the Forest Service, whereas the areas that remain covered with healthy stands of mountain sage and bitterbrush are generally privately held lands.

Simply put, the reason for all this is, while it has been the policy of those within the federal agencies over the last 30 years or so, to leave fifty percent or more of the available feed within allotments each year - which policy has led to the situation where we are now experiencing the terrible fires we are having, the ranching community has continued to graze their lands in a manner which prevents excessive fuel buildup. Which indicates, of course, that its been a very good thing that lands surrounding the Ruby Mountains have been in private ownership for all these years, for if there hadn't have been, the deer would have suffered even more than they have over the last several years.

For years, ever since the early 1940's, the Ruby Mountains have been recognized as the finest deer producing area in the state. Certainly, there are other mountain ranges that have the same potential for producing as many deer as do Ruby Mountains. So why the difference? It's obvious really, ranching and private land management have not only had a positive effect on reducing wildfire over the years, but ranchers also do a good job of controlling predators, which does not often occur on Forest Service or BLM lands, because of ever increasing regulation and public pressure to protect predators. Perhaps more lands should be transferred into private ownership, rather than the other way around.

**Request No. 15, please send us a copy of all the documented information you may have indicating that our findings regarding the effects of private land ownership have on deer habitat is incorrect.**

**Finding # 10                    Importance of solar reception, and what happens when overstory becomes excessive**

If any one of us were to walk out to our front yards during summer and place an object on the ground covering an area, say, 6" long by 6" wide, and we were to leave it there for three or four days, we would find at the end of that period, that the grass which was covered by the object would have turned yellow. And we know that if we were to leave it there long enough, that the grass would die completely. The reason being of course, plants simply cannot survive without sunlight.

The same thing happens when a layer of dead grass is left on a mountain meadow from year to year. Within a short time fine stemmed grasses and plants of lower stature, such as dandelion and clover, soon die and plant diversity is lost. (See Documents, 23-a. through 23-h.)

Rangeland grasses also deteriorate and die away when they are not impacted as they should be by regular grazing. It's true, overgrazing can lead to weakened plants and reduced production. But the opposite is even worse. Take the 1940's and 50's as an example; right at the time when we were running the greatest number of sheep and cattle on our rangelands, was when we had the most deer and sage grouse in the country. And they all did well too. In fact, evidence indicates that the sheep and cattle and deer were healthier and bigger and fatter than then they are today. And so, what does this mean, except that the reductions in grazing that have occurred since the 1970's have been wrong from the beginning. And now, the only thing we are accomplishing by continuing to ignore the truth is to cause more and more fuel buildup on our rangelands - which not only jeopardizes the public health and safety of our citizens, but leads to the loss of thousands and thousands of acres of prime wildlife habitat as well. (See Documents, 23 -a through 23-h., see too, Document 21-c.)

**Request No. 16, please send us a copy of all the documented information you may have indicating that our findings regarding the importance of solar reception is incorrect.**

## **Finding # 11                      Historical effects of grazing on riparian areas**

It became popular in the 1980's and 90's for the Forest Service to set utilization standards for grazing on riparian areas. For example, if a rancher turned his livestock out on the range where there were riparian areas, such as along a creek or meadow area, and his cattle were to eat more than 40 to 45 percent of the feed in one of the riparian areas, it didn't matter if the cattle had only been in the pasture for a very short time, or that less than ten percent of the feed had been utilized on the surrounding lands, the rancher was to remove to his livestock immediately, for if he did not he would have his permit reduced by as much as 25 percent. Needless to say, such policy has caused great hardship for a good many permittees. (See Documents, 13-a. through 13-c. and 17-a. through 17-c.)

The discerning thing about the whole affair is, after nearly a decade had passed it was learned, that the very policy, which had by then put a great many people out of business, was not supported by sound science. And in fact was repudiated by studies which had been completed at the Starkey Experimental Station in Oregon - which studies show conclusively that the removal and reductions of livestock use on riparian areas can not be supported scientifically. (See Document, 19-a. through 19-c.)

### **The Starkey Experimental Studies**

Over a period of 12 years, graduate students and scientists measured the effects of cattle grazing on every riparian value imaginable. They applied rest rotation grazing, season long grazing, short duration grazing, deferred rotation, and non-use. They monitored and determined effects on soil compaction, infiltration rates, streambank erosion, sediment loads, biological content of the water itself, effects on fish redds, impacts on streamside vegetation, vegetative health and feed production. And when it was all said and done, they found that nearly all riparian area values were not harmed, and if anything, benefitted from livestock grazing. An Environmental Impact Statement addressing these issues should be initiated as soon as possible so as to prevent continuing degradation of riparian areas found throughout the state of Nevada.

**Request No. 17, please send us a copy of all the documented information you may have indicating that our findings regarding the historical effects of grazing on riparian areas is incorrect.**

## **Finding # 12                      Knowledge gained more recently**

It has been more than twenty years now, since the Forest Service first implemented it's riparian utilization standards throughout much of central Nevada. Great change has occurred since that time. The sheep industry is nearly nonexistent now. Nearly half the cattle which once grazed upon the public lands in the 1950's are now gone. As a result, great social-economic harm has been done to the livestock industry throughout Nevada. (See Documents, 17-a. though 17-c.)

Adverse impacts on environmental values are also a concern. We know now that because of the

removal of livestock from riparian habitats, such areas have now become overgrown with dead and decadent willow growth which shades out the majority of grasses and other understory that existed formerly. In many places, such detrimental overgrowth has made it nearly impossible for a person to get through thickets and creek bottoms, even on foot. (See Documents, 20-a. and 20-c. See also documents 45-c. through 45 f.)

Accumulative, long term, and short term impacts are becoming more and more evident year by year, including degraded riparian habitats, loss of riparian understory, increased fuel buildup, ever increasing loss of wildlife habitat - and a range livestock industry that is now on the verge of collapse because of adverse policy set forth by state and federal agencies.

**Request No. 18, please send us a copy of all the documented information you may have indicating the information presented in Documents, 17-a. through 17-c., 20-a. through 20-c., and 45-c. through 45-f. is incorrect.**

### **Finding # 13                      Possible reductions in water flow**

There is a good deal of scientific information which indicates, that when grazing is reduced or livestock are removed from typical mountain pastures in Nevada and elsewhere throughout the Inter-mountain West, woody vegetation increases to such a point that more often than not, it causes significant reductions in water production. (See Documents, 43-a. through 43-f.) Rural Heritage Preservation Project finds that one of the greatest mistakes ever made was when the public allowed the USDA Forest Service to go forward with it=s policy of reducing livestock grazing on Forest lands in the 1980's and 90's without forcing them to complete an Environmental Impact Study regarding all possible, cumulative, long term and short term, adverse effects which would result because of reduced livestock grazing; including, reductions in production of water flow; the destruction of wildlife habitat, due to ever increasing wildfire, and overstory production within riparian areas; and the effects of such on the livestock industry and local economy.

**Request No. 19, please send us a copy of all the documented information you may have indicating that an Environmental Impact Statement does not need to be completed regarding the issues stated above.**

### **Finding # 14                      Mismanagement of our nation's wildlife refuges**

Nowhere, at any time, in the history of the world has socialist management of land and resources worked. It did not work in Russia, nor is it working here in the United States. Yet more and more lands here in the United States are being put into the hands of government - to the detriment of wildlife, to the detriment of our economy and to the detriment of the future of this nation. (See Documents, 40-a. through 40-f., see too, Documents, 22-a. through 22-i.)

**Request No. 20, please send us a copy of all the documented information you may have indicating that the information presented in Documents, 40-a. through 40-f., and Documents,**

**22-a. through 22-i. is incorrect.**

**Findings # 15                    Importance of removing mature vegetative cover**

Those who did a lot of hunting back in the 1950's and 60's report there were not only a lot more deer at that time, but that the deer were fatter than they are today. When skinning a deer back then, there would always be a layer of hard fat, an inch or so thick over the rump - something you seldom see these days. Much of the difference appears to be the greater number of sheep that were present in the country in the 1950's and 60's. Back then it seemed, there were bands of sheep moving through the country nearly everywhere, and as they would move through, they would take a little from nearly every plant. They would nibble the tops off of the grass; they would eat the weeds back; they would take a little quaking aspen, a little chokecherry, and a little rosebush, nearly everything. And then they would move on, returning again the following year. It was the very closest thing to being the ultimate way of achieving short duration grazing ever known. The various range plants benefited tremendously. It would not be long until all the vegetation that had been impacted was bursting forth again with new foliage, which nearly always was richer in nutrient value than it would have been if all the plants had not been hedged. (See Documents, 45a., 55-a., and 53-e.)

In the 1970's, some began suggesting that livestock were hurting the range - that cattle were taking too much of the deer's feed. Their focus seemed to be on bitterbrush - claiming that there was little winter feed left for deer. Soon, demands were being made, calling for the removal of livestock from the range. Finally, a study was initiated to determine the truth of the matter, whereby there were enclosures built at different locations throughout the state, so that cattle could be excluded, and the effects of grazing could be determined. The results were not what many expected. Instead of finding that there was more feed produced when livestock were excluded, the plants (mostly bitterbrush) yielded less production. (See Document, 55-a.) This finding confirmed that vegetation if left unpruned becomes decadent and unproductive. The most effective way of pruning range plants is by livestock grazing.

Nothing demonstrates this better than those areas where livestock have been removed altogether. Wherever livestock removal occurs, it is not long until deer, elk, and even birds began to leave the so called "protected areas" for places where livestock grazing is ongoing. Think of it, if you were an elk would you want to feed in an area where every time you reached for mouthful of grass, you would get a mouthful of feed which was half dead matter left from the previous year's growth? Of course not. If such were the case, it would not be long until you would move to an area where the majority of feed had been removed the year before. This is true for deer, sage grouse, blue grouse and every other animal. Plants of every kind are made more palatable, healthier, more productive, and more nutritious, when areas are grazed by domestic livestock (See Documents, 22-a., 22-b., 22-f., 21-d., 45-g., 23-a. and 23-c.)

**Request No. 21, please send us a copy of all the documented information you may have indicating that the information presented in Documents, 22-a.,22-b., 22-f., 21-d., 45-g., 23-a., is incorrect,**

**Finding # 16                      Importance of grazing impact on sage grouse production**

In 1986, Carol Evens completed a thesis in partial fulfillment of the requirements for the degree of Master of Science in Renewable Natural Resources, titled, The Relationship of Cattle Grazing to Sage Grouse Use of Meadow Habitat on the Sheldon National Wildlife Refuge. Perhaps this study, more than any other, depicts the importance of grazing to sage grouse.

The study found that sage grouse tend to avoid meadow areas of dense rank vegetation but would use areas once they were "opened up" by grazing, particularly late in summer when sage grouse nutritional needs are met by eating succulent regrowth, high in protein, which is found to be more prevalent where livestock have been grazed. (See Documents 3-b., 45-g., and 45-h., see also, Document 23-a.)

Many persons within the various resource management agencies have acknowledged that grazed meadows are more beneficial to sage grouse than are ungrazed meadows, but are quick to point out that the season long grazing practices the past were detrimental to sage grouse. We find that history and science do not support such a conclusion. To this time, we have found no studies which show that the season long grazing practices of the 1930's, 40's or 50's, were anything but beneficial to sage grouse.

**Request No. 22, please send us a copy of all the documented information you may have indicating that our findings, as outlined above, regarding effects of traditional grazing practices on sage grouse, are incorrect.**

**Finding # 17                      History of cheatgrass and the effect cheatgrass has had on wildfire frequency and intensity within northern Nevada**

There has been a lot of criticism of cheatgrass in recent years - that it is nothing but a weed that crowds out native vegetation, serves no useful purpose, and causes increased intensity and frequency of wildfire. The reason we are experiencing the huge catastrophic fires of recent times is not because there is more cheatgrass around now than there was back in early part of the 1900's. Cheatgrass has been around for a long time. Records indicate that cheatgrass was identified in each of the eleven western states as early as 1910. The large fires that have been occurring recently are caused by reductions in grazing. If we were to allow livestock grazing to occur as it did in the 1940's, 50's and 60's, we would not have the huge catastrophic wildfires we are now experiencing. (See Document, 52-h.)

Truth is cheatgrass is one of the most important sources of feed for both livestock and wildlife that is found in the Great Basin. Mule deer, with their small muzzles often reach beneath existing sagebrush during winter in order to nibble new little shoots of green cheatgrass when green feed is unavailable elsewhere. Chukar too, use these same green shoots of cheatgrass during winter - to such a degree it is doubtful they can survive without it.

Cheatgrass is a good source of feed even when it is in a cured condition. Livestock, like people, tend to like a variety of foods. Some plants, like shrubs and browse, are often high in protein while dry grass is often a good source of energy. So if a cow, or a horse, depending on the kind of country they're in, can eat a little desert shrub or maybe some grease-wood - or if they are in the mountains, some quaking aspen or rosebush, or chockcherry, along with cheatgrass, they get along fine. In fact, it is not uncommon to see cattle or horses during winter on a cheatgrass range that look better than cows and horses that are sometimes being fed a full ration of hay during winter months. (See Documents, 51-a. and 51-b.)

And, as far as the theory, that cheatgrass crowds out native grasses is concerned, there is considerable evidence indicating that such is not the case. Beginning in 1979, there was a 14-year study done in southeastern Oregon soon after scientists found two isolated areas deep within large lava flow areas where livestock had never grazed, nor had cheatgrass been introduced. During the study several things were learned. First of all, contrary to popular belief, it was found that the frequency of plants (number of plants per square yard) was not what had been expected. At the Eastern Site it was found that 59 percent of the ground was barren of vegetation, while at the West Site, ground barren of vegetation ranged from 84 percent in 1980 to 76 percent in 1991. (See Document, 50-a.)

These findings support what the earliest explorers and trappers had to say about the country in its pristine state. Jededia Smith, Peter Skeen Ogden and Fremont all described the country as barren and unproductive. (They also support findings of Steve Rich, see Document 21-c.)

Most significant was the increase in cheatgrass which occurred at the West Site beginning in 1980. Apparently, there was an unintended introduction of cheatgrass by the scientist themselves. Soil previously barren of vegetation became populated by cheatgrass, yet no loss of perennial grasses, forbs, or shrubs was noted during the remainder of the study. Cheatgrass does not crowd out native vegetation as so many allege.

**Request No. 23, please send us a copy of all the documented evidence you may have indicating that our findings, as are outlined above regarding cheatgrass are incorrect.**

**Finding # 18                      History of western settlement and the establishment and recognition of road rights-of-way, ditch rights-of-way, mineral claims, water rights, and the right of bonafide residents and settlers to the use of wood, stone, gravel and clay**

Up until the time when settlement began in earnest west of the Mississippi, it had always been the practice of Congress to sell large tracts of land to speculators who in turn would sell said lands to those who wanted a place of their own. This of course, had never gone well with those who were settling the land. So when it was learned that Mexico and Canada were issuing patents in recognition of claims of land and mineral rights, so that the lands would be claimed under the name of either Mexico or Canada, it wasn't long until representatives in Congress began receiving letters from their constituents urging the passage of legislation recognizing the right of preemption

- suggesting that, should the citizens of the United States not be allowed the right to lay claim to lands, water rights and mineral deposits on the open lands in the West, then, perhaps many settlers would have little choice, but to file claims with the Mexican or Canadian governments. Not long after, Congress did begin passing laws recognizing peoples right to take up homesteads and lay claim to mineral rights. (See Document, 16-a. and 16-b.)

However, it was not until William Stewart, the first Senator from the newly formed State of Nevada, introduced a bill in Congress (which was adopted on July of 1866) that mineral claims, claims to the use of waters which arise on public lands, claims of ditch rights-of-ways, and road rights-of-ways were fully recognized by Congress.

The 1866 Act, did not however, establish procedure whereby settlers and miners could file their claims with the federal government. Instead, language within the 1866 Act required that rights of settlers be recognized "by local law and custom and rules of the courts". Which language was interpreted by the courts to mean, that, it was to be the states which were to establish mechanisms for the recognition of claim of rights on the open and public lands found throughout the western United States. And so it is to this day, that State law dictates the manner by which claims for water rights, road rights-of-way, ditch rights-of-way and mineral claims are to be recognized and established.

Unfortunately, it seems that persons working within government do not like the idea that Arights@ can be recognized on our nation=s federal or public lands. As a consequence, persons within the various resource management agencies have, for years, carried on a constant political campaign, working to rid the country of any legal precedence which might force the recognition of mineral rights, the right to prospect, a rancher=s right to graze, ditch rights of way, road rights of way, the right of bonafide citizens and settlers to the free use of wood, stone, gravel and clay found on federal or public lands, or the right of individuals to recreate and camp wherever they so chose upon the public or federal lands which are found within the western United States. (See Documents, 3-a., 5-a., 5-c., 6-b., 8., 9-a., 9-b., 10-a., 12-a., 12-b., 13-a., 13-b., 13.c. 14., 14-b., 14-c., 15-a, 15-b., 15-c., 15-d., 16-a., 16-b., 17-a., 17-d., 17-d., 18-a., 18-b., 18c., 19-a., 22-a., 22-b., 22-g., 22-h., 24-a., 24-b., 24-c., 24-c., 25-a., 25-b., 25-c., 26-a., 27-a., 33-b., 33-c., 36-a., 36-b., 36-c., 37-a., 39-a., 39-b., 39-c., 39-d., 39-e., 39-f., 39-g., 39-i., 40-a., 40-b., 40-c., 40-c., 40-d., 40-e., 43-a., 43-b., 43-c., 44-a., 44-b., 44-c., 44-d., 47-a-1. 47-a-2, 63-a., 63-b., and 63-c.

**Request No. 24, please send us a copy of all the documented evidence you may have indicating that our findings, regarding the history of western settlement west of the Mississippi are incorrect.**

**Finding # 19                      History, of the recording of claims of road rights-of-way by the general public and county commissioners and the attempt by Forest Service personnel to extinguish such rights**

The fact that it has been the goal of leading official working for the Department of Interior and the Department of Agriculture that all rights historically established and recognized, should be

terminated is not unclear. (See Document, 9-a. & 1a-a.) Conflicts between rights holders and those within Interior and Agriculture, who believe that the government should have full and complete authority over all government resources have been in constant play since the very beginning. (See Documents, 12-a. & 12-b., 13-a. through 13-c., 15-a. through 15-d. and 8-a. through 18-c.) (See too, 24-a. through 24-d., 25-a. through 25-d., 26-a., 27-a., 28-a. through 28-g., 33-a. & 33-b.) (Also, see the book, *Storm Over Range Land*) In truth, the history of the USDA Forest Service and Bureau of Land Management is a history of attacks on the range livestock industry and other rights holding interests.

It was for this reason that citizens of Elko County wanting to lay claim to road rights-of-way, filed maps marked, Map Case 328522, Exhibits A-I through Tool, Sheets 1 through 40, at the County Recorders office, on September, 26, 1992.

It was for this same reason that the Elko County Board of Commissioners set forth claims to these same roadways by Resolution No. 14-98 on the 6<sup>th</sup> day of January, 1999.

As well, it is our finding said roads as claimed by citizens of Elko County and the Elko County Board of Commissioners, are roads which were developed and used during the very early days of settlement for the purpose of securing wood, stone and other earthly materials from the public lands for the purpose of accomplishing settlement; and that such roads, and all of them, were established long before Forest Reserves were created; and that such roads, and all of them, continue to be used for a variety of purposes, including fire protection, hunting, access to water diversions, fence fixing, caring for livestock, prospecting, mining, moving livestock, weed control, pinenuting, gathering wild berries, post cutting, wood gathering, outings, educational events and sightseeing, and are in fact, roadways which are recognized pursuant to "the Act of July 26, 1866. Which rights are best understood when reading the following decision written by Federal District Judge, Peirson M. Hall.

In the case UNITED STATES v. 9,947.71 ACRES OF LAND, Federal District Judge, Peirson M. Hall wrote; "It ... arises from the sheer logic of the proposition that, when the government granted mining rights on the vast mountainous, and often impassable, areas of the west which were in public domain, assessable only by passing over the public domain, it granted, as a necessary corollary to mining rights, the right not only to pass over the public domain but also a property right to the continued use of such roadway or trail, once it was established and used for that purpose. To realize the force of the proposition just stated, one need but to raise their eyes, when traveling through the West to see the innumerable roads and trails that lead off, and on, through "the public domain, into the wilderness where some prospector has found a stake (or broke his heart) or a homesteader has found "the valley of his dreams and laboriously and sometimes at very great expense built a road to conform to the terrain, and which in many instances is the only possible surface access to the property by vehicles required to haul heavy equipment, supplies and machinery. If the builders of such roads to property surrounded by the public domain had only a right thereto revocable at the will of the government, and had no property right to maintain and use them after the roads were once built, then the rights granted for development and settlement of the public domain, whether for mining, homesteading, town site, mill sites, lumbering, or other uses, would have been a delusion and a cruel and empty vision,

inasmuch as the claim would be lost by loss of access, as well as the investment therein, which in many cases of mines required large sums of money, before a return could be had."

**Request No. 25, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #19 is incorrect.**

**Finding #20                    Importance of road rights-of-way to ranchers, mining and recreationist**

The founders of this nation did not want the people to have to go to the government to be permitted or licensed before they could do or accomplish things. They wanted the people to have "rights" so that they might be secure in their investments and their ability go forward and get things done. They didn't want the people to be beholden to the government for every little thing. That's why our fathers and our grandfathers left their homelands. That's what freedom was all about. They knew from experience, that once a government, or a king gains control of people's lives or their businesses, via permitting processes, or by regulation, or both, and there is no longer recognition of property interest, then soon comes economic stagnation, favoritism, corruption, payoffs and tyranny.

That's why, during the early history of this nation, and during western settlement, "that such rights as the right of persons to use certain waters, or to clean their ditches, or to use certain roads were granted and recognized. When the settlers arrived in the unsettled West, there were no coal mines, saw mills, or lumber yards. There was only the material at hand, and so the settlers took up their shovels and their axes and they went upon the mountains and they cut logs and poles for making their homes, their corrals and their outbuilding, and they used the clay from the valley floors for their roofing.

And soon the pioneers were turning their livestock upon the rangelands, and economically viable units were born. To farm in the harsh environments found in the West was not always feasible, but the environment did lend itself to raising cattle and sheep. And soon there were mines and mining operations, and towns, and a railroad that crossed through the county. And so more roads were developed and cattle and sheep were driven from one range to another, or from certain ranges to various towns and to shipping points. And for anyone to say today, that there was not a road or trail created up every canyon and every draw, long before the Forest Reserves were created, is to avoid the truth and ignore the past. And to say that such was bad for the environment or bad for wildlife, is also to ignore the past, and to ignore the truth.

**Request No. 26, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #20 is incorrect.**

**Finding #21                    Importance of road rights-of-way to certain wildlife**

It is the finding of the Rural Heritage Preservation Project, that public roads, which are often

graded and maintained by county governments, are beneficial to goshawk and other avian predators. It has been found that ground squirrels, native to the state Nevada are frequently found in large numbers along such roads. Apparently, roads of this type provide the kind of habitat ground squirrels need, in that a balance is created whereby the road-ways provide open areas adjacent to desirable feed which is necessary for their survival.

When a survey was conducted in the Harrison Pass area, southeast of Jiggs, NV, a far greater number of avian predator nests were found in the quaking aspen along the old road-way leading from Ruby Valley to Jiggs, than were found along either the Green Mountain Creek drainage to the north, or the Road Canyon drainage to the south. Neither were ground squirrels found in the Road Canyon drainage, or the Green Mountain Creek drainage, whereas, ground squirrel were found to be numerous along the road in Harrison Pass.

Before new policy is implemented which might cause harm to such species as the Richardson=s ground squirrel or Northern goshawk, further investigation needs be completed?

**Request No. 27, Would it not be wise, to conduct cooperative research with private individuals and organizations, regarding possible adverse effects on ground squirrels and hawks before new plans are implemented? And too, would it not be wise, to conduct cooperative research with individuals and private organizations, regarding possible adverse effects caused by such things as ever increasing wildfire intensity and frequency, or vegetative decadence on sage grouse because of the lack of sufficient grazing impact, or because of local fire fighters inability to access certain areas because of road closures?**

**Finding # 22                      Right of due process, Federal Administrative Procedures Act**

One of the greatest infringements in individual rights, that has occurred, regarding public land management and oversight by the Federal government has been the outright abolishment of a citizens right to due process. Somewhere along the line, it became acceptable in the minds of many court justices and within the various agencies, that governmental actions could be arbitrarily imposed so long as the "experts" within government "thought" certain actions could be beneficial and by so doing, have been ignoring altogether the peoples right that evidential hearings be held for determining possible infringement on investment backed expectations; or determining by scientific method, whether or not a public good would in fact be achieved once the action was advanced.

Such abandonment of the peoples right of due process runs so foul to the original intent of the notion of free government it should not be tolerated at any time, or at any level within society - particularly, when law is now in place which calls for such processes to occur under the U.S. Administrative Procedure Act, and / or the Nevada Administrative Procedure Act.

**Request N. 28, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #22 is incorrect.**

**Finding # 23                      History and effects of off-road or four-wheeler traffic within the Jarbidge, Mountain City and Ruby Mountains Ranger Districts.**

It is our finding, that if the Forest Service were to follow mandates as are set forth in the "Final Rule" dated, November 9, 2005, which states; "Current regulations prohibit trail construction Sec. 261.10(a) and operation of vehicles in a manner damaging to the land, wildlife, or vegetation" , then it would be the new "four-wheeler" roads that would be considered for closure, and not the existing RS 2477 road rights-of-way which extend through private lands. For it is the very nature of four-wheelers, that they must be driven up a ridge in a perpendicular manner or else they will tip over, which cause tracks to be created whereby higher than ordinary erosion occurs.

Clearly, if the new rule calls for the protection of rights-of-way which are recognized pursuant to RS 2477 of the United States Code, then all roads which were constructed by those who settled the lands prior to the creation of Forest Reserves, which roads have now been recognized by Elko County, must be recognized by the Forest Service.

The importance of keeping traditional road rights-of-way open for continued use can not be overstated - for in truth, it is these roads, which were created and made better by the use of teams traveling to and from the mountains, hauling logs, and firewood. And because it was not easy for persons with a team and wagon to make their way up a canyon and back with a loaded wagon, the very best routes were taken, following terrain which offered the least obstacles and steepest grades, that roads were created which cause the least amount of erosion possible.

**Request No. 29, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #23 is incorrect.**

**Finding # 24                      Importance of road rights-of-way and livestock grazing - and how each serve to protect against out-of-control wildfire and destruction of native plant communities**

Road rights-of-ways traditionally used and recognized are not only important in that they allow for quick access to areas where wildfire may start - but they often serve as fire breaks as well - perhaps not by themselves entirely - but can, with little more effort, be made to play a significant part in stopping the spread of wildfire.

Livestock grazing too, is critically important, not only because grazing removes such a large percentage of the fuel which feeds wildfire, but also because livestock create trails at intervals throughout allotments which tend to cool fires down and make them burn more slowly. It can not be denied that when fires burn cooler and more slowly, they are far easier to bring under control. And too, it must be remembered, when fires do burn at cooler temperatures, there are fewer plants lost. And when there are fewer plants lost, the range generally returns to its original state sooner because of the natural reseeding that occurs during years that follow.

**Request No. 30, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #24 is incorrect.**

**Finding #25                    The situation ranching families find themselves in under present circumstances**

As it stands today, if a member of a ranching family happens to start a fire, which then spreads to lands managed by either the Forest Service or Bureau of Land Management, the cost for fighting the fire can be billed to that person or ranching family who owns the premises where the fire started - which cost can be in the hundreds of thousands, or even millions of dollars. Yet on the other hand, if a fire happens to have started on public lands, for whatever reason, and it crosses over onto private land, and is to burn buildings, haystacks and standing feed, or even a home, it is unlikely that the ranching family effected will be reimbursed.

And then you couple that with the fact that it is the government that is now creating the very situations which are causing the largest, the most ferocious and the most catastrophic fires known since the time of first settlement - plus the fact that its been the unwritten policy of both the state Department of Forestry and the BLM and the Forest Service to let fires burn unless it threatens a home or a structure. Then you began to understand what a terrible situation ranching families are facing today.

This is why it is so that the right for local communities to regain control over the affairs of their local communities once more. Its about the right of local self government, and the right to protect one's property, one's life and ones family.

**Request No. 31, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #25 is incorrect.**

**Finding # 26                    Importance of seeding crested wheat grass to areas which are burned over by wildfire**

The practice of seeding crested wheat grass to rangelands began in northern Nevada in the late 1940's or early 50's, and today some of the very best deer habitat is found in those areas which were seeded to crested wheat grass in the past. It is a fact, that bitterbrush and many other native plants, including grasses, often come back sooner, and do a better when crested wheat grass is planted. And since crested wheat grass burns cooler, if fires do reoccur, they burn with less intensity than they would otherwise. And too, of course, when a fire burns cooler and with less intensity, fewer bitterbrush and native grass plants are lost. There is no question, the planting of crested wheat grass is a win, win situation.

As for sage grouse. The whole notion that crested wheat seedings are bad is false. In the 1940's there were sage grouse everywhere in Ruby Valley; and there were a good many sage grouse strutting grounds as well, both on the west side of the valley and on the east side of the valley.

Most of the strutting grounds which were in existence at that time were located on the white sage flats south of Medicine Spring on the east side of the valley. Since then, there has been no change in vegetation cover in that area, yet sage grouse no longer strut there. Today there is only one known sage grouse strutting ground being used in south Ruby Valley, and that is located within a crested wheat seeding south of Harrison Pass. Today's problem is not that we have been destroying sage grouse strutting grounds by seeding crested wheat grass; the problem is we have far too many predators killing sage grouse. Without question, seeding burned over areas to crested wheat grass is the best possible solution for obtaining desirable condition for the benefit of a wide variety of wildlife. (See 51-a and, 3-b.)

**Request No. 32, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #26 is incorrect.**

**Finding # 27                      Local volunteer fire fighters shall be allowed to use whatever equipment which is at their disposal when fighting wildfire within Nevada**

There is probably no one, anywhere, that faces greater threat to life and property than those citizens now living within the rural communities of Nevada whose homes and ranches lay adjacent to the public lands. Not only because the various resource management agencies have so dramatically reduced livestock grazing, which in places is causing two or more years of fire fuel to accumulate, but also because of current policy which often disallows private individuals the use of farm and ranch equipment to suppress wildfire on public lands.

In the past, citizens living within many of the outlying areas of Nevada have been told, that they cannot use their dozers or loaders in suppressing wildfire because of the need to protect archaeological sites, and that permission must be granted before any equipment can be used for the suppression of wildfire on public lands. (See Documents, 52-a. through 52-d.)

It is our finding there is no group of people that are better acquainted with the history and archaeological features of rural communities than are the people that live there. It is our recommendation that the various resource management agencies adopt policy, requiring personnel to hold public meetings within the various local communities for the purpose of gaining information as to where known archaeological sites are, in order that such places be mapped so that they can be protected at times when wildfire suppression and mop up is occurring.

**Request No. 33, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #27 is incorrect.**

**Finding # 28                      Importance of the right of individual home and property owner to fight wildfire in the traditional manner as they have since the west was settled**

For anyone reading the Declaration of Independence, it becomes abundantly clear that one of the greatest problems those living within New England prior to the American Revolution faced was not being able to freely conduct local self government. Not only were King George and the people of Great Britain imposing whatever laws they so desired upon the people of New England, but in addition, they were interfering with the people's ability to adopt policy and ordinances for the protection and management of everyday affairs within their communities.

In many ways, the situation the founders found themselves in is not much different from that which many persons living within the public land states face today. Think of it. If those living in the various communities in New England needed to put in structures for the purpose of flood control, as an example, the local people had no way of collecting taxes or passing law or policy as a means of accomplishing such an objective - for it was the people of England that had control, and for them such concerns were of no interest.

That's what persons living within the rural areas of Nevada face today. For when it comes to the Public Lands, it's not the local people that have the say - rather it's people living in New York or Denver or Las Vegas that get to decide just how the majority of lands that lay within our communities are to be governed, and they certainly aren't going to be effected by wildfire; or because there may be too many predators taking down calves; or that the lack of grazing on the Forest lands is causing reductions in water production, or that ranching families are no longer able to make a living because of some unfair act by the BLM or Forest Service. And so those who live in the rural areas of Nevada go on and on, year after year, facing the fact that they don't really have control over fire policy, or grazing policy or anything else that goes on the public lands upon which they are dependant.

As it stands today, if the Forest Service so chooses, citizens living within the rural areas in Nevada can be denied even the right to go onto the public lands with their tractors or a shovel without agency permission. Issues involving the Public Health and Safety and general well-being of local communities must be decided by those whose lives and property are most effected. To do otherwise runs in direct conflict to the most dear principles of a free and just society.

**Request No. 34, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #28 is incorrect.**

**Finding # 29                      Nothing is more important than Quick Response when fighting wildfire**

We find that such road rights-of-way as have been recognized and claimed by the Elko County Board of Commissioners are critically important for aiding in the prevention of catastrophic wildfire, which, as everyone knows, can be the greatest threat to human life and safety known in our area. (See 52-a. through 52-c.) **Keeping the roads leading into the mountains open is "a public health and safety" issue!**

One of the greatest threats to life and limb, is when persons responsible for the property and lives of family members takes it upon themselves to do whatever it takes to stop a wildfire - which wildfire may or may not have gotten out of control because of excessive fuel loads brought on by irresponsible management of our public lands, or the unwillingness of governmental officials to see that everything is done that can be done to see that fires are put down when conditions are such that they can be put down.

Anyone who has ever fought fire over a period of years, comes to realize at one point or another, that certain conditions often arise, when the winds that are driving a fire may go down; or began to blow in a different direction; or a light rain may come; or the temperature drops, which allow for persons to get on a fire and get it put out - which conditions may not occur again for quite a while - or even worse, conditions can turn worse, where the humidity may go down, the temperature may rise and a seventy or eighty mile an hour wind come up, which can only result in disaster.

Too often in the past, its been an unwritten policy that wildfire can be ignored to some degree until such time as when a structure is in harms way. We cannot allow that to happen any longer. **All fires must be put down when conditions are right for putting them down.**

It is our finding that one of the greatest mistakes made is not getting on the fires immediately. Quick response is critically important, for the bigger a fire becomes the more difficult it is to put out. And the more difficult a fire is to put out, the greater chance there is that it will destroy the homes and property or even the lives of citizens within local communities.

**Request No. 35, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #2 is incorrect. And too, please send us a copy of all the documented evidence you may have, indicating that the issue of road closers is not a Public Health and Safety issue.**

### **Finding # 30                      Effects of predator control**

The sound and effective predator control practices that were put in place during the late 1930's and extending through the 1960's did more to create an abundance of wildlife of every kind than all else combined. And, if it were not for the on-going predator control practices that continue to this day (even though they have been dramatically cut back and reduced over the years) wildlife numbers would be similar to those of pre-settlement times.

**Request No. 35, please send us a copy of all the documented evidence you may have indicating that findings regarding the effectiveness of predator control are incorrect.**

### **Finding # 31                      The history of Bighorn Sheep in Nevada**

Research thus far completed by Great Basin Consulting indicates there were far fewer bighorn

sheep found in the Great Basin during the early 1800's than many originally thought. Of all the many accounts which were written during the period, 1924 through 1900, thus for only three references' have been found wherein bighorn may have been seen in the Great Basin.

First; hunters accompanying the John Work party while trapping throughout today's northern Nevada in 1831 saw tracks but no bighorn until they reached today's southeast Oregon where they saw four sheep near the Owyhee River.

And second: Cartographer Charles Preuss while traveling south on a rout taking the Fremont party from Fort Vancouver (Washington) to Pyramid Lake in 1843, saw mountain sheep somewhere in today's Humboldt County or Washoe County, "bound across some high cliffs, too quickly to get a shot".

In 1849, Elisha D Perkins, bought three "mountain goats", while traveling along the California trail near Rock Springs in today's Northeastern Elko County from Shoshone Indians, which were "about the color of a deer, tho not standing quite so high but something of the same form, with horns much like a fish hook with a long shank projecting forward from directly over their eyes" which may have been bighorn sheep – but from the description of the animal's horns, it may be assumed that the animals were probably antelope rather than bighorn sheep.

Only two instances where sheep were seen during a 78 year period, from 1824 through 1900, is practically no sheep at all when considering all the thousands of miles that were traveled by the mountain men, explorers and emigrants during that period.

Certainly, pictographs depicting mountain sheep are found at different locations throughout the Great Basin, but to say that sheep were abundant historically because there were images of sheep found does not make it so.

Perhaps the best work done which can shed light on the question of sheep abundance during the period immediately proceeding western settlement was that which was completed by ethnologist Julian Steward. Between 1931 and 1936, Julian Steward made numerous trips throughout much of the State of Nevada, southern Idaho, western Utah, and the Owens Valley area of California, interviewing native people and recording, among other things, the food items used by the various groups in each of the valleys he visited. Most of the people he interviewed were in their 70's or 80's and had gained much of their knowledge from their parents and grandparents.

The significance of Julian Steward's work was in discovering testimony showing just how scarce game was in the 1800's. As an example, in all of Mr. Steward's interviews, elk are mentioned only once, and that was in regards to hunting elk in the area of Yellowstone. Sage grouse was only mentioned once as well, and that was of Temoke, hunting sage grouse in Ruby Valley. The same can be said of mountain sheep. Just because the natives mentioned that their forefathers hunted mountain sheep from time to time does not mean they were not scarce and difficult to obtain.

That there were very few large game of any kind to be found anywhere within much of western

America during that period, is indicated by the fact that the native people lived in brush shelters rather than skin lodges during winter; that moccasins were rare, and that no cradle boards were mentioned. What skins were acquired were mostly used for food storage apparently. Even successful rabbit hunts had to have been the exception rather than the norm, for testimony indicates that there were never enough rabbit skin robes for more than a few persons.

Small game was of relatively great importance. Reptiles, rodents, and insects all supplied food. Rodents and other small mammals held several advantages over large game. They remained in restricted localities and did not require a long chase as is the case when large animals are hard to find. Insects were of great importance. During some years, grasshoppers and Mormon crickets were abundant and could be taken in quantities that would last for months. Plant foods were also important. Unfortunately, even they were inadequate.

On good years pine nuts could be had over much of the Great Basin, but even then, good crops of pine nuts only occurred on occasion. Even on good years it was difficult for family groups to gather enough pine nuts during the naturally short harvesting period to last all winter. Consequently, starvation was not uncommon among the native people during that period.

Perhaps one of the best accounts ever written depicting just how harsh conditions may have been for many of the native people in the 1800's was written by Meriwether Lewis, of the famed Lewis and Clark expedition. In 1805, it was the plan of Meriwether Lewis to make contact with the Shoshone people on the west side of the continental divide, where he thought, they could trade for food and horses and lay over a few days before crossing the Lolo Pass. However, "the Chief informed us that they had nothing but berries to eat and gave us some cakes of serviceberries and chokecherries which had been dried in the sun; of these I made a hearty meal..."

The following day, Meriwether Lewis; "sent Drewyer and Shields before this morning in order to kill some meat as neither the Indians nor ourselves had anything to eat... "after the hunters had been gone about an hour we set out. We had just passed through the narrows when we saw one of the spies [one of the Indians who was following and watching the white hunters] coming up... he had come to inform us that one of the whitemen had killed a deer... "in an instant they all gave their horses the whip... as I was without [s]tirrups and an Indian behind me the jostling was disagreeable I therefore reigned up my horse and forbid the Indian to whip him who had given him the lash every jum[p] for a mile fearing he should loose a part of the feast. The fellow was so uneasy that he left me and the horse dismounted and ran on foot at full speed I am confident a mile."

"...when they arrived where the deer was which was in view of me they dismounted and ran in tumbling over each other like a parcel of famished dogs each seizing and tearing away a part of the intestens which had been previously thrown out by Drewyer who killed it; the seen was such when I arrived that had I not have had a pretty keen appetite myself I am confident I should not have taisted any part of the venison shortly. Each one had a piece of some description and all eating most ravenously. Some were eating the kidnies the smelt (spleen) and liver and the blood runing from the corners of their mouths, others were in a similar situation with the paunch and guts but the exuding substance in this case from their lips was of a different description. One of the last

who att[r]acted my attention on particularly had been fortunate in his allotment or reather active in the devison, he had provided himself with about nine feet of the small guts one end of which he was chewing on while with his hands he was squeezing the contents out at the other. I really did not until now think that human nature ever presented itself in a shape so nearly allied to the brute creation.” (Spelling left unchanged)

Keep in mind, Lewis and Clark at this time, were right in the midst of some of the best bighorn sheep country found anywhere within the North American continent. If there was an abundance of bighorn sheep and other game in those presettlement times, why was it that the Shoshone people were starving as they were? Why was it that they had only one skin lodge within their camp while all the other inhabitations were brush wickiups? And why was it that the tribe had not gathered and dried large quantities of meat during the season?

**Request No. 36, please send us a copy of all the documented evidence you may have indicating that the information presented in Finding #31 is incorrect.**

(References can be found on line at, *gardnerfiles.com*)

End.

## THE GREAT CURSE OF BUREAUCRACY

### SCIENTIFIC AND BUREAUCRATIC FRAUD

After retiring from the U.S. Health Department, Richard A. Mackie wrote a book titled, *Beat the Devil*, in which he describes very well the true character of bureaucracy and why it acts as it does. In his book, Mr. Mackie wrote:

In my capacity as a medical Entomologist, I continually received all the latest information on health issues and research surrounding my profession. We had all but eliminated the problem of mosquitoes carrying diseases to human beings here in the United States, and we were frantically looking around for something else to justify our existence... The boys and girls in the laboratories began looking at all the other insects that share our environment and discovered that many of these insects were capable of hauling around some of the bacteria that can make us sick.

I took this information to my boss, partly for its informational value and partly out of concern. I wasn't really convinced that any of these insects were likely to make anyone sick, but then, why take any chances? My boss took the information to his boss who, in turn, took it to our local law making body. It was then that I discovered that our law makers are great politicians but lousy scientists. My boss's boss was truly eloquent. In short order, he had all those law makers convinced that the public was at great risk if something wasn't done. He fed the politicians a lot of malarkey that violated every scientific principal devised by man...

Since I was the expert in such matters, the project was handed over to me. In short order, I had my own budget, a bunch of equipment and several people working for me... Way back in the deepest recesses of my mind, I realized that I was probably doing absolutely nothing to protect the public health. The organisms our laboratory people had found on these insects were the same bacteria every one of us human beings carry around on our bodies all the time... It wasn't until some time later that I began to learn more about the nuances involved in resenting information in the fashion most favorable to your own personal cause. For instance, the information you keep hidden is often many times more important than the information you provide. As it turned out, I discovered some time later that the toothbrush each of us sticks

into our mouths each morning and evening has far more harmful bacteria on it than there are on the insects I was mandated to destroy. (See pages 171 and 172)

#### PROMOTING FEAR AND HATE

To fully grasp how the use of FEAR and HATE have evolved, let's examine what would have happened if I had pulled my little escapade in 1940 and how things would have evolved if I had pulled my prank any time after 1970, See if you can detect the difference. In 1940 you, the taxpayer, would have been totally unaware that some laboratory junkies had found some disease organisms on a few insects... The newspapers in those days had no interest in reporting "such nonsense." You would hear nothing about our game unless the lab junkies and I were able to prove that some human or group of humans had actually gotten sick from being exposed to these insects. Newspapers in those days were interested in reporting facts, not extremely remote possibilities.

In the 1970's, however, is a different story. You (the taxpayer) would have had little choice but to hear about our little discovery. We would make sure of it. All that would be necessary is for either the "lab boys" or me to slip the information to the press and every television station and newspaper in the country would be carrying the story of our "discovery"... In fact, the media feels an obligation to make the news interesting, so much so that some of what is broadcast is re-written with little embellishments in order to make sure they have your attention...

If we have done everything right, we have added all the ingredients we need to begin a new dynasty. First, we started our campaign with a liberal dose of Fear... Next we flavor our campaign with a couple of tablespoons of Hate... We know that a large segment of the population is wary of big corporations, especially corporations that have anything to do with pesticides... With these two ingredients well established in the public mind, the rest is simple. We know that we have hit a vital nerve among a number of "special interest groups" that are politically very active. We no longer need to go before our law makers and plea our case in hopes of getting a small budget to control these pests. These politically powerful "special interest groups" will make sure our "discovery" gets the attention of the law makers. The only thing left for us to do is to decide what sort of "empire" we should advise the lawmakers that we need in order to prevent the big epidemic. (See pages 173, 174, 175 and 176)

On page 171, Richard Mackie goes on to explain how research is controlled:

A large portion of the budget we will require from our legislators will include money for further research. There are hundreds of Universities and research institutions out there that are panting breathlessly for research dollars. They will do whatever is necessary to get their share of our research money. Because of this, we can be sure the research that is produced will support the continuation of our program. We can guarantee this through a very simple mechanism. Since we provide the funds for the research we "own" the results and merely require that the results of all research be turned over to us. If we don't like the results being produced by a particular researcher, we can file the results in the waste basket and you will never hear "the other side of the story." We want only research that will continue to "prove" how badly we are needed.

All university research must be financed either through government or private funds. Those scientists who produce research pleasing to their financiers are the most likely to continue getting financed. The Environmental Protection Agency is especially good at using research money to control the outcome of scientific research. (Page 179)

Mr. Mackie then goes on to explain how Congress, by passing "enabling legislation" is now able to shield itself and the bureaucracies from the public.

...I was in the throes of becoming the Director of a Health Department at just about the time Congress decided to completely ditch its responsibilities and use "Enabling Legislation" as a means of resolving almost all our country's perceived problems. I believe I can speak on behalf of Health Directors and Department Heads every where in assuring you that people such as I were delighted. We now had all the tools we needed to correct any public health problems and, in addition, we had the power to stomp on the toes of anyone who stood in our way. Basically, the Legislature had given us the legal authority to write our own laws and then enforce them. Not even the cops could do that. More important however, Congress gave us the tools to ensure that our departments (and our jobs) would live on in perpetuity and that they would grow and flourish. Congress gave agencies such as mine immortality.

The only real losers in this deal were the taxpayers. Not only were they about to be regulated by a bunch of power-hungry Department Heads, but they were going to pay

very dearly for it through their pocket books. One cannot write more laws and enforce them effectively without adding a good deal more personnel, and personnel cost money. We Department Heads now had the power we needed to build an empire. Henry Kissinger was right. Its quite an aphrodisiac.

The Legislature, in its benevolence, gave those of you who were about to be regulated an opportunity to participate in the development of the regulations. After we (government officials) have written the regulations, each of us "regulators" is required by law to hold a public hearing before we begin actual enforcement procedures.

There was a very good reason for this. The law requires that all such public hearings be announced in a newspaper of general circulation. However, the selection of the paper and the location of the announcement is pretty much up to the agency head. It is not difficult to place such an announcement in a place where few of the "soon to be regulated" will see it.

The final portion of the law states that the "regulator" shall take "under advisement" all comments offered by the public at the "hearing." In reality, "under advisement" means we can ignore all comments if we so desire. Therefore, your appearance at my public hearing will have as much or as little significance as I determine it will. (See pages 84 and 85)

#### **GETTING RECOURSE AFTER THE FACT [understanding why it is that bureaucrats end up working against you]**

If you are one of those who suddenly has another regulator knocking on your door as a result of any new regulations, you are probably not too pleased with my latest intrusion into your private or business life. You will most likely be required to take actions that don't make a whole lot of sense to you and could cost you quite a lot of money. Like any normal human being, you need to talk to someone about this ridiculousness. After all, why would anyone want you to do something that is totally contrary to the normal operation of a business? Once you plea your case, you know any reasonable person will realize that you shouldn't be required to undertake such meaningless and expensive activities. Therefore, you might take your grievance to your Congressperson or to some other politician you voted into office. They are, after all, responsible to you, the voter.

As I discussed in Chapter 1, by passing "Enabling Legislation," Congress and other law passing entities, no

longer need take responsibility if something doesn't work. They can smile their sly little smiles and tell you, in all honesty, that they have done their job. They gave the Health Department all the authority it needs to take care of the problem. If things aren't working out, go yell at the Health Department.

So, you traipse off to the Health Department in an effort to get your problem resolved, The Health Department, like every government department, is set up so that the first person you encounter is a Clerk with absolutely no authority. The clerk can take your money and give you forms to fill out but cannot make any decisions. If you're persistent, you will get to talk to the Clerk's boss who also has no authority to make decisions. Little do you know that I, as the Department Head, am the only one with the authority to make the kind of decision you need. Am I accessible? Of course I am, if you have an unlimited supply of patience, and the persistence to fight your way through the many layers of bureaucracy that lie between me and the Clerk that you first met.

There is a wonderful reason why I am the only one who can make the decision you need. As we discussed at the beginning of this chapter, any government employee who risk trying to help you by making a decision that is not in direct accordance with the regulations can get into all sorts of trouble. No one wants to be in trouble, so no one is going to help you. The only person who might grant you an exception is me. However, I have little incentive to make an exception in your case either.

There is only one person that any Department Head need fear and it certainly isn't you. You have no power over me whatsoever. The only person I need fear is a lawyer. However, even the lawyer has no power over what I do unless I make an exception for you. As long as I make you abide by the regulations I wrote, I am untouchable. Only if I make an exception on your behalf am I open to possible legal action. Therefore, I don't really care if what you want to do is going to have no impact on anyone's health. I am not likely to grant you an exception when it could very well invite some action from a lawyer. If you are going to violate a regulation, let it be on you head, not on mine.

The lesson here is, I hope, rather obvious. Even going all the way to the top dog in an agency in an effort to get something changed is unlikely to do any good. You and your lawyer can rattle your sabers all day, but you will accomplish little, You are after all, trying to get me to do two things that will endanger my position. First, you are trying to get me to grant an exception to the law when granting such an exception would bring me

nothing but legal troubles from every other lawyer in town. Second, you would be asking me to undermine my employees.

While the law often provides that you can appeal the enforcement actions of an inspector to his or her superior, an appeal is generally a waste of time. Would a supervisor or Department Head not support his or her employees, the word would soon get around. If inspectors know that their supervisors aren't going to support them, the inspections will soon stop. No Department Head can afford to let this happen. Therefore, a Department Head is going to support his or her employees regardless of what took place. (See pages 86, 87 and 88)

### THE PUBLIC INTEREST

Government has been able to get away with the "taking" of private property because it has declared that it is acting in the "public good" or on behalf of the "public interest." The "public good" or the "public interest," as interpreted by the various agencies, seems to be whatever that agency decides it wants domain over at any particular moment in time. For instance, the "public interest" with relation to the Federal Water Pollution Control Act has evolved numerous times since its inception. This evolution has taken place, not through acts of Congress, but because the Army Corps of Engineers and the EPA wanted to increase their powers over your property rights.

The original act was intended to give these two agencies the power to stop the deposition of pollutants in navigable waterways. However, these agencies have been very busy expanding this act, through regulation, to the point where it now encompasses any area that they define as a "wetland." in their eyes now include millions of acres of land, some of which is wet only when it rains.

Unfortunately, where the "public good" or "public interest" comes face to face with individual property rights, individual property rights have generally come out the loser. Over time, the courts have tended to rule that it is all right for government to tromp all over one's property rights and the Fifth Amendment to the Constitution if it is for the "public good."

Someone once remarked that the thing we must be most wary of is not the villains of this world but those people who are well-meaning. This could very well apply to our court system. In their well-meaning attempt to do some "public good," they have allowed government agencies to trample all over our property rights.

[Which brings forth another issue]...if the government actions are really for the "public good," why doesn't the public pay for them? Why doesn't the government purchase the property rather than just take over control of the property? Why should one individual be expected to pay all the expenses for something that the entire public is going to benefit from?

The government's answer, obviously, is why pay for something that you can get for free? Government is not stupid. Those in control know that few people are going to challenge their authority. Out of several thousand "takings" only a few owners are going to challenge the government's actions. (Pages 64, 65, 66 and 67)

One of the greatest government land grabs to ever hit this nation is taking place as you read this book. This new enterprise is taking place under the guise of protecting endangered and threatened species of plants and animals. (Page 241)

#### **"TAKING" YOUR PROPERTY [via the permit process]**

Government learned a long time ago that you don't need to own a piece of land or own a business outright in order to control its use and its operation. All government needs to do to control land use and business operations is to write regulations giving itself that power. The less control you have over how your property is used or how your business is run, the less value it has for you.

Perhaps the most devious form of subterfuge is the permit process. The permit process is the government's way of telling you that you had better not do anything with your property without first getting a permit to do so from your government. Certain agencies have discovered that if they make you jump through enough hoops for a long enough period of time, you will eventually give up any attempt to develop your property or your business. The Army Corps of Engineers, the EPA, and many local Planning, Zoning and Building Departments are especially adept at this. They have also found that by delaying your project for a year or two, they can bankrupt your project.

In recent years some courts have ruled that such tactics constitute a "takings" and the agencies causing these unjust and extensive delays have been required to pay "just compensation." Therefore, many of the current permit systems are vulnerable to challenge as a violation of property rights. Although there have been few challenges at this point.

Unfortunately, one of the groups most severely damaged by the permit process has, thus far, been unrepresented in this particular "takings" procedure. This group consists of the poor and the homeless in this country. Many studies, including some by government agencies, have proven that the permit process and similar regulations have added upwards of 50% or more to the cost of construction. This means that a house that might otherwise cost only \$50,000 will instead cost \$75,000 or \$80,000. These additional costs often place home ownership out of the reach of a large number of people in the middle to lower income groups.

The regulation plague is by no means on the decrease. There were more than 63,000 pages of new, revised and proposed regulations issued in just the year 1990 alone. When I wrote to the state of Texas with a request for a copy of the law that established "The Texas Water Commission" and for a copy of their Rules and Regulations, I received a phone call from one of their employees. They would be happy to meet my request, I was told. However, I needed to pay them up front because it would cost thousands of dollars to make me a copy of all their rules and regulations.

The Water Commission is just one of thirty or more state regulatory agencies in Texas, all with similar sets of regulations. ...Then, of course, there are the Feds and all their regulations. Is it any wonder the Library of Congress is the largest library in the world?  
(Pages 57, 62, 63, and 64)

**[Understanding why you are unable to find relief from elected officials]**

So why don't our legislators pass legislation which would correct these problems? Mostly, its because of the public's desire to have the government do everything for them. This has led to more and more government growth and power - to the point where government is now our nations largest enterprise - absorbing over 50% of our gross national product. Government is by far the largest and most influential lobbying force in the United States. As Richard Mackie explained:

James L. Payne of Yale University and researchers from John Hopkins evaluated the testimony given before Congress. Their results say it all. "Overwhelmingly, Congress' view on spending programs are shaped by government officials themselves. Of the 1,060 people providing testimony on spending issues 47% were federal administrators, 10% were state and local government officials, 6% were U.S. Senators for a total of 63%. Of the remaining 37% all but 4% were lobbyists of special

interest groups with definite government ties." What chance does the average citizen or small businessperson have?

While the average Joe is home making a living, agency heads are writing new legislation to be presented at the next session of the legislature. And when such legislation is presented the right people are there with ample support for its passage. At every step of the way in the legislative process, the private sector is out maneuvered, out gunned and less than adequately represented. Not to mention, the fact that we are also facing, possibly, one of the most effective disinformational campaigns ever to be launched against a specific segment of society. Its no wonder that agencies at every level are growing and growing and growing.

**The surest way to corrupt a nation and its people is by increased regulation.**

What Mr. Mackie did not delve into was the corruptive effects of regulation. With the power to control comes the power to selectively control. And that is where America is today. Through ever increasing regulation, everything has become politicized and corrupted. Government agencies are now the most powerful entities in our society - they can make or break any business they have been authorized to regulate. Pay homage to the agencies upon which you depend and you shall survive, and maybe even prosper - challenge, and you shall suffer. Which puts the agency people in complete and absolute control. Which is about as far from a government which is "of the people, by the people, for the people" as you can get.

**Criminal Activities by Federal Bureaucrats  
And Others Involved in the Introduction,  
Protection and Spread of Wolves  
In the Lower 48 States.**

By

**Jim Beers, USFWS Retired**

Given at Bozeman, MT 16 May 2010

For

**Friends of the Northern Yellowstone Elk Herd**

*Abstract: The period 1967 to 1999 saw the passage of 3 Endangered Species Acts and a tightening of federal authority over a host of plants and animals formerly under the jurisdiction of state governments. Mr. Beers' was employed by the US Fish and Wildlife Service in many capacities and locations during this period. He explains the growth of federal power, the shift in the sort of employees and agendas responsible for the federal growth, and the resulting subversion of state fish and wildlife agencies and any respect for law by increasingly powerful bureaucrats. The introduction, protection, and spread of wolves by federal decrees during this period are detailed and major violations that occurred are explained. The violations include the theft of \$60+ of excise tax money by federal bureaucrats from state fish and wildlife programs to introduce wolves, Non-governmental organization entanglements with federal bureaucrats and federal funds, quid pro quo arrangements with state bureaucrats, failure to audit state fish and wildlife programs in order to maintain state compliance with illegal federal actions, failure of federal bureaucrats to describe and forecast the impacts and costs of introduced wolves, and the cover-up of millions of dollars of state misuse of federally-collected excise taxes.*

The following two-hour verbal presentation is divided into three parts. This is so that the listener or reader understands three things.

**First**, is the US Fish and Wildlife Service (USFWS) time of employment of the author and his competency concerning this subject. This is important for you to appreciate the competency of the author to speak about federal environmental/animal rights policies, federal bureaucracies and their operation, the changing nature of federal and state fish and wildlife programs, and the impacts that these changes are continuing to have on our American society.

**Second**, are the political, scientific, and legal changes of the past 40 years and how their cumulative impacts have led to the corruption and disregard for both US law and the US Constitution described in the third part.

**Third**, is a description of law violations by both those immediately involved in the introduction, protection, and spread of wolves in the Upper Great Lake States, the Carolinas, the SW States, the Upper and Central Rocky Mountain States and the resulting and ever-widening range of associated bureaucrats', agencies', and associated "partners'" activities continuing in disregard of federal laws.

Descriptions and explanations of the growing danger of wolf attacks; the purposeful lack of information about wolves as carriers of diseases that infect and kill humans, livestock, and wildlife; the annihilation of big game animals, big game hunting, and hunting revenues to state wildlife agencies; the widespread destruction of pets and working dogs; and the ruination of the tranquility of rural life where wolves exist are topics that are being addressed in detail elsewhere. This presentation is intended to describe criminal activities by federal and state bureaucrats, lobbyists, and radical organizations associated with the establishment, protection and spread of wolves in the Lower 48 states. It is my belief that understanding this aspect of the wolf issue will enable all of us to better understand and work more effectively to solve the myriad problems that government bureaucrats, activist organizations, and politicians have caused by illegal actions disguised as wolf introduction and protection.

## Part I – My Background

I have a BS in Wildlife Resources from Utah State and an MA in Public Administration from the U of No. Colorado. I worked for the Utah Fish and Game while in college and spent 3 ½ years in the US Navy as a Line Officer on a ship in the western Pacific and as a Courier Officer stationed in the Aleutians at the Adak US Naval Communication Station.

I was hired by the USFWS in 1967 as a Wetlands Biologist in Devils Lake, ND. In 1969 I was transferred to the Minneapolis Police Dept, for 5 months of law enforcement recruit training and then became a US Game Management Agent stationed in the USFWS Regional Office in Minneapolis. In 1970 I was transferred to Grand Island, Nebraska as a US Game Mgt. Agent and then in 1972 I was transferred to New York City where, in two years as the only USFWS Agent stationed in NY City, I “made” two very large and publicized endangered species cases that involved both notoriety and large fines – the Vesely-Forte international fur smuggling case and the Cartier Jewelry endangered species sale case.

In 1974 I was transferred to Washington, DC as a USFWS Special Agent where I concluded several NY cases that required trips to Canada and Europe as well as cooperation with foreign law enforcement agencies and agents.

I remained in Washington for 25 years and served in a series of USFWS positions. After two years as an Agent, I became a Program Analyst and then spent a year as a Budget Analyst. This was followed by a year working on Capitol Hill, first in the House and then in the Senate as a Congressional Fellow. Upon return to USFWS I served as the Animal Damage Control Program Coordinator and then I spent 7 years as the Chief of Refuge Operations overseeing Refuge operations, maintenance, law enforcement, budget development, and information management. In the early 1990's I was moved to the role of Administrative Officer over the Environmental Divisions of the USFWS, including the Endangered Species Office.

In the early 1990's I was offered the position of Wildlife Biologist overseeing the use of excise taxes collected on arms and ammunition (Pittman-Robertson funding) that were, by law, intended only for designated state fish and wildlife agency activities. These funds were generally in the neighborhood of ¼ Billion per year and were, by law, distributed to each state annually based on population, size, and hunting license sales. The law clearly states they (the

funds) were only to be used by state fish and wildlife agencies for wildlife restoration programs and that the USFWS was to audit each state's use of the funds every 5 years. A small percentage (8% max but never more than 5% until the late 1960's) was reserved for the USFWS to "administer" the disbursement, oversight, and 5-year audit of the funds. Truthfully 3 to 4% of the receipts were sufficient for the federal "administrative" role called for in the Act. Other than this, the funds could be used for NO other purpose.

My duties included a unique assignment. European Union (EU) bureaucrats and politicians had generated a regulation (due to "lobbying" by US/International environmental and animal rights organizations) that would bar the importation of all furs into Europe from countries that "did not ban the leg hold trap". Europe was the largest customer for furs and the US was the largest exporter of furs followed closely by Canada and Russia. Leg hold traps to this day are indispensable furbearer and predator harvest, management, and control tools. The EU regulation was a thinly-veiled attempt to undermine and destroy the fur business, trapping (for all purposes), state furbearer management, and any effective predator control activities in the United States.

Since the states have primary jurisdiction (not yet subjected to federal takeover) over furbearers, most predators, the tools to manage both, and also since states are prohibited by Article I, Section. 10. Of the US Constitution of entering "into any Agreement or Compact with...a foreign Power", I became the state fish and wildlife agencies' de facto representative in State Department and US Trade Representative delegations ostensibly trying to frustrate the EU regulation. On numerous trips to Europe it was generally the case that I was the only real advocate for protecting US States' right to manage their furbearers and the tools for trappers as well as maintaining the foreign business interests of American furriers. This eventually caused me great problems.

It was in the midst of the Clinton Administration. The second Director of the USFWS appointed by Clinton (the first one had resigned due to a fatal illness) was holding "secret" meetings with various environmental and animal rights groups that were strongly and historically opposed to USFWS activities (HSUS, API, AWI, Greenpeace, etc.). Receipts and disbursements from the excise taxes on arms and ammunition were not increasing dramatically despite a large spike in sales due to fears of the Administration implementing draconian gun controls similar to such fears recently evident in first year of the Obama Administration. I was being called at home at night to be told by friendly fellow employees that my name and swearing were heard in the Directors Office during the "secret" meetings. A former employee of mine, that attended one

such meeting, cautioned me to "be very careful" because these groups "really hated" me and "they are truly evil people".

In 1997 we (the US, Canada, and Russia) succeeded in getting the EU to back down on banning the import of furs and I was told without fanfare that I was being transferred to Boston (the end of the earth in USFWS unless you are from New England) to an unspecified job at an unspecified grade level (this, while I was putting 3 kids through college and my wife and I were each working 2 jobs). Such a job action (station transfer from an existing job without cause when that job and similar jobs were available in the same location and a possible downgrade (loss in pay and retirement) when all my performance evaluations were satisfactory and above was only possible if I consented and I did not consent. This made me a pariah at work (other employees shunned me and even jumped off elevators or went "up" "down" escalators rather than be seen with me). The hostility of the Director and her assistant in charge of excise taxes became more and more apparent.

I hired a lawyer and one Sunday a USFWS large unmarked envelope was placed in my front door without any notice or noise. Addressed to me inside (after I opened it under very heavy cover in my driveway having been threatened by animal rights radicals) was a memo from the USFWS telling me that if I didn't either consent to the Boston move or retire by Wednesday I would lose my pension for 5 years and my government health care forever. Another memo (strangely addressed to a "Mr. Brown") said I (he?) could not enter the USFWS building without permission and an escort. The next day (Monday) I stayed home on advice of my lawyer and discovered that the police had been notified that I was being fired and may be violent. At that time I was working an extra job to get my kids through college as an armed personal guard and security officer. For this "other" job I had gun permits in Virginia, Maryland, and for DC: I still shudder when I consider what the police would have been prepared to do had I gone to work that day and ignorantly made any protestation or move deemed threatening to police prepared for a "dangerous and armed" employee. Police had checked everyone entering the front doors all morning and the underground parking lot that Monday morning, even asking carpoolers "is Beers in there?"

The next day my lawyer told me it was all a "mistake" (according to the top USFWS managers) and that I should call a certain Department of the Interior solicitor before reporting back to work. The next morning I called the solicitor (and was kept on "hold" for 25 minutes). He asked me how I was and if there were "any hard feelings?" Wondering what the purpose of such idle chitchat was, I answered honestly that "you place a large envelope in my door on a Sunday morning while I am being threatened by animal rights radicals for doing my job; you scare my

wife half to death by illegally threatening to withhold my pension for 5 years and my employee health insurance forever; you call the police and say I am dangerous and you are firing me thereby causing everyone in the building to suspect I am sticking up 7-11's or beating my wife; and you have the audacity to ask me if there are any hard feelings, are you that stupid or what?" There was a 10 second pause and he blurted out, "we'll get this all taken care of so you just stay home 'and go fishing' until we call you". Thus began 10 months at home (with little fishing truth be known) on full pay, accruing leave, and the beginning of an unforeseen professional path that I could have never imagined.

I was home for about a week when I was contacted by staff from the US House of Representatives Natural Resources Committee. They had heard about my situation and we had a long talk about what it was about. In the course of that conversation there was mention of the strangely changing levels of Pittman-Robertson (excise taxes) going to state agencies. Shortly thereafter I was again contacted by them and asked to come up to their offices. They had requested the receipts and disbursements (including those within USFWS for the "up to 8%" administrative fees) for the P-R excise taxes for the past 2 completed budget years. USFWS had told them it was not possible to break out those expenditures in USFWS books (this was a lie) and thus they (USFWS) had sent up 19, 2' high, boxes of computer printouts of ALL USFWS expenditures for the past 2 years. Even GAO auditors could not make heads or tails of the complex budget mishmash of certain funds for certain purposes, earmarks, old funds/new funds, Divisions, Regional Offices, field stations, employees billing to various funding sources, etc., etc, that make up the highly complex USFWS budget and expenditure records. Since government agencies are NOT audited routinely and since GAO "auditors" (like USFWS "biologists", National Forest "foresters", and Bureau of Land Management "range managers") were increasingly anything but what their title and agency implied, the Congressional staff asked me lots of questions about the computer printouts. As an aside, months later I was told that when USFWS decided to answer the Congressional request for excise tax expenditures, there were lots of laughs as the boxes were assembled to the effect that "they'll (Congress) never be able to make heads nor tails of these records".

I volunteered to go through the printouts. Using colored magic markers, colored pens, and my budget experience I spent long days for more than 2 weeks in those Congressional offices going through those 2 years of records and discovering, marking, and explaining the millions of dollars in excise taxes (over and above the legitimate excise tax "administrative" expenses) being used to do 2 things that Congress had refused to fund or authorize (introducing wolves into Yellowstone and opening an environmental liaison office in California). Additionally, millions were being used to pay increased bonuses to USFWS employees in Washington, Regional Offices, and field stations that had no role in "administering" the excise taxes but many of whom

would have been aware of the “funny” and prohibited use of excise tax money for the California Office and the Wolf introduction that had been turned down by Congress.

The General ACCOUNTING Office (later renamed the General **Accountability** Office as a rare and honest expression of what was going on bureaucracy-wide throughout the federal government) was called in by the Committee Chairman and reported back (after I met with them several times about certain matters since USFWS offered them no help) in an Audit Report to the Committee that “\$45 to 60 Million of excise taxes had been spent by USFWS over and above the maximum allowed administrative withholding in the two years examined”. Two packed (with spectators and press) hearings were held. When the USFWS Director failed to show at the second hearing, the Chairman cancelled it and said she was to report to a rescheduled hearing in 2 days!

No explanation was made other than the Director claiming that her solicitor had told her she could use those funds however she wanted. Representative Chenoweth of Idaho, God rest her soul, sent the packed Hearing Room into gales of laughter when she then asked the Chairman if the Congress could ask the USFWS Director to spend these funds on the “Star Wars” anti-missile defense that Congress was having so much trouble reaching a non-partisan agreement on and that the President opposed.

The results of all this?

- The California Office was going to be investigated and probably closed by a Congressional action until USFWS moved the recently hired daughter of Senator Ted Stevens to administer the office.
- The wolves? Well, I needn't tell this group about that.
- The state fish and wildlife agencies from whom the funds were stolen NEVER asked for them to be replaced. Shortly thereafter, the State Fish and Wildlife Agencies' national lobby office in Washington, DC began receiving several million dollars of excise taxes annually and increased their staff and offices accordingly.

- National hunting and fishing organizations remained silent as state and federal bureaucrats with whom they “schmoozed” told them it was all much adieu about nothing.
  
- Arms and ammunition manufacturers, fishing equipment manufacturers and tackle outlets, and others that paid the excise taxes were also silent mainly because collection of import duties and excise taxes were increasingly “small potatoes” to federal collectors in Customs generating an undefined magnitude of smuggling and under-reporting that had grown as oversight and audits of that function by USFWS had all but disappeared in recent years.
  
- The all but defunct 5-year audit cycle of state use of the excise taxes by USFWS mandated in the law were fired up and a large audit firm was hired to do the audits. Within 2 years (less than ½ way through the 5-year cycle) they were fired (for being “behind schedule”) in reality because they had already found over \$130 Million in excise tax misuse by state fish and wildlife agencies and they (the auditors) were not amenable to covering it up. USFWS then “hired” the US Department of the Interior INSPECTOR GENERAL (appointed by Justice and confirmed by the Senate to oversee, among others the USFWS) to audit state programs with \$3M per year of the excise taxes. Today, the \$130+M are forgotten and the current IG is way more “behind schedule” than the former auditors were when they were fired. As another aside, that former IG is now Vice President Biden and President Obama’s IG or “Czar” “overseeing THE Stimulus Funding”!
  
- Presidential and Congressional elections (when Bush beat Gore) were conducted with neither the Republicans that controlled Congress or the Democrats that controlled The White House tarred by the scandal of the stolen excise taxes or the loss of millions of dollars of hunting and fishing improvements.
  
  
- When the leading critic of USFWS thievery (Congressman Pombo) became Chairman of the Committee after the election, he was defeated in the next election by a very dirty campaign conducted by a coalition of environmental groups led by The Defenders of Wildlife (DOW). The very same DOW that the USFWS Director (when the funds were stolen to introduce wolves) went to work for after a short, high-paying stint with The Wildlife Federation and the very same DOW that the same Director had commissioned to compensate livestock

owners for stock that it could be proven were killed by wolves and the very same DOW that is currently (2010) spearheading an environmental lobbying coalition that is reportedly spending millions to defeat former Congressman Pombo who is seeking reelection in another California District.

- The hunters and fishermen of the United States probably lost as much as \$70 or \$75M worth of hunting and fishing improvements (the \$60M figure did not include any fund transfers to the Canadian Wildlife Service or Provincial agencies for salaries, travel and equipment like helicopters, etc. used in the capture and transportation of wolves from Canada for Yellowstone). The misuse of funds by state agencies that arose during the period of no State fish and wildlife audits probably persists and is probably worse today as sham audits and failure to prosecute diversions of the funds at the state level remain the rule in the absence of any real oversight by USFWS. The magnitude of these losses to US hunting and fishing opportunities are probably staggering, annual amounts.

Oh yes, and me? After 10 months "fishing" at "home", I was notified to "come into USFWS" to receive a "settlement" to retire immediately. Conditions in the settlement included a restriction on my mentioning or writing for three years anything about the circumstances of any matter that could be construed to have had any bearing on my settlement or retirement under pain of returning all funds offered or paid to me over the next three years. Thus I began a decade of writing and speaking about environmental, animal rights, and Constitutional matters all around the country. Today I am a friend to some and a devil to others. Former coworkers turn their backs at funerals while I am treated with gratitude and respect by those that ask for my help or for me to speak to their groups.

## Part II - Factors that created the situation where wolves became a deadly societal and Constitutional menace.

I began writing this presentation on 22 April 2010, the fortieth anniversary of Earth Day (and the 140<sup>th</sup> anniversary of the birth of Vladimir Lenin). The St. Paul newspaper on that day trumpeted this secular feast day as coming "from rebellious roots" and "activists who had organized anti-war, civil rights, and feminist rallies in the 1960's".

The current wolf problems and the degeneration of federal and state fish and wildlife agencies began in the late 1960's and sprung from those same "roots". Serious criminal actions and disdain for American citizens by government employees and politicians that I will speak of shortly can likewise trace their beginning and evolution to this period. The growth of lawlessness and corruption I will describe is similar to the unforeseen, steady degeneration of government and ethics caused by Prohibition in 1920's Chicago. Let us begin to chronologically consider this 40 year period and what has happened to bring us to the absurd wolf situation we face today.

**1966 - The first Endangered Species Act (ESA) is passed by Congress.** Only US animals are mentioned. The Federal function is simply to "List" "species" so that purchase of habitat from willing sellers can be requested. The only wolves officially recognized in the Lower 48 are in Minnesota and federal intrusion on Minnesota's jurisdiction over Minnesota wolves begins.

**1967 - The ESA is amended to allow "Listing" of foreign species.** Jim Beers reported to the Minneapolis Regional Office and then to Devils Lake, ND as a new USFWS employee (wetlands biologist) after completing a tour of active duty in the US Navy.

**1968-1972 - USFWS in Washington DC, first under Johnson and then Nixon (who ironically was purposely and publicly excluded from the first Earth Day Bacchanalia by Democrat politicians and organizers) began to see an opportunity for exploitation to begin expanding their power and budget in the environmental and animal rights movement.** For instance, why not "get" a treaty about the "new" Endangered Species so federal agencies can take and exercise unchallenged authority over any "Listed" species just like the Migratory Bird Treaty with Canada had given USFWS such power over migratory birds? Why not sign Migratory Bird Treaties with Japan and the Soviet Union to get federal hegemony over not only pelagic (ocean-going) birds but also all the hawks and owls plus the cormorants and pelicans that had been purposely and with good reason left off the Canada Treaty? Why not claim federal authority over all marine mammals whenever they are in any US-controlled waters? Of course marine mammals not only include those high-seas species like whales and porpoises but also the resident marine mammals that spend all or most of their time in state waters and lands (and were therefore under primary state authority) like polar bears, sea otters, manatees, seals, sea lions, and walrus? But where to get such Treaties to use as a basis for putting Endangered Species and Marine Mammals under unchallenged federal authority like Migratory Birds? Thus was born the US/European campaigns at the UN for a "Convention" (i.e. a "Treaty" according to US Courts) to "regulate Endangered Species". Primary authority for the federal government over all Marine Mammals was also sought through either a Treaty or Convention of some sort. It was

during this period that the term “charismatic megaspecies” or “megafauna” (i.e. eagles, wolves, elephants, baby seals, sea otters, etc.) came into vogue as propaganda “poster children” for all of the new laws and federal power being planned by federal agencies, national and international environmental/animal-rights organizations, and federal politicians. By 1971, even wild horses and burros on federal land (today they would be vilified as “Invasive Species”) were not only claimed by federal power expanders, a multi-million dollar annual program of federal capture, maintenance, auction, and permit oversight for “excess” animals is a forgotten but expensive and never-ending cost for a government takeover of a state responsibility much as wolf “control” has become.

**(1969) Jim Beers becomes a US Game Management Agent enforcing federal laws in the Upper Midwest while stationed in Minneapolis and then Grand Island, Nebraska. (1972) Jim Beers is transferred to New York City and makes large Endangered Species cases.**

**1972 – A Migratory Bird Convention (Treaty) with Japan was negotiated and all US hawks, owls, cormorants, and pelicans are wrenched from state authority and placed under US federal control.** The publicity for the treaty features the wonderful benefits of “protecting” pelagic birds like albatrosses and petrels while the other birds go under federal control with little or no awareness at first by state governments or rural Americans that were soon affected.

**The Marine Mammal Protection Act was introduced and passed swiftly by an environmentally and animal-rights oriented Congress and electorate soaked in films of Canadian immature seal harvests and Japanese whalers taking whales.** One of the more honest sponsors of the bill was an Arkansas Senator seeking environmental votes for his reelection. His private remark to the effect that “the best thing about those (sic Marine Mammal) critters was that there weren’t any within a thousand miles of all my (Arkansas) voters so no one will get upset whatever happens” is a rare peek into the political “concern” of elected officials in those (and these) days. The basis for this seizure and preemption of state authority by Federal politicians and bureaucrats (both for such mammals when they occurred in state waters and for those that resided within states year around like manatees and sea otters was a hodgepodge of legal claims based on an International Whaling Treaty and the assumed reluctance of any state (Alaska, the most harmed, was in the midst of negotiations for The Alaska Native Claims Settlement Act with federal and Native forces so even Alaska’s resistance was muted) to openly oppose federal protection to “save” these “charismatic” animals. While the new Act promised to allow active management of these animals when “Optimum Sustainable Populations” (OSP) were achieved, such was never to be the case. Exactly like the Wolf “Targets” stated in introduction documents and promises of “Delisting” at Level X and “returning management to “approved” states with “approved” plans: federal authority reinforced with lawsuits, threats, and gutless state governments and citizen organizations will last forever or until the animals disappear because they are invariably hiding larger, powerful agendas from fund raising , careers, and reelections to

complete control of American lives, lifestyles, and freedoms by an all-powerful central government.

**The Equal Employment Opportunity Act was passed and thus began the eventual elimination of educational requirements and quantifiable prerequisites for federal jobs like wildlife biologist, forester, range manager, and accountant.** The need to “diversify” the federal workforce and the desire of federal managers to be promoted and rewarded for hiring, promoting, and transferring government-preferred groups based on sex or “race” was far-reaching. Eventually entrance exams and rankings for federal employment based on a test score, government-wide rankings, college grades, educational requirements, and work experience were eliminated. The thing to note here is that from this point forward, not only were “biologists”, “foresters”, and “range managers” increasingly less educated, less experienced, and less knowledgeable about biological “management” – new hires of all “races” and either sex could be and were increasingly ideologues opposed to animal use and ownership, wildlife management, forest management and use, range managements and use, rural lifestyles, ranching, farming, guns, fat in your diet, and state and local government jurisdiction. The best analogy would be to imagine a Defense Department after the prolonged hiring, promotion, and transfer of Conscientious Objectors who then hired and transferred others of their warrior persuasion ad infinitum.

**1973 – The UN Convention on International Trade in Endangered Species (termed a “comprehensive multilateral treaty’ by lawyers) was signed (after intense US drafting and lobbying) by the US and a coterie of European countries and “developed” nations.** Almost within days after US Senate ratification and Presidential signature on the “Convention”, a revised Endangered Species Act (on steroids regarding new federal authority, property rights, and a wide range of other Constitutional assaults) was introduced in Congress to be passed quickly with nothing but adulation and signed by President Nixon (as Watergate was coming to a boil).

**1974 – A Migratory Bird Convention with the Soviet Union was signed and ratified to further solidify any question of the new federal authority over what was now all but a few remaining resident birds like grouse, pheasants, and quail.**

**Jim Beers is transferred to Washington, DC as a USFWS Special Agent.**

**1975 – 30 April, the fall of Saigon marked the end of the protests against that war.** This acted to accelerate social changes in US society with the redirected activities of social radicals from war protest to social protests and activism.

**1978 – The Civil Service Reform Act changed the very nature of federal agencies.** Top positions were no longer “career” employees (biologists, agents, foresters, auditors, etc.) promoted up through the agency; instead they became “professional” managers that turned out to be “code” for political persons and their relatives and friends needing a job. Such “professional managers” were touted as “more responsive” to the President and Congress and less “protective” of the agency. This vastly **increased the political element in every agency** while further eliminating requirements (other than political) for the promotion, hiring, and transferring of career employees into policy positions. This **political takeover of “science”** in agencies like USFWS affected grants and research and University Departments as money poured into Endangered Species projects and subspecies, races, and populations were “discovered” as qualifying for funding and government power increased accordingly. Large annual federal employee bonuses were instituted for the first time further making the agencies into politically responsive diversity centers where “science” and the awarding of increasing federal grants and contracts for everything from endangered species to land acquisition and land management were political tools for expanding federal power and the reelection of federal politicians.

**In these late 1970’s “new” USFWS powers led to speculation and precedents of an enormity unimaginable 15 years earlier.** For instance, the Bald Eagle was protected since 1917 by the Federal Bird Treaty with Canada; in the 1940’s a Bald Eagle Act was passed to give them “more” (actually duplicative) protection. Yet, as a truly “charismatic” species they were the numero uno “charismatic species” “Listed” in each ESA. (While the 1<sup>st</sup> Endangered Species Act was passed, I was taking a photo of about 25 bald eagles at one Aleutian Island dump, wondering how they could be nationally “endangered”.) Never was it imagined that such “Listing” would eventually authorize the federal government to declare a large area around some tall and/or dead tree on Private Property as a zone of no use or disturbance for the landowner or others WITHOUT COMPENSATION! Yet that became common once the CITES was signed and the new ESA was passed to “be the supreme Law of the Land” (as a “Treaty”) per Article VI of the Constitution. Suddenly, the 5<sup>th</sup> Amendment “nor shall private property be taken for public use without just compensation” no longer limited USFWS on their endangered species mission. Suddenly, States Rights that were never given to the federal government (the 10th Amendment provides that “powers not delegated to the United States... are reserved to the States respectively, or to the people” were being exercised by the federal government at the expense of State governments and the people. Up until then, migratory birds protected by treaties and in need of habitat were only able to get such habitat if Congress authorized funding and a

“WILLING SELLER” was involved. Private Property with “Endangered” Red-cockaded Woodpeckers or Spotted Owls became subject to “taking” by government through prohibiting logging or disturbance, without compensation. The Constitution states the government can only “take” private property for a “public use” and that it must compensate the owner. Where is the “use”; why is there no “compensation”? When the government no longer must compensate owners whose property they “take” and the law looks the other way, what limit is there to government power? It is my opinion that this began the slide toward toleration of the Kelo Decision and public acceptance of succeeding central government decrees.

“Science” became a propaganda tool of the alliance of bureaucrats and activists bent on creating central government controls that enriched the bureaucrats and imposed activist demands on all citizens. Just like the recent “Global Warming Science” scandal, “science” supportive of government and ideological goals is twisted and tortured privately for hidden purposes. For instance, biological classifications heretofore unknown and indefensible like certain “subspecies”, “races”, “populations”, “population segments”?, and “distinct population segments”?, became unchallengeable legal bases for private property takings, public land closures, and budget expansions. “Secret” Appropriations were made to search for a bird last seen 70 years ago (the Ivory-billed Woodpecker) on the word of “experts” to close public lands, but private lands, and threaten wildlife uses like hunting and fishing –for a bird that is still extinct. Wolf justifications like “gene pool” and “balanced ecosystem” were legally accepted justifications while in reality being meaningless terms. The “scientific” justifications of imposing wolves, by setting the precedent of the current wolf problem, has established a legal precedent for free-roaming buffalo on The Great Plains as a prelude to a “Wildlands” “Buffalo Commons” as desired by activists and many bureaucrats. What is the difference between free-roaming wolves and free-roaming buffalo: between forcing ranchers out of business and eliminating elk hunting in the West and driving farmers out of business and eliminating pheasant hunting on the Great Plains? What is the difference between using the (false) “scientific” claim that “wolves only inhabit 5% of their former range and using this same precedent for buffalo or jaguar or grizzly bears? This is how the failure to confront self-serving “science” has led to a bureaucratic nightmare of apparently unsolvable proportions. Just like there has not been any prosecution of “Global Warming” “scientists” and bureaucrats for falsifying “science” so too are these endangered species “scientists” and bureaucrats held blameless, because their “science” that they impose on the rest of us is merely smoke and mirrors that can be so binding on us is not something they can be held responsible for when it is shown to be bogus and their actions shown to be reprehensible.

This period was also when the first mention was made by USFWS bureaucrats of the “need” for Federal legislation redefining federal jurisdiction over “Navigable Waters of the

**United States” to mean ALL WATERS AND THEIR WATERSHEDS which quite literally means 99.9% of ALL LAND in the United States.** Consider that the origin of such federal jurisdiction over “navigable waters” for 200 years is based on an extrapolation of wording in Article III, Sec. 2 of the Constitution granting the Supreme Court “judicial power” over “all cases of admiralty and maritime Jurisdiction”. “Admiralty” in the late 1700’s was commonly UNDERSTOOD to encompass “navigable waters”. Today we have bureaucrats, associated lobbyists, and politicians proposing their own (Constitution-violating) explosion of this sound federal, Constitutional commercial navigation responsibility to mean ALL wetlands, creeks, bayous, streams, runs, rivers, intermittent wetlands, lakes, ponds, impoundments, etc. and their watersheds being legislatively wrenched from State jurisdiction and private property owners. Consider that we have been paying the salaries of federal bureaucrats while they plot and scheme to destroy our Constitution and our rights just as federal Regulations for years have nullified state gun laws and citizen’s 2<sup>nd</sup> Amendment rights whenever they stepped on federal property.

As a further explanation of recent and all-too typically tolerated federal duplicity, an example is in order. **While I was at home for 10 months before my retirement I was asked one day to accompany two concerned individuals (one a Congressional staffer) to investigate the routine night-time, 5 to 6 hour dumping of a toxic-goo into the Potomac River from National Park Service lands in Washington, DC every 2 to 3 weeks.** What we found was that for years (this was 1999) the US Army Corps of Engineers (that ran the DC water supply treated in 3 reservoirs supplied by the Potomac River from above Washington) had hosed out the sediment in the periodically-cleaned reservoir bottoms and ran it through one or more underground pipes and small stream beds through the National Park below the reservoirs along the Potomac River shore. (Federal bureaucrats, state lobbyists, environmental and animal rights lobbyists, and politicians drove right by and over this dumping for decades as they sped into town to tell the rest of us how to live our lives.) The dumping was done at night so no one would notice the black goo (even cormorants fled from the plume made in the River when dumping was conducted). The reservoirs were in NW Washington and the rich and powerful neighbors had kept trucks (the proper and only legal disposal venue to dump the sediment anywhere else in the United States) out of their luxury neighborhood streets. Little did they know that the periodically uncovered, buried “ordinance” in those neighborhoods that was quietly cleaned up by government workers covered another dirty secret. During WWI, NW Washington was mostly dairy farms and some were bought by the government for “secret” activities: a multi-million dollar chemical warfare facility. German use of chemical warfare in Europe and the possible involvement of US military called for US government experiments with chemicals and gasses like chlorine and mustard gas as well as delivery (grenades, hoses, mortars, artillery, bombs, etc.) venues. A series of buildings and pits dotted the facility. After the War, pits were bulldozed, the buildings razed, and the time honored disposal method of “out-of-sight, out-of-mind” burial employed. Aerial quadrant photographs of the US from that period kept in the National Archives

have that NW Washington area cut out with no explanation available from government record keepers. These are the people (US Army Corps of Engineers) that would administer the proposed “new” Navigable (meaning “all”) Waters of the US, and one of the “save everything by total federal control” bureaucracies (the National Park Service that looked the other way for years) is one of those behind the latest proposed federal water jurisdiction expansions threatening us today.

**Also during this time period, federal land agencies and Congress began decreasing the Payment-in-lieu-of taxes nationwide to state and local government to replace the loss of taxes for roads and schools that occurred when land was sold to the federal government.** Although the federal government had at one time committed to pay these “Payments”, Congress found it becoming too expensive and so began both reducing and then periodically ignoring these payments. Federal land management agencies did not advocate continuing the payment amounts because they were perceived as making National Parks, Refuges, and Forests appear even MORE expensive as these agencies asked for annual increases in size and units for the steadily increasing federal land base. National Wildlife Refuges, National Parks, and National Forests increasingly challenged state laws “on federal property” (as though such land was no longer in the state) and cooperation with local governments became more and more problematic with eventual total disregard for local governments becoming commonplace. Management and receipts from sustainable use of natural resources like wildlife, timber, and forage began to disappear on federal lands. These lands were not only purchased and authorized with those uses specifically mentioned; historic revenue sharing with local communities from receipts generated by sustainable uses like timber, forage, and recreation dwindled with the loss of these sustainable use activities on public lands. State laws from fish and game laws to vehicle laws and gun laws on federal lands were increasingly voided by federal regulations and policies that federal managers claimed were supreme. Dwindling state and local objections coincided with increased state agency (and politicians) reliance on growing federal dollars for everything from endangered species to law enforcement.

**It was during this period that I first heard and read about USFWS planning to introduce (for me it is incorrect to say “reintroduce” since they were never previously “introduced”) wolves throughout the nation.** I thought this was “nuts” biologically and socially, and an incredible overreach of federal authority. I was joined in this reaction by the Animal Damage Control employees that I had worked with in USFWS for years and who had, in my opinion, most of the rapidly disappearing common sense wildlife management experience in the USFWS. While other employees might have agreed, they were either silent or absent when the topic came up. Something that I had noticed since my college days at Utah State was that almost without exception, people (be they professional wildlife people or John Q. Public) either 1. Accept the

fact that predators cause various harms requiring constant and costly predator management, periodic predator reductions or even predator eradication in certain areas at certain times OR 2. Believe predator control is never justified, effective, or permissible. Like individual political persuasion, there are these two seemingly irreconcilable camps with a periodic swing group in between that is responsive to overwhelming proof of harm, some horrendous incident, or periods of quiet where rich and powerful propaganda is spread about fantasies regarding dangerous and destructive animals usually involving large hidden agendas in the background.

These were the days of the Carter Administration and such future expansions of new federal powers were entertained, encouraged and believed to be inevitable as far as the eye could see.

**1980's – These were the Reagan years noted for, among other things, Jim Watt, Manuel Lujan, Ray Arnett, the “Sagebrush Rebellion”, and hard questions about the growth and power of federal agencies and federal laws. The first half of this period was not hospitable to nonsense like introducing wolves so plans were left in drawers and formerly exuberant environmentalists and animal rights advocates were quiet at their desks though not on their phones with environmental organizations and Congressional offices.**

**The second half of the Reagan years showed a reemergence of more “middle of the road” environmental policy managers. As a way of showing environmental “sensitivity”, the Animal Damage Control Program (ADC) was taken out of USFWS (where it had been since USFWS was formed) and placed in The US Department of Agriculture to be subsumed into the Animal Plant Health Inspection Service and this was touted as making government “control” (i.e. “killing”) of animals a farm function where it would be less noticed. This “purification” of the increasingly “ecosystem”-oriented USFWS was cheered by both rural and urban citizens. Mistakenly in my opinion, many rural residents cheered this as releasing the ADC agents from a lot of the increasing “tree-hugger” restrictions imposed by USFWS. As true as that was, the far more dangerous result was freeing USFWS from any lingering realities about wildlife as they planned and explained future USFWS wildlife activities.**

**The combination of losing ADC and the slow slide (into the early 1990's under the first President Bush) towards a return to expanding federal powers, activist employees, rich and powerful environmental/animal-rights “partners”, and an increasingly powerful federal reelection propaganda card in these matters brought an avalanche of proposals and programs to the fore. An experimental release of “red” wolves was tried on two coastal federal**

refuges in the Carolinas only to fail because people shot the wolves and the rest interbred with dogs and vice versa at every opportunity. Once again political support for endangered species land acquisition; "Listing" "emergencies" of every imaginable plant and animal flock, stand, or whatever (usually near some dam or project or hunting use of guns, etc. opposed by environmental/animal-rights organizations); and targeted agency power expansion plans encouraging "scientists" and Universities to share in the budget expansion and federal money (called "playing ball") hatched nationwide efforts to save everything from sand flies to "Invasive Species" bushes that were nest-trees for endangered birds. Names like The Nature Conservancy (TNC), Defenders of Wildlife (DOW), Wildlife Federation (WF), and Humane Society of the US (HSUS), Animal Welfare Institute (AWI), Animal Protection Institute (API), and Natural Resources Defense Council (NRDC) began appearing routinely in USFWS memos and in meetings. In this environment, wolf introduction was again heard in conversations in USFWS corridors.

**1992 – President Clinton was elected and a new flock of political appointees signaled strong support for increased Endangered Species and Marine Mammal activities. New proposals for federal expansion were also encouraged. Thus did we see federal "Native Ecosystem" authority requests and federal "Invasive Species" authority requests trumpeted as in need of new laws granting more federal (at the expense of states) authority, and a greater need for federal funding. Increasing Wilderness Declarations and Roadless closures of public lands accompanied increases in catastrophic fires spreading from federal land ownerships and sudden Executive Orders doing things like closing energy development on select public lands (even as nearby energy "emergencies" threatened the health of millions of urban Americans). Plans for a massive introduction of wolves throughout the Intermountain West began to gain quiet planning momentum in USFWS endangered species offices, though not with much public awareness or publicity as even the most rabid supporters were aware of the strong opposition that such an action would generate.**

**1994 – The Democrats lost control of the US House of Representatives for the first time in 40 years. Speaker Newt Gingrich took control waving a document called Contract with America. USFWS employees were more surprised and disappointed than anybody. The House is a key budget approval point for things like introducing wolves where they weren't wanted. Three things then happened that are of importance to everyone concerned with wolves in the Lower 48 today:**

- 1. In the first month or so after the Republicans took over The House, a House Committee that was a hotbed of environmental activism and was also duplicative of**

**the House Natural Resources Committee – The Merchant Marine and Fisheries Committee – was disbanded.** One of the leading Democrat staff members of that Committee was out of a job. He almost immediately popped up in USFWS and was placed in charge of the Federal Aid to States Program that managed the excise taxes apportioned to state fish and wildlife agencies' hunting and fishing programs.

2. **Two Budget Requests to Congress were made by USFWS (one to the Democrat House before the election and one pending as the unanticipated Republicans took over) for funding to introduce wolves into Yellowstone National Park (described by USFWS as “the Greater Yellowstone Ecosystem” but in reality meaning the area around it from Canada to Mexico and from The Great Plains to the Pacific).** These plans, for which millions were needed, had been developed quietly with USFWS political overseers over 2 years and they were all caught completely off guard when the unthinkable happened, the loss of control of The House to Republicans that was more than a mere “speed bump” for their grand wolf planning. At some point around the 1994 election or as the Republicans took power in early 1995 USFWS decided to (take? steal? use?) the excise tax dollars to introduce wolves before their plans were usurped by the Republican House. An expedition to Canada was made in the winter of early 1995 and the captured wolves were “acclimated” and released in Yellowstone Park very shortly thereafter. The significance of this wolf introduction to such hidden agendas as increased public land closures, the demise of ranching (grazing) and logging, the weakening of rural economies, increasing the availability and decreasing the cost of rural lands for government and Native acquisition, the further weakening of hunting and fishing availability to citizens, and even a weakening of gun advocates' numbers were all things that were evident from the start. Additionally, the political fact of disproportionate adverse effects on Republican (rural) areas to amuse the artificially-cultivated imaginings of urban voters in predominantly Democrat areas had more than a little to do with USFWS apprehension about a likely Congressional refusal to fund (i.e. “allow” or authorize) the requested introduction of wolves by the new Republican-controlled Congress.
  
3. **March 1995 – Wolves are released into Yellowstone National Park (one of only a very few federal landholdings that were never within a state and is therefore truly a federal ownership that has never recognized any state authority or jurisdiction).** This fact made it the ideal place to release the wolves that would then “spread” out from there under total federal protection as an “Endangered Species”.

**1996 - The first female Director of the USFWS (a former Vermont state fish and wildlife Director) resigned due to failing health and was replaced by a little-known USFWS endangered species activist (biologist) who became the second female Director of USFWS. The excise tax dollars were flowing illegally through USFWS by this time.**

**1993-2000 – Excise taxes collected on arms and ammunition in the mid-90's had not seemed (to an employee like me familiar with the excise taxes) to be proportionate with the explosion of arms and ammunition purchases in the early Clinton years. As with the first year of the Obama Administration, gun owners and would-be gun owners were “stocking up” on guns and ammunition “before the President Clinton took them away”. Yet the receipts were generally flat for all the guns and ammunition reported as being purchased. The reason for this was that the USFWS administrators of the excise taxes had, for decades, been holding back an extra percentage or two secretly to curry favor with USFWS Directors that wanted new furniture or needed more travel money, or funds for things that weren't to be publicized, etc. The problem was that in these times, the Clinton folks had ideas that were calling for a little more than the usual “walking around” money.**

**When newly appointed and newly hired top USFWS political managers found out about this secret “slush fund” arrangement after assuming power in 1993, just like anyone that considers and then begins doing illicit things (many would call them “crooks”), they began demanding “more” and imagining all the “good” they could do. When the House turned down the funding requests for wolf introduction and hostile politicians took control of the House (a primary “make-or-break” point for federal budgets), a time to go on or turn back was reached by USFWS wolf advocates. The top managers determined to get the money from the excise taxes and introduce the wolves quickly and say that they used other appropriated funds that they had “saved” elsewhere. Simultaneously they thought they would use even more of the excise taxes to open a California environmental/animal rights liaison office that again was a “now-or-never” move that the Republican House had also refused to fund since even closer alliances between USFWS and mostly Democrat environmentalists in California was not calculated to favor Republican election victories. Then, of course, they would need some more excise tax “hush” money for bonuses to all the USFWS office personnel that might notice the use of funding that USFWS had no right to use. While GAO had put the amount of excise taxes illegitimately spent this way at a minimum of \$45 to 60 Million, there was probably even more.**

Recently I spoke with an Alberta rancher about the wolf captures and export to the US just before the Yellowstone releases. He was clearly under the impression that the Canadian Wildlife Service and the Alberta or Northwest Territories fish and wildlife personnel (using helicopters) assisted in the capture and transport of the wolves during a one-month expedition. Those expenses were NOT in the USFWS expenditures that I reviewed in the House Committee offices for the GAO. What necessary payment amounts to CWS, Provincial and others were for salaries, equipment, and transportation, etcetera were or where they were recorded (if recorded), is anyone's guess but I would venture to say that they were significant and somehow disguised elsewhere as in a grant or transfer through some organization like Defenders of Wildlife that reportedly participated on-the-ground in the Canadian wolf roundup expedition, importation, and releases in Yellowstone.

As nearly as I can figure, increasingly larger excise tax money (meant for states) amounts were withheld secretly by USFWS in 1993 and 1994 and added to one or more, larger chunks withheld in 1995 and 1996 after the capture and release with the excise taxes was "approved" within USFWS. Since these amounts were what are termed "no-year" funds they were carried over without notice (excise taxes are constantly being received quarterly and distributed annually and charged subsequently by states so illegal "carryover" bookkeeping in the flow of funds is easily perpetrated). They were then made available over a year or two or more to USFWS managers by USFWS money managers when the decision was made by USFWS management to fund the wolf introduction, the California Office, and "Santa Claus" bonuses for USFWS Washington and Regional Office personnel out of the excise taxes.

Now I (Jim Beers) had been charged at this time with representing State fish and wildlife agencies, and trapping and furbearer management (both under primary State authority and jurisdiction) in regards the EU attempt to ban the import of furs from the US, Canada, and Russia. This responsibility was given me in the latter part of the Bush Presidency when I began working with the excise taxes on arms and ammunition. Since the Clinton appointees were always trying to foster the illusion that they supported guns, hunting, and natural resource management they had kept me on in this position because I was an enthusiastic defender of states' rights, trapping, and furbearer management and it was recognized I was doing a good job. Although I was never told to let states or trapping or furbearer management be undercut by the elimination of the European fur market, USFWS top managers, especially the 2<sup>nd</sup> female Director and the former Congressional staffer in charge of the excise taxes were promising the environmental/animal-rights' coalitions (TNC, DOW, WF, AWI, API, NRDC, Sierra Club, Wilderness Society, etc. that they met with secretly) that I was going to fail ultimately. Telling me that, however, was fraught with problems for them as long as they were cultivating the aura of being the defenders (not destroyers) of States' rights and advocates (not opponents) of

managing renewable natural resources. That said the former Democrat staff person from the defunct Merchant Marine and Fisheries Committee and overseer of the excise taxes was secretly negotiating with White House staff to get the President to sign an Executive Order to ban all trapping on public lands as a sop to the pro-wolf/anti-trap factions with whom he was entangled. He was unsuccessful due to the explosive nature of the topic as an election was approaching. My trips to Europe and my liaison work with state furbearer managers in those days overlapped the theft of the excise taxes while I was also working in Washington as a Project Officer on millions of dollars of multi-state excise tax projects.

When I was informed (secretly) of the "secret" meetings between the Director and activist organizations earlier, at that time in the 1990's I thought the sole reason for those meetings was my continuing progress and eventual success (my belief, not theirs) with getting the EU and their environmental/animal-rights' allies (many of whom were the same ones I encountered in the US meetings and at UN meetings). I was wrong. More careful hindsight and more balanced consideration of the facts and dates has led me to be firmly convinced that those meetings were either also or primarily about the wolf introduction funding and the potential scandal that might arise if the funding were ever exposed. USFWS had stolen the money from the excise taxes and the environmental/animal-rights' organizations wanted me fired or shot (whichever) but since I was working in the excise tax area, any scandal or commotion might cause an inquiry or some questions about the excise tax books. Put together my success and my state connections with the danger of Congress or some state looking into how wolves (to say nothing of the California office) were funded and who knew what the consequences would be if the theft of Millions was revealed?

When the EU finally backed down on the attempt to ban the import of furs in the late 1990's the feces "hit the fan" regarding my continued employment. The environmental/animal-rights' organizations were now powerful enough to demand that I be drawn and quartered as an example to the few remaining natural resource managers and Constitutional rights' respecters left in USFWS. I wound up at home for 10 months and here I am today.

### Part III — Violations of Law associated with and generated by Wolf Introduction and Protection.

This final part is an account of the violations of law associated with the introduction and spread of wolves in the Lower 48 states, as I understand them. As when I "made" two large Endangered

Species cases in New York 35 years ago, I will summarize them for you as I would for a US Attorney. Since I am not a lawyer, I can only make a preliminary suggestion as to what specific law or laws were violated. It is up to a lawyer or law clerk to “research” this further and determine which and if any laws or regulations were specifically violated. The fact that this happened 9-15 years ago means that any legal follow-up is problematic. Keep in mind that this is provided for you to see and understand the interconnectedness with all manner of Constitutional abuse and government corruption that we must be aware of as we plan for the future.

My only real purpose here is to inform the listener or reader about the putrid background associated with wolves in the Lower 48 as a way to help all those being harmed by wolves and federal perfidy from ranchers, walkers, joggers, and hunters to dog owners, parents with small children, grandparents, rural residents of all stripes, states’ rights advocates, those concerned about diseases carried and spread by wolves, and American taxpayers paying for an increasingly expensive and perpetual “catch-release-kill-cover up-deny” cycle of never-ending wolf babysitting with our tax dollars. Hopefully knowing history in this case, in addition to helping us to not repeat it, will help us to solve this wolf problem and begin to rebuild a safe and productive rural America where families, freedom, and American values once more create a rural environment that is the pride of all Americans and the envy of the world. Knowing your foe is the first step to victory.

The following alleged criminal activities are divided into two groups. First are those violations directly associated with the introduction and protection of wolves. Second are those violations that were attempts to cover up past criminal activity and assure future support from all those associated with federal wolf activities.

**A. Violations directly associated with wolf introduction.**

1. The theft (misappropriation, diversion) and misuse by USFWS Administrators of at least \$60 Million from the Pittman – Robertson excise taxes in Fiscal Years 1995, and 1996. These funds could only be used by state fish and wildlife agencies for purposes expressly stated in the Act. This was done by USFWS managers and

was verified by a GAO audit report to the US Congress in 1998 and my own examination of these records. 26USC, Sec 4161? 31USC, Sec.666?

2. **Supplementing federal Appropriations with illegal funds.** FWS managers supplemented the USFWS Congressionally Appropriation in FY 1995 and 1996 with at least \$60 Million taken from the Pittman – Robertson funding to fund a wolf introduction program and to establish an USFWS office in California, each of which Congress had specifically and previously refused to fund and to pay salary bonuses to select USFWS employees that were not entitled to such funds since they had no connection with the “administration of the Wildlife Restoration excise taxes or their disposition. 26USC, Sec 4161?
  
3. **Introducing wolves from Canada into Yellowstone National Park after the US Congress had refused to appropriate funds for or to authorize such action.** This act is clearly a serious violation of federal budget regulations but would arguably be caught up in an irresolvable debate between the President and the Congress as to whether or not the President is bound by a refusal of Congressional funding to forego specific actions.
  
4. **Failure to file Wildlife Importation Forms (Form 3-177) upon importing wolves from Canada into the United States for release soon thereafter in Yellowstone National Park.** 50CFR, Part 14; 16USC 3371-3378 NOTE – This “required” Form 3-177 describes the species and origin of the wildlife along with the date imported so that you could check on all who were present at the importation (like DOW?). When I was told (in 1997 by an Endangered Species biologist) that the Form 3-177 was not submitted at the border when the wolves were imported by USFWS employees I doubted it, so I called the Law Enforcement Office that would have had such records and asked how many live wolves had been imported into the US from Canada in the first half of 1995. I was told “none”. As a former US Special Agent at a Port-of-Entry (New York in the 1970’s) I knew of the importance of this document. I was truly stunned at the time that no such record was made. As an indication of the variable and selective enforcement power of Endangered

Species "requirements" at this time a biologist in the Endangered Species Program had accompanied a Smithsonian expedition to Asia and made out the "required" Form 3-177 for the expedition on return to the US. Nitpicking about the species name used on the form and the failure of some inane documents from some tiny Asian "republic" turned into federal charges against the biologist that went on forever. His only "real" violation was questioning Endangered Species "science" and "enforcement" practices in the past. Finally he was forced to agree to two misdemeanors and retire. He soon found out that the US Attorney had been induced to arrange things so that it was treated by the state of Virginia as a low-level felony thereby depriving him of the right to vote or own or possess a gun. Given the importance of wolf dealings today, the fact of questionability of origin and "species" of the wolves is merely but one more "impossible to prove" aspect of the whole affair.

5. The failure of USFWS to describe the impacts, costs, and dangers to be expected if and when wolves were introduced and protected as Listed Endangered Species in the Lower 48 States.

**1. Historical records of wolves attacking and killing soldiers, children, homesteaders, and Natives (as mentioned in Stanley Young's Wolves of North America) were ignored.**

**2. International records of human attacks and livestock and wildlife losses (as described later from available documents in Will Graves' Wolves in Russia) were ignored. Human attacks were denied and ignored and it was even claimed that there were NO such attacks in North America.**

**3. Human, wildlife, and livestock dangers from wolf-borne disease were ignored while the steady discovery of health hazards to people, wildlife, pets, and livestock from wolves has grown exponentially. Wolves carry and spread over 30 infectious diseases, nearly all of which are hazardous to humans.**

**4. Expected Big Game animal losses were totally distorted and made into nothing while the results are catastrophic.**

**5. Livestock losses were underestimated and the fact that any taking or harassment of wolves (except in only the most extreme and provable**

circumstances where a human life was in extreme danger) in protection of private property would be met with draconian – felony and extreme federal enforcement – penalties was not mentioned.

6. Promises in initial documents to not allow any number over X by state have been disregarded and implied “return of management to states” in truth has and will only mean Federally “approved” (and changeable) Plans that “permit” State governments (only temporarily and under changeable goals and processes) to implement “approved plans” as changing federal political winds dictate.

7. Control and management costs of expanding wolf populations to state and federal budgets received no realistic treatment.

8. Current costs to farmers and ranchers, to say nothing of current total federal costs annually are not available and are downplayed when requested.

9. Costs incurred by state governments and local economies due to the loss of hunting opportunity and all the revenue and wildlife management it generated were nowhere anticipated or described realistically.

10. Anticipated loss of large-scale familial and cultural family hunting and other outdoor traditions was neither mentioned nor quantified in the impacts expected from the release and protection of wolves.

11. The loss of ranches, livestock production, and the significant diminishment of rural economies were ignored and are still denied by those responsible.

This record should give a court the opportunity to tell the Federal government that USFWS is totally incapable of describing the impact of its programs due to its own self-serving stake in the outcome and thus (at least) ask a court to designate or direct the Congress or the President to designate a different process or entity to write such documents and implement such programs from now on. Such a finding may be a “violation” of the duties and functions expected of an agency under this specific law or in general under their charter. If USFWS cannot perform such a basic governmental requirement then the responsibility should be placed elsewhere. If USFWS DELIBERATELY ignored multitudinous harms and dangers in order to introduce the wolves anyway, they should be prosecuted and the program reversed. 16USC, Sec. 1533? 50 CFR, Sec. 424?

6. The entire relationship, going back to the early 1990's between USFWS and the Defenders of Wildlife (an organization that since its inception has been a foe of USFWS programs as evidenced by lawsuits and opposition publicly to Federal and State fish and wildlife management and use programs as well as the ownership and use of wildlife by US citizens) is one that bears close examination. For instance:

-Did the Defenders of Wildlife actively participate in the capture, transfer, and release of wolves into Yellowstone in 1995? What role (both personnel-wise and financially) did DOW play in that effort?

-Is it permissible for a governmental function like compiling and compensating livestock owners for animals lost to wolves to be given to a Non-Government Organization (NGO) like DOW with an agenda opposed to state wildlife authority, ranching, hunting, and the Constitutional rights of rural American citizens?

-On what basis can recording wolf damage be awarded by USFWS to an NGO that is deeply involved in one side of a very partisan wolf program?

-Although the 2<sup>nd</sup> female USFWS Director appointed DOW to be the sole authority on "documented" wolf damage to livestock, and even though this same Director left USFWS with the election of President Bush and then waited 3 years (2 ½ of them in a top job at the Wildlife Federation) before assuming a top job with the Defenders of Wildlife: was there any quid pro quo during her tenure as USFWS Director regarding USFWS decisions like the quasi-governmental role awarded DOW and future employment?

-What political activities, donations, and support regarding state and local elections does DOW engage in? Have any government funds been used to influence political elections or to influence political votes? Did DOW lead an effort to defeat Congressman Pombo? Is DOW leading a current effort to defeat Congressman Pombo's bid for re-election?

-How close to the line of illegality are all or any of these involvements, violations of election laws? Of lobbying laws? Of use of federal funds? Of simple government ethics regulations? – P.L. 100-478?

7. Can items 1 through 6 be combined in whole or in part to indicate a Conspiracy either among federal employees or between federal employees and others, like DOW?
8. If USFWS empowers DOW to compensate livestock owners for provable loss of their property (livestock) how can it (USFWS) refuse to similarly compensate dog owners or other animal owners for the provable loss of their property to wolves? Similarly how can the federal government that introduced, protected, and spread the wolves not be liable for human attacks by wolves? What of the loss of huntable animal populations to federal wolves, since if MY dogs kill game animals I am fined and punished to prevent any such future loss of game animals (i.e. public property under state jurisdiction managed for all the residents of the state)? Is this not a violation of the "Equal Treatment" before the law prominently stated in the XIV Amendment, "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Even if you make the argument, "why that only applies to the States, not the federal government", then each state allowing this disparate treatment (livestock owners v. dog owners, big game hunters, humans attacked by introduced wolves, etc.) under federal law is violating the 14<sup>th</sup> Amendment and should be sued to force them to "protect" the "life" and "property" of its residents "equally". There seems to be no doubt about the awful dilemma created by the USFWS and gutless states here. Were I to move into your neighborhood and let my Dobermans run loose and kill your dog and your calves and wild fawns in parks while keeping families sealed up in their homes and causing you to not let you kids walk home from the school bus stop: would I not be liable and would not the state have a responsibility to protect you and your property? The fact that federal policies and laws create such a situation in our communities with no federal accountability and that state governments are nowhere in evidence is disgraceful and I would argue illegal with only the most rudimentary reading of the US and most State Constitutions.

- B.** Violations resulting from and associated with a cover-up of past criminal activity associated with the wolf introduction or in furtherance of current and future cooperation to ensure the continued expansion of areas supporting wolf populations.

1. Fifteen plus or minus years (mid 1980's to late 1990's) failure of USFWS to audit state fish and wildlife agencies' compliance with excise tax expenditures and other requirements to continue receiving such Wildlife Restoration funding. This specific requirement in the legislation authorizing the entire excise tax program was let slide as USFWS strived to become more "green" (I.e. more non-"management" and use oriented) in its own programs and to allow state agencies to likewise use the excise taxes for similar, but prohibited uses like non-sport fish projects and replacing non-native game species with native non-game species. During this dereliction of USFWS duties one state sold wildlife lands to a prison (a violation), another, paid state park employees salaries (a violation), and another bought a vehicle fleet and put it in the statewide motor pool for all state employees to use (a violation). Were it not for late-at-night State whistleblowers, these would have gone undetected and bred more such violations. This made it harder and harder for state fish and wildlife agencies to stand up to USFWS over anything as each state had more and more skeletons hidden in their closets. Remember to add to this the increasing grant dollars from federal sources (Endangered Species, Research, "adaptive management" etc.) and the growing conviction that "hunting (license money particularly) was on the way out" and you have state fish and wildlife employees more and more beholden to federal bureaucrats than to state residents or even state governments for that matter. As proof that the state fish and wildlife cowards were right that "hunting is on the way out", as wolves have eradicated Idaho (a former premiere destination for non-resident big game hunters) elk and deer such that current (as this is written) non-resident hunting license applications that are normally quickly sold out are only 3,235 applicants for 14,023 available permits. The failure to audit state agencies by USFWS was an intentional action to further neutralize state agencies that might think of objecting to USFWS plans not only for wolves but for land acquisition, introduction and protection of other predators like grizzly bears and jaguars and a whole host of planned private property takings and game species' eradications of ("Invasive") species like brown trout, pheasants, Hungarian Partridge, Rainbow trout, Pacific striped bass, Great Lakes salmon, etc. The reason for these intended eradications is the bizarre offense that these animals (though highly prized by sportsmen and others) arrived in North America AFTER Christopher Columbus. Today South Dakotans and Iowans have had to fight their state wildlife agency to control the cougars spreading into their states. Today the Iowa wildlife agency burns pheasant nesting and wintering habitat in the spring on state hunting areas to

ostensibly establish "Native Prairie" while actually eliminating the few remaining pheasants (just like is currently happening at Bowdoin National Refuge here in Montana as I speak).

2. State audit discrepancy cover-up of State irregularities in excise tax expenditures and the illegal "hiring" of the US Department of the Interior Inspector General as a contractor by USFWS an agency under the purview of that Inspector General. After the theft of the +/- \$60M USFWS had to quickly restore the 5-year State audit cycle but they no longer had qualified employees (who had formerly conducted the audits from the 1940's to the mid 1970's when they started becoming less and less frequent). A contract audit agency was hired to audit each state fish and wildlife agency in the next five years. There were 2 real difficulties. First, the states had not been properly audited for a long time and they were (like USFWS) a budget hodgepodge of funds, restrictions, earmarked funds, separate offices and conflicting missions. Additionally, some state agencies are in larger Departments of Natural Resources where fund "sharing" and abuses of the excise taxes are harder to detect. Second, the auditors were not familiar with fish and wildlife organizations and programs (as were growing numbers of USFWS employees). Thus misuse of excise taxes for illegal "green agenda" purposes were not only concealed but readily denied by state managers that saw this as their career future "when hunting disappears" and federal funds became even more important. After 2 years, the auditors were somewhat behind schedule (not surprisingly) but they had already confirmed over \$130 Million in misused excise tax dollars from shady land transfers to political profiteering and timber sales revenues that were deposited in state coffers rather than in fish and wildlife accounts as required by law. So USFWS fired the auditors when they showed no inclination to "smooth" over their findings. USFWS then "hired" the US Department of the Interior INSPECTOR GENERAL (IG), who is appointed by the Justice Department and confirmed by the Senate TO OVERSEE the USFWS among others, **to conduct the state audits**. The IG didn't even audit USFWS and was more a political figurehead than anything. That IG moved on to being currently Vice-President Biden's IG or "Czar" overseeing the "Stimulus Funding". Anyway, the current IG is still given +\$3m per year to "audit" state agencies. By the way, the \$130 Million misuse was (settled? explained? erased?) and no other major problems have been unearthed.

Question, is it legal for a federal agency to ("hire", "contract with", "pay", "employ") an Inspector General with oversight responsibilities for that agency?

This is like some bank or trucking company hiring the County Sheriff to do X, Y, and Z. Could such a thing ever be legal, tolerable, or ethical, aside from the corruption that such an arrangement would inevitably breed?

What happened to the \$130 Million misused by state agencies? When added to the stolen, and never replaced, \$60 Million and funds probably spent in Canada catching wolves and we are up to at least \$200+ Million lost to American hunters, anglers, and outdoorsmen. At what point does all this (to paraphrase the late Senator Everett Dirksen) "become real money"?

The laws violated here are numerous and the mind boggles at what has evolved between USFWS, the IG, and state fish and wildlife agencies in the interim. – 26USC4161 +?

3. Stolen excise tax dollars were never replaced. You might wonder why the +/- \$60M documented as stolen from the excise taxes was never replaced? Well aside from the national political interest in containing the scandal, THE STATE FISH AND WILDLIFE AGENCIES NEVER REQUESTED THAT IT BE REPLACED! How could that be? Well I have already mentioned the steady slide of state fish and wildlife agencies from being state agencies in service of their state, its residents, and its government to quasi-subcontractors for all manner of federal programs and federal bureaucracies. The thought of antagonizing federal bureaucrats (especially USFWS bureaucrats from whom more and more of their future financial support was anticipated to come from) was probably like Italian troops in North Africa in 1942 making up their minds about what to do about the Allied horde that was descending on them – they surrendered quietly.

The money was never requested to be replaced because the state fish and wildlife Directors and their Washington, DC lobby group decided to remain noncommittal after USFWS signed an agreement with them to annually transfer \$3M or more of the excise taxes to the states' lobby group in Washington to "fund multi-state projects of their choosing". This formerly jealously-guarded USFWS prerogative was surrendered quietly and privately. The lobby group doubled its staff and everyone (except the hunters, anglers, and outdoorsmen) was happy. Even the hunting and fishing groups and the hunting and fishing business groups were happy since they could now feed together on the excise taxes because of their "close" relations with the state agencies and their lobbyists.

Questions: Can a lobby group receive federal funding? Can a lobby group (just like the DOW precedent) determine the disposition of federal funds? Are there

any state laws that require that a state fish and wildlife Director inform his managers and state government that funds due the state were stolen and should be replaced? Is it a dereliction of duty for state fish and wildlife employees, or Congressmen, or the President when they become aware of an illicit loss of hunting and fishing funds collected for and destined for state hunting and fishing programs to not ask for or provide for their replacement? Should such state employees have demanded the punishment of those that stole the funds? Can such a financial arrangement on the heels of the GAO Audit be construed as a conspiracy, or a quid pro quo, or simply "hush" money?

Like the man digging through the manure in the barn, "there must be a pony (a law violation or two) in here somewhere".

4. Using tax money to bribe a witness aware of government theft of funds to keep quiet. The cash settlement paid to me when I retired was paid in three, one-year, installments. The agreement I signed with USFWS (after 10 months at home and testifying twice before a Congressional Committee, etc.) stated that if I mentioned or wrote about anything or any circumstance surrounding or having to do with my retirement or the USFWS activities during the time leading up to my retirement I would forfeit any money due me and would have to return all money paid me under this settlement. In other words, a government employee involved in government (public?) business was to be paid WITH public taxpayer money BY government managers to keep quiet about anything he knew or was aware of concerning his publicly paid-for activities. There was no "classified" aspect to this, only government managers using government funds to have an employee keep quiet about government activities. Interested media or hunting and fishing groups were to be told NOTHING, except the federal explanations given to state managers at a federal Conservation Training Facility in West Virginia (it was all a "bookkeeping error", I kid you not).

This stopped any further publicity and allowed everyone involved with the wolf introduction from the Director (now at DOW) and the former Democrat staff person (now a high USFWS official) and the US Senator's daughter (now also in a top USFWS management position) on down to move on honorably and profitably. Can such use of public funds ever be justifiable? Is that a bribe? I say that knowing that I accepted it due to the duress my wife and I were under for almost 2 years and that was threatening to destroy our lives. Accepting that

restriction was probably the dirtiest part, for me, of all the circumstances that marked my departure from USFWS. – 18USC, Sec.201?

So there you have at least 12 actual or likely law violations associated with the introduction, protection, and spread of wolves in the Lower 48 states. I accuse federal bureaucrats, state bureaucrats, non-governmental organizations, Washington lobbyists, and even myself. It was a sordid affair and it has only grown worse. The “losers” thus far are ranchers, hunters, dog owners, rural residents (especially parents, children, and the elderly), local and state governments, and American Constitutional government. The “winners”, although many have gone onto higher salaries and more power, have yet to be determined. When those of us that have been “losers” to date turn this government excess train around we will be the “winners” because we will know where apathy led us and we will never let this happen again.

Jim Beers

12 May 2010

**ACTIVITIES OF THE NEVADA DEPARTMENT OF WILDLIFE, AGENCY  
PERSONNEL AND DIRECTOR KENNETH MAYER - constituting, possible fraud,  
misrepresentation of facts and obstruction of justice**

**Presentation and affidavit presented to the Board of County Commissioners, Elko County,  
State of Nevada, August 9, 2012**

In 1991, Kent Howard sold his ranch, located along the Bruneau River to the Rocky Mountain Elk Foundation. Within the agreement for sale was a stipulation requiring that a management advisory board be formed. At the suggestion of Kent, I was appointed to that board.

During the initial tour of these newly acquired governmental holdings, I overheard NDOW, Region II Director, Larry Barngrover in conversation with another NDOW employee, discussing a study that had been accomplished - something about ravens taking large numbers of sage grouse eggs.

At first opportunity I ask Larry if I could obtain a copy of such a study - where-upon, Larry stated he had no knowledge of such a study. Unconvinced, I again approached Mr. Barngrover asking that he supply me a copy of the study some months later. Again he stated he had no knowledge of any such study.

Convinced I was being lied to, I then ask Las Vegas resident Harry Papas for assistance in finding a way of obtaining a copy. Harry had been heavily involved in wildlife issues and knew persons within NDOW that might have been able to help. Not so however. Harry too, learned nothing.

And so I went to Jim Smalley. Jim Smalley was then serving as president of the Nevada Rifle - Pistol Association. Jim knew his way around and was curious himself. He quizzed people in and out of NDOW but learned nothing. He then went to the University of Nevada campus in Reno and talked to Don Klebenow, then head of wildlife studies at the University and was alleged to have overseen the study. He too denied having knowledge of the study.

Finally, out of desperation, I again called the NDOW office in Elko, hoping someone there might make a mistake and furnish me a copy. When I ask the receptionist if I could speak to someone with knowledge of sage grouse, a young man by the name of Gary Zunino came on the phone. When I told him what I wanted - he said sure - "I completed my thesis for a masters degree in wildlife management as a part of that study. I'll send you a copy."

That is how I came to receive a copy of the Surprise Valley Study that everyone now talks about. Since then, I've learned that the suppression of scientific information that is found to be unfavorable by agency personnel is not that uncommon.

Dr. Charles Kay has written about the lies, myths and scientific fraud that have been perpetrated by persons working within state and federal agencies during recent decades.

Alston Chase, Jim Beers, Steve Rich, Vernon Bostick, and Fred Wagstaff, Richard Mackie, J. W. Hart, have all told of zealot environmentalism, hidden agendas, corruption, and suppressed data.

On October 26, 2010, Elko County sent a copy of Rural Heritage Preservation Project, Findings of Facts Document to representatives of the Nevada Department of Wildlife, asking that they address each issue raised within the document so as to determine if past actions taken by the various resource management agencies might be responsible for downtrends in wildlife numbers. NDOW officials sidestepped the issue.

So again, on Dec. 3, Elko County again ask that NDOW officials respond. To this day they have not.

We issued a challenge to Director Kenneth Mayer in an article produced in the August issue of the Nevada Rancher asking that he produce certain data supportive of the positions he and his department have taken regarding management issues. Again, we received no response.

Again, on September 23, I made a presentation before the State Wildlife Commission asking that NDOW officials respond to our requests. Still we have received no response.

In view of these refusals, we can only conclude that those working within the Nevada Department of Wildlife do not want the truth to be known.

What seems to interest officials working within the Nevada Department of Wildlife, The Bureau of Land Management and the U.S. Forest Service is ever increasing spending. Listing, planning and protection of species is only a guise for the enchansment of agency growth and power. For those working within these agencies, species in trouble serve as an asset, rather than a liability.

If the people working within these agencies continue to get their way in the months ahead, all will continue to suffer. The local economy will be adversely effected. Wildlife in general will continue to decline. Recreation opportunities will be further diminished. Ranching families will be hurt finically. It will be a lose, lose situation for everyone and everything.

To prevent this from happening, Rural Heritage Preservation Project suggests Elko County and public at large demand the following:

First - that a study be undertaken for the purpose of determining sage grouse statue and production on private lands owned by the Sorensen family near Secret Valley, as compared to that on lands now owned and controlled by the Bureau of Land Management, mid way up the Mary's River drainage, which have not been grazed for more than 15 years.

Second - we suggest that be a large study area (roughly the size of Area 10) be set aside here in Nevada where livestock grazing and predator control practices similar to those which were carried on in the 1940's, 50's, and 60's be conducted for a period of twenty or more years for the purpose of determining the true effects of past practices on sage grouse, mule deer and other wildlife.

Third - we suggest that a study be completed so as to determine amounts of yearly production and nutritional value of black sage growth or regrowth, on plants that are grazed by domestic sheep on a regular basis, as compared to black sage plants that are left ungrazed from year to year.

Forth - that officials working for the Nevada Department of Wildlife, the U.S. Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service, be required to address and answer the Findings of Facts Document that is herein attached. For far too long now, officials in each of these agencies have gotten away with formulating policy suitable to their own liking without having to adhere to the standards of truth and justice.

Fifth - so that misunderstandings can be resolved, officials working for the Nevada Department of Wildlife make data available showing the total number of mule deer buck tags which were issued within the State of Nevada for each year, beginning in 1945 through 2010; the total number of mule deer doe tags that were issued within the State of Nevada for each year beginning in 1945 through 2010; the total number of mule deer bucks that were harvested each year beginning in 1945 through 2010; and the total number of mule deer does that were harvested each year beginning in 1945 through 2010.

Sixth - before any new plan for the preservation and protection of sage grouse be implemented, such practices as will be proposed by persons working for the U.S. Forest Service and Bureau of Land Management be first implemented and carried out of the Ruby Lake National Wildlife Refuge, the Sheldon National Wildlife Refuge, and Hart Mountain Wildlife Refuge, so that their effectiveness can be determined. Should such practices work on refuge lands, then and only then should they be implemented on other lands found throughout the West.

Should officials working within the various agencies refuse to participate in such studies and goals, as are herein outlined, we can only conclude their intentions are anything but honorable.

If such is the case - and we believe it is. Then our appeal goes to you, the commissioners of Elko County. Will you stand and do all you can to protect the citizens of this county from the tyranny and abuse above described.

Respectfully submitted,

*Cliff Gardner*  
8/9/12  
Cliff Gardner

State of Nevada  
County Of Elko  
Signed and Sworn / Affirmed to before me this 9th day of  
August 2012, By Cliff Gardner

*Betsy J. Lee*  
notary public



# PREDATION: LIES, MYTHS, AND SCIENTIFIC FRAUD

BY CHARLES E. KAY

In the ongoing debate about predation, did you ever wonder how we went from our forefather's views that predators have a negative impact on deer and elk and severely limited hunting opportunities to today's beliefs that predators have little or no effect on game populations? To understand how this transformation occurred, we have to go back 40 years and review five events; Farley Mowat's book "Never Cry Wolf", Hornocker's mountain lion study, Isle Royale's wolf study, the Kaibah Deer Incident, and Graeme Caughley's mathematical models.



First, let's look at Mowat's, "Never Cry Wolf". As a young biologist working in northern Canada, Farley Mowat made an amazing discovery; namely that wolves did not live by killing caribou! Instead, wolves survived on rodents and hence wolves were needlessly being persecuted by man. Never Cry Wolf was presented as fact and was later made into a movie by Walt Disney that was seen by millions. The trouble is Mowat's rendition of wolf biology was entirely incorrect. Wolves live by killing large mammals, a fact readily admitted by all the wolf biologists, who have ever lived. Thus, people who study wolves have known for years that Mowat's book was less than truthful.

What has only recently come to light, however, is that Mowat fabricated the entire story! Not only did he get wolf biology wrong, but he was never in the places he said he was at the times he claims in Never Cry Wolf. In short, the book is a work of fiction. Nonetheless, it has

justifies the means of lying. Mowat has also said that he would do it all over again, if given the chance. Least you think this is old news and that Never Cry Wolf no longer shapes public opinion, think again. At a luncheon during the Clinton administration, I was seated next to a high-ranking Republican Congresswoman from New York, who was telling everyone within earshot that reintroducing wolves to Yellowstone would just be the greatest and that worries about game populations were unfounded because wolves ate mice! When questioned about her statements, the Congresswoman cited Never Cry Wolf. Needless to say, she wasn't the least bit pleased when I informed her that Mowat had spun the truth to suit his political ends.

In 1970, Maurice Hornocker's study of mountain lion predation on mule deer and elk in central Idaho was published as a "Wildlife Monograph" by The Wildlife Society: the professional organization for wildlife

*Whatever else wolves and mountain lions may be, the one thing that is without doubt is that they are stone-cold killers.*

been highly influential in changing the public's perception about wolves and other predators. According to a group of noted wolf biologists, "Despite its depiction of fiction as fact, this widely read book probably played a greater role than any other in creating support for wolves." When questioned on all this, Mowat has been unapologetic and contends that in the end, protecting wolves,

biologists. Doctor Hornocker contended that mountain lions had little impact on deer and elk populations, in part, because the cats socially regulated. That is to say, mountain lions used social means to purposefully regulate their population below the level where the cats would affect prey numbers. In that same year, Douglas Pimlott claimed that wolves, too, socially regulate themselves.

Unfortunately, this is "not" how evolution works! It was not true when they wrote it and it certainly is not true today. In their recent book the "Desert Puma", Logan and Sweaner, who are associated with the Hornocker Wildlife Institute, repeatedly stated that mountain lions "do not socially regulate." David Mech and other wolf biologists have also acknowledged that wolves do not socially regulate. Instead, wolves are in the business of turning prey animals into more wolves as quickly as they can without any regard for the health of prey populations. "We would expect wolves to kill as many prey as possible. There is little for wolves to gain by being prudent about resources within their territory."

This now brings us to Mech's 1970 book about wolves and moose on Isle Royale. According to Dr. Mech, wolves had little impact on the national park's moose population. Instead, moose numbers were largely controlled by habitat and/or weather. As additional data has been collected over the last 35 years, however, at least five different interpretations of predator-prey relationships on Isle Royale have appeared in various scientific journals. Nevertheless the popular press continues to cite Isle Royale as an example of the "balance of nature" and how predation has virtually no impact on ungulate populations. The trouble is Isle Royale is "not" representative of conditions anywhere else in North America! As Isle Royale wolves kill most of the more vulnerable moose, wolf numbers fall and remain low long enough for the moose to

increase. Because of this is an island vacated of wolf territories are not automatically filled by lone or dispersing wolves. On the mainland, if a wolf pack naturally winks-out or is removed by hunting or trapping, lone and/or dispersing wolves reoccupy the vacant territory, often within a matter of days. So in the real world, wolf pack density and wolf numbers seldom fall low enough to allow their prey to recover. In addi-



tion, there are no bears on Isle Royale, either black or grizzly, while throughout the rest of North America, one or both species of bear are common. Research has demonstrated that bears often are a significant predator on newborn moose and other ungulates. Moreover, bear predation and wolf predation are additive and together they have a

significant impact on big game populations. In fact, throughout most of Canada and Alaska, combined predation by bears and wolves routinely limits moose numbers to 10% or less of what the habitat could otherwise support. Bear and wolf predation also severely reduce hunter opportunities. Acceptable human off-take rated in bear/wolf/moose systems vary from 0% to 5%, while in predator-free areas hunters har-

vest up to 55% of the over-winter moose population each year, without a decline in moose numbers. Thus, Isle Royale is an entirely abnormal situation.

Many readers may be too young to remember the Kaibab Deer Incident but it figures prominently in debates over predators. The Kaibab Plateau,

also called the North Kaibab because of its location north of the Grand Canyon in Arizona, is known for producing large-antlered mule deer, and because of that, it was set aside as a game preserve by President Theodore Roosevelt in 1906. Hunting was banned, while wolves and mountain lions were killed. With predators eliminated, the mule deer population erupted to an estimated 100,000 animals that then proceeded to strip the range bare before starvation lowered deer numbers. Ahhh, the good old days when there were too many mule deer!

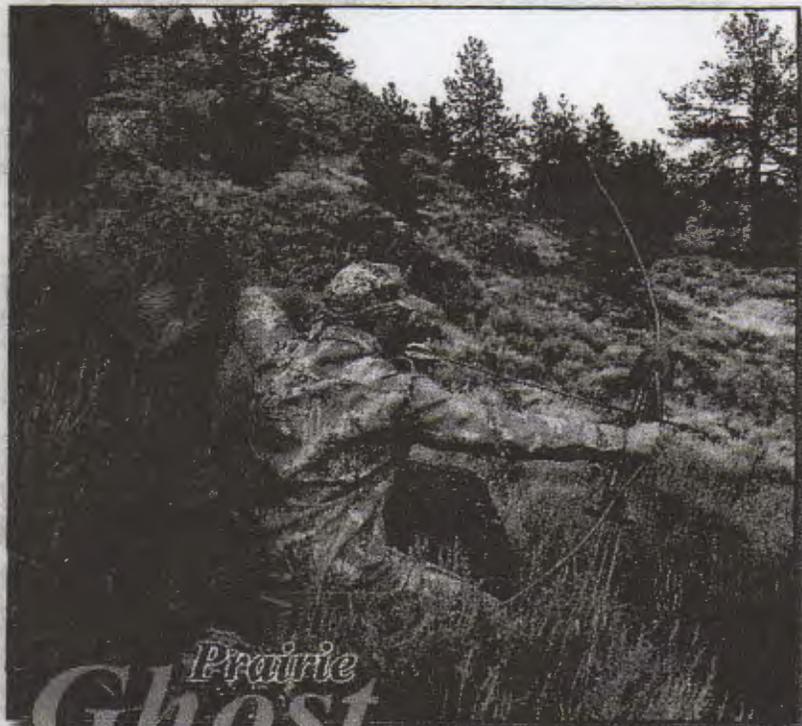
For nearly 40 years, the Kaibab was cited as proof that predators limited ungulate populations and that hunting was therefore necessary where wolves and mountain lions had been eliminated. Aldo Leopold, among others, cited the "Terrible Lessons of the Kaibab." All this changed in 1970, though, when Australian ecologist Graeme Caughley published a paper in "Ecology", a scientific journal of the Ecological Society of America.

Caughley's paper was actually on introduced Himalayan Tahr in New Zealand and his belief was that ungulate populations are food-limited and that predators have little effect on prey populations. Historically, New Zealand lacked ungulates, all of which were introduced by Europeans and New Zealand, to this day, still lacks predators. First, however, Caughley had to discredit the prevailing paradigm of the day, namely the Kaibab deer incident, which he did, or at least he

said he did. Others, citing Caughley's "Ecology" paper, have called the Kaibab deer incident a myth and deny it ever happened! Today, the so-called myth is cited by many as proof that wolves and mountain lions have no effect on mule deer populations but instead deer numbers are set by available habitat. Now unlike Caughley, who in a later publication admitted that he had

never set foot on the Kaibab, I have been to the Kaibab numerous times and I have spent a great deal of time looking for Kaibab documentation in various archives. Additionally, I can unequivocally report that the Kaibab happened just like Leopold said it did. If there is any myth at all, it is Caughley's 1970 publication, a scientific paper in name only. According to Caughley's view of the world,

## GHOST CAMO



Prairie  
**Ghost**  
Ultimate

Prairie Ghost - The "ORIGINAL Western Camouflage" is designed to work in low vegetation and direct sun light.

You can find Ghost Camo products at these fine stores.



Now available in  
All Ghost Camo Patterns

- Performance Base Layering System
- Windproof / Waterproof & Breathable
- Insulated Outerwear

Ghost Camo: 877-226-6462 - info@ghostcamo.com - www.ghostcamo.com

mule deer have always been super-abundant in the West and deer have always severely overgrazed the vegetation, especially on winter ranges. Thus, historical journals should be overflowing with references to abundant mule deer, archaeological sites ought to be full of mule deer bones, and the earliest photographs should show that vegetation on western ranges was very heavily grazed by mule deer and other ungulates. None of which is true. Sightings of mule deer are rare to non-existent in first-person historical accounts. Mule deer and other ungulate bones are rare in archaeological sites, even on the Kaibab, and vegetation depicted in historical photographs shows absolutely no browsing by mule deer, elk, or moose anywhere in North America. These are all datasets that Caughley never bothered to consult.

After his triumph in "Ecology", Caughley developed a mathematical model of plant-herbivore interactions, which he claimed represented how the natural world works. These were paired, simultaneous differential equations containing a number of parameters, such as the rate at which mule deer turned forage into more mule deer. Therefore there were, and still are, no data for most of these parameters, so Caughley simply picked numbers that he claimed were representative of plant-herbivore systems. Caughley then grew his model 25 times a year inside a computer. This produced an outcome where the vegetation and herbivores reached equilibrium after 2 or 3 oscillations. Caughley subse-

quently published various versions of this model in leading ecological journals in the U.S. and Europe. None of these scientific journals, reviewers, or editors, ever required Caughley to present a sensitivity analysis of his model, (this is where you vary parameter estimates singularly or in combination to determine



PHOTO GREG WILSON

how robust or universal is the model's output). Unlike most professionals, who have uncritically accepted Caughley's claims, I performed a detailed sensitivity analysis on Caughley's model. By varying the parameter estimates in Caughley's model, within reasonable limits, herbivores can also take the plants to extinction or the herbivores and plants repeatedly cycle never reaching equilibrium. You should also recall that to obtain the outcome that he published in various journals,

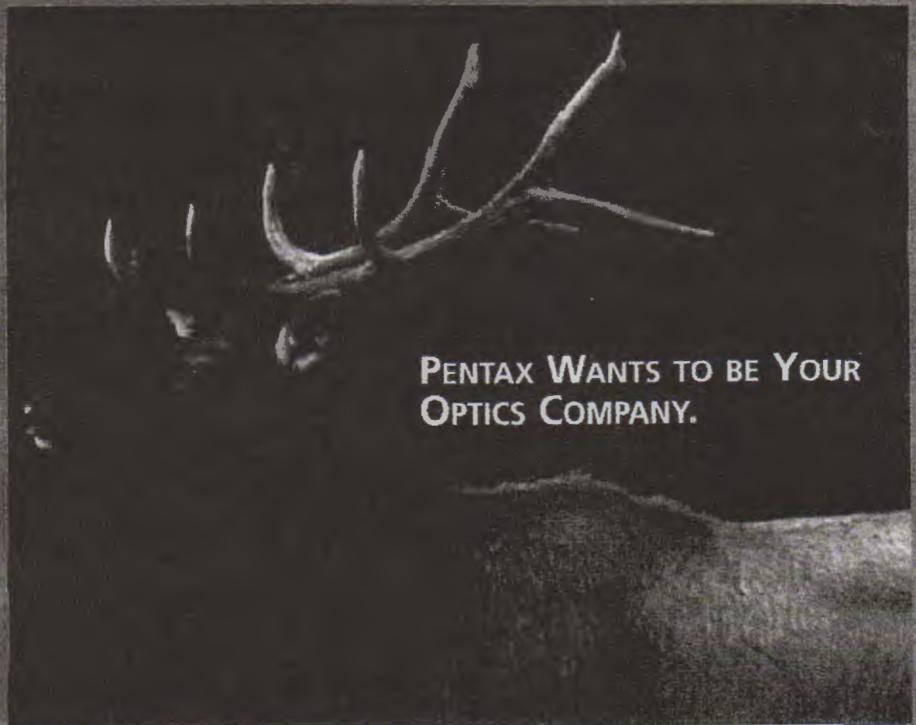
Caughley "grew" his model 25 times per year, but mule deer and other ungulate populations only grow once each year; i.e. North American ungulates do not birth throughout the year. If you grow Caughley's model only once per year, instead of the 25 times per year that Caughley used, it takes the herbivores and

plants 600 years to reach equilibrium, not the 40 or so years reported by Caughley. Clearly, Caughley selected his parameters to produce a pre-ordained outcome. How he deceived all the people, all the time, is certainly an indictment of the scientific process or at least how science is practiced by many ecologists and wildlife biologists. But Caughley did not stop there, for he then developed a model where he added predators to his previously defined plant-herbivore system. This produced

## CONTINUED

three simultaneous differential equations; one for vegetation, a second for herbivores, and a third for predators. Again, there are no actual data for any of the model's many parameters, so Caughley picked numbers he said "seemed appropriate" and hit the run button on his computer. His outcome? Stability and equilibrium, and predators had little impact on ungulate numbers. As before, Caughley conducted no sensitivity analysis. When I conducted my sensitivity analysis on Caughley's plant-herbivore-predator model, I was shocked! This was many years ago when I was still naïve. It was only later that I realized that Caughley had picked the only numbers that would produce the result he reported.....equilibrium and no predation effect! Any other numbers produced erratic model output, be they strange attractors or complex limit cycles.

Whatever Caughley's models are, they certainly are not science. So why have I spent so much time on Caughley, who you probably never heard about? Well, Caughley co-authored a book on wildlife management that is still used in University classes. Caughley has since died, but in his obituary that was published by The Wildlife Society, Caughley was hailed as a pillar of the wildlife community because his views on ungulates and predators have come to dominate the profession. In life there are liars, statisticians, and modelers. The first two are bad enough but you should never, ever trust a modeler unless you fully understand the underlying math and go through the computer



PENTAX WANTS TO BE YOUR OPTICS COMPANY.

We have created a family of very fine optics for your glassing needs. We give you all the bells and whistles in a premium field glass in the market today. We offer: Multi-coated Lens, Brighter Light Transmission, ED Glass (in our Premium Line), Shockproof, Close focusing (in some cases down to 18 inches), Phase coating, BaK4 Prisms, Rubber Armored Exterior for ruggedness, Waterproof Products and a Limited Lifetime Warranty. All this and superior performance in very affordable price ranges.



Binoculars  
(DCF HS)



Small Spotting Scope  
(PF-65ED-A)



Binoculars  
(DCF MC II)

Hunting offers you a chance to enjoy nature, but not being able to get on your game quickly can also nullify your moment of truth. Pentax offers innovative, durable, reliable products that will no doubt further your adventures.

We are the "can do" company. Give us a look and see for yourself

**PENTAX**<sup>®</sup>

See your local PENTAX Sports Optics Dealer  
or for more information, call 1-800-877-0155

PENTAX  
**PentaBright**  
TECHNOLOGY

[www.pentaxusa.com](http://www.pentaxusa.com)

codes line by line. As an aside, did you ever wonder who anti-hunters and their technical experts cite as proof that you do not have to hunt deer or elk populations to keep those animals from destroying the range? Why none other than Graeme Caughley! For he "proved" that plants and herbivores will reach equilibrium without any need for predators, be they carnivore or human. Sweet! Finally, predator enthusiasts object to characterizing wolves and mountain lions as killers. Instead they call them "adorable" and take tame wolves into schools to show the peaceful disposition of the animals.

But what about site-specific and intraspecific aggression? In a 15 year study of an un hunted mountain lion population in New Mexico, Logan and Sweanor reported that cats killed cats at a rate of 18% per year. Meanwhile David Mech and his co-workers reported that un hunted wolves in Alaska killed wolves at

36% per year. Thus, mountain lions kill mountain lions at a rate of 18,000 per 100,000 per year, while wolves kill wolves at a rate of 36,000 per 100,000 per year. This is how the FBI reports crime statistics. For comparison, the murder rate in the U.S. is around 7 people per 100,000 per year. So the mountain lion homicide rate, as reported in New Mexico, is 2,500 times the human murder rate. While the wolf homicide rate, as reported in Alaska, is 5,000 times the U.S. murder rate. In addition, lions kill wolves and other predators whenever they can, and wolves return the favor killing cats and any other predators they can catch. This is not predation, as the victims are seldom eaten. But it does prove that predators kill out of instinct and, at times, just for the act of killing.

A few years ago there was a nature special on TV about lions and hye-

nas in Africa. The entire hour was devoted to lions killing hyenas and hyenas killing lions. Finally, nature depicted how it really is, "Red in Tooth and Claw."

The next day a member of my department asked me what I thought about the African nature special and I said, "It was great!" She, however, admitted that she had to turn the TV off as it was too violent and it upset her moral sensibilities. Violent yes, untruthful or unnatural.....no. Whatever else wolves and mountain lions may be, the one thing that is without doubt is that they are stone cold killers.

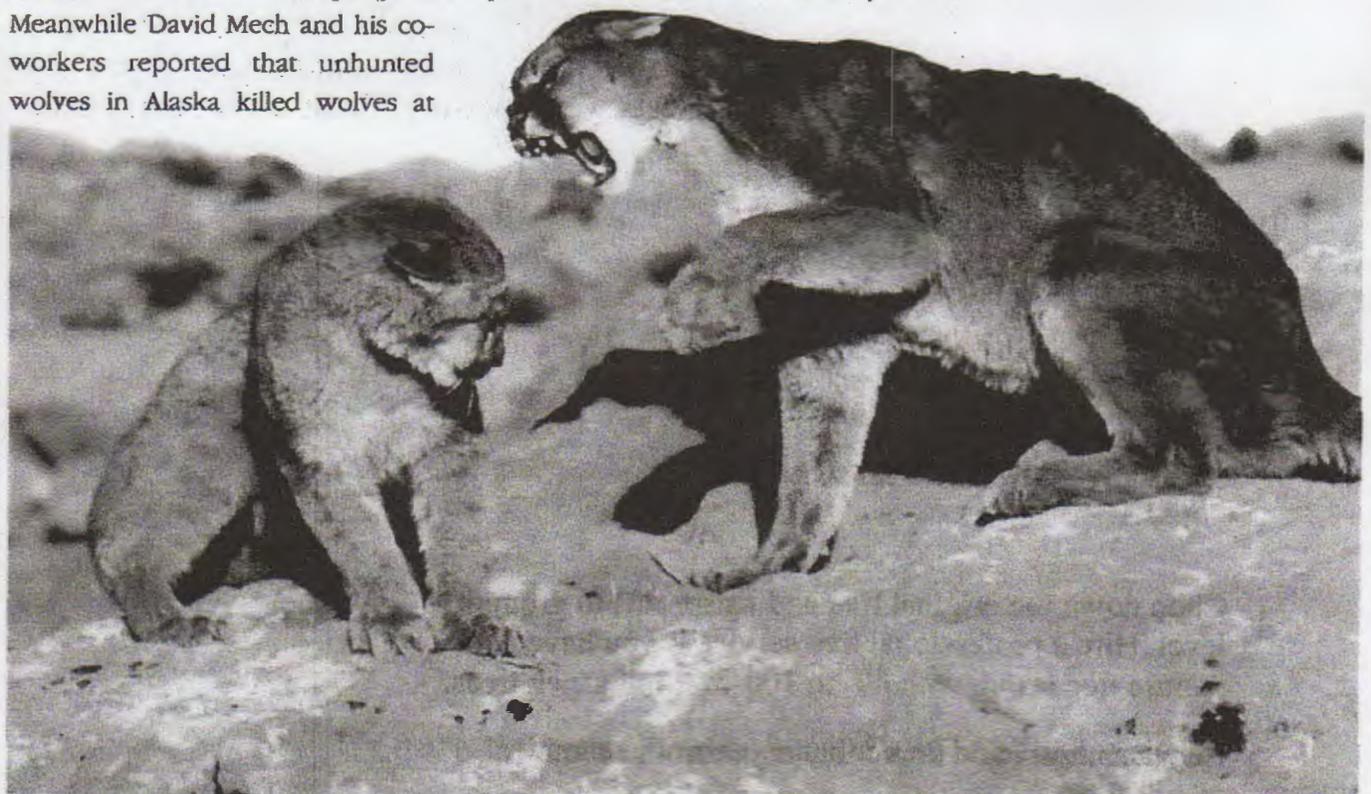


PHOTO GREG WILSON