

**“THREATS, INTIMIDATION AND BULLYING BY FEDERAL LAND MANAGING
AGENCIES, PART II”
CONGRESSIONAL HEARING TESTIMONY BY A. GRANT GERBER
24 JULY 2014**

My name is Grant Gerber. I am an Elko County Commissioner and a fourth generation descendant of ranchers that settled in Elko County, Nevada in the mid 1800's.

For over 35 years I have been serving as an attorney working on Federal Land issues.

A major change has been occurring in Elko County. When I was a boy and as I grew the few Federal Agents were mainly local or from rural areas and fit in well with the local area. They knew the people and worked cooperatively. Now the Federal Agents are predominantly from outside the area and do not develop connections with the locals as was done previously. Many start off with a belligerent attitude, even a commanding presence. They are especially offended if anyone opposes any Federal Government actions. The worst are the Federal Law Enforcement Agents that arrogantly announce that they are not governed by Nevada law, but can enforce it if they choose. Now we have been informed that, without notice or hearings, the BLM has determined that two more BLM Law Enforcement Agents are necessary to control the people in the Elko area. All of this is resulting in less use of Federal Lands by citizens as the citizens become afraid of being accosted and berated.

That has to change. Following are the most recent egregious examples in northern Nevada.

In the fall of 2012, three miners, on their days off, drove their pickups onto Spruce Mountain to cut winter wood. When they drove off of the mountain with the wood they cut they stopped to adjust their load. Suddenly, a pickup came flying down the road after them. One of the miners said it was coming so fast that it was catching air over the bumps in the road. The pickup slid to a stop and a man jumped out with two guns, flak vest, radio, tazer, handcuffs and with his pants tucked into jump boots. He belligerently announced that he was giving them a citation for cutting wood on a BLM Wilderness Study Area. When the miners told the agent that they had permits to cut and that they did not cut on a Wilderness Study Area, he would not listen. The agent told them that it was a Federal offense and not to contest the citation because the Federal Government always won. He gave each of the miners tickets of \$275. A boy was in one of the pickups and he was so intimidated that it made him cry.

The miners knew that they had not been on a Wilderness Study Area but it was going to cost them thousands to drive to Reno 300 miles away to Federal Court twice and hire an attorney to defend themselves. Additionally, they would miss at least three days of work. For these reasons, they decided to pay the fees and cut their losses. I heard about the situation and met with the miners. I told them that I had a criminal attorney friend in Reno and we would represent them for free. We reviewed the maps of the area and confirmed that the agent, Mr. Brad Sone, did not know where he was. *He was on the wrong mountain!* He cited the miners for cutting wood a Wilderness Study Area on a mountain that was over seven miles away down across a valley and up the other side.

Before the preliminary hearing Mr. Sone called the miners and told them the date of the hearing had been changed. One of the miners called the court and learned that Mr. Sone had not told them the truth, that the date had not been changed. Then the agent called the miners again before the trial and told them the case had been dismissed. Again the miner called and learned that the case had not been dismissed. I do not practice criminal law, but criminal attorneys have told me that Sone's calls were illegal at worst, and if not illegal it was inappropriate for the arresting officer to contact the cited citizens. The agent had already intimidated them and now was continuing to intimidate and mislead them.

In Battle Mountain, Nevada the Battle Mountain BLM Manager Douglas Furtado has been "*threatening, intimidating and bullying*". He has used BLM Law Enforcement to attempt to intimidate people from exercising their First Amendment rights of petition, speech, assembly, press and prayer. The Battle Mountain District over which Mr. Furtado presides is huge. It covers from Clark County in the south to I-80 in the north covering Nye County, (the largest county in the nation), Eureka County, Lander County and Esmeralda County. Mr. Furtado has been eliminating much of the grazing in the Battle Mountain BLM District. Over 10,000 cattle have been removed in just the last three years. On one area alone, in June 2013, Furtado removed all 900 cattle that had been grazing each year for over 140 years. And in 2014 he did not allow any of those 900 cattle to graze even though the grass was over two feet high on much of the range. Because of these drastic grazing reductions the fire danger is excessive. Millions of animals have burned because of the management practices of the BLM and these actions by Mr. Furtado will result in the burning of millions more. Before the huge BLM reductions in grazing there were few fires. If Mr. Furtado succeeds in eliminating all the cattle in his district he will join the Clark County BLM District as "cattle free". In the 1980's there were over 50 ranchers with grazing rights in the Clark County District. Now there are no cattle authorized to graze on that district.

In March of 2014 I volunteered, for free, to help the ranchers in the Battle Mountain District reverse the unfair, illegal and morally corrupt practices of Douglas Furtado that were threatening millions of animals, destroying the lives of ranch families, harming the mining industry, hurting hunting and recreation and causing great harm to the economy. In working on this project I have learned many things about Mr. Furtado. He is vindictive and conniving. He has developed one tactic to an art form - "*voluntary non-use*".

In April a petition was created and passed throughout Northern Nevada to have Mr. Furtado removed. Mr. Furtado sent a BLM law enforcement officer to the local hardware store where there was a petition to have him removed on the counter. The BLM Agent informed the store owner that it was a Federal offense to threaten or harass a BLM official. He then left the store for a few minutes, but then went back in and took photos of the petition. Steve P. Seldin, the store owner stated, "The officer appeared to be dressed as though he were going to war over seas, with black jacket, guns, etc. Only thing he may have needed to complete the uniform would be a steel helmet."

A GRASS MARCH/COWBOY EXPRESS was then organized to take the petition asking for Mr. Furtado to be removed to Governor Sandoval 320 miles on horseback. At the end of the ride

the BLM had an agent there taking pictures of the participants. Many of those participants were intimidated because they rely on Federal Grazing Rights that Mr. Furtado controls.

Following are some issues that I am investigating as a result of my work with the ranchers in the Battle Mountain District. This investigation is ongoing and far from complete. I will supplement my testimony at this hearing with the results of this investigation.

VOLUNTARY NON-USE

That phrase is supposed to mean that the holder of the grazing right has voluntarily decided not to graze an area. Mr. Furtado has gone to ranchers and asked them to take "*voluntary non-use*" for part of their grazing. If they refuse or argue he then tells them that he will give them 100% cuts. So they then agree to the "*voluntary non-use*". Other districts in Nevada use this tactic, but are much more subtle when doing it. The rancher that is intimidated into taking "*voluntary non-use*" is then afraid to complain about it because they did it "*voluntarily*".

One rancher is reported to have asked Mr. Furtado if the BLM would please remove some of the horses that were overrunning the range as required by Congress. Mr. Furtado is reported to have told him that he would not remove any horses until he had removed all the cattle from the Battle Mountain District.

In February of 2014 Mr. Furtado announced to six extended ranching families, the Tomera, Filippini and Mariluch families that they would not be allowed to turn any cattle out on Mount Lewis during 2014. Their ten year grazing licenses authorized them to turn out over 2,000 head of cattle in March. They argued with Mr. Furtado, but he refused to budge. I prepared a petition demanding that Mr. Furtado be removed from his position as the Battle Mountain BLM Manager. That petition now has many signatures and is continuing to gain signatures. Some of the ranchers have refused to sign because of fear of retaliation by Mr. Furtado.

On May 17th a GRASS TOUR of Mount Lewis was conducted with Nevada State Senator Pete Goicoechea, Assemblymen John Ellison and Ira Hansen, the Lander County and Elko County Commissions. There were over 200 citizens on the tour that saw the grass that was over two feet high. This information was published in the newspapers along with the announcement that a GRASS MARCH would go from Elko to Battle Mountain on May 26th and a COWBOY EXPRESS would then go from Battle Mountain to the Capital in Carson City to deliver petitions to Governor Sandoval requesting that Mr. Furtado be removed. The Washington BLM office sent a representative to review the condition of the range and immediately after he came Mr. Furtado met with the ranchers and agreed to let them graze their cattle in 2014. So finally two and a half months after they should have had their cattle out on the mountain they began turning cattle out. But Mr. Furtado's actions had caused them hundreds of thousand of dollars of loss. And because the low country was not grazed off when it should have been there is a tremendous amount of fuel that has now turned brown and is ripe to burn threatening the lives of tens of thousands of animals and the rancher's cattle.

It is to the credit of the Washington BLM that Mr. Furtado was required to turn the cattle out, but immediately he began a program of intimidation to justify his earlier decision to not allow any

cattle to graze on Mount Lewis in 2014. I am researching that intimidation and will supplement this testimony with that information. As a part of that intimidation Mr. Furtado took Ms. Fite of Western Watersheds on a tour of Mount Lewis and refused to allow any of the ranchers to participate.

To shed further light on the tactics of Mr. Furtado and help the public to understand the great threat to wildlife because of the increased fire danger and the great harm he has caused and is causing to the ranchers, miners, hunters, recreationist and the economy a GRASS MARCH/COWBOY EXPRESS will leave Carson City to Washington DC on September 29, 2014 crossing the continent in approximately twenty days. It will be the fastest crossing of the nation on horseback in history. A horse and rider will lope five miles and then pass the petitions asking for the removal of Mr. Furtado to another rider who will then lope five miles.

If everyone in Nevada, all County Commissions, the Nevada State Legislature and the Governor and even all of Congress wanted to remove Mr. Furtado it could not be done without an impeachment proceeding. Mr. Furtado works for the Executive Department and the Executive Department is the only entity that can remove him. That is an intolerable situation. There has to be local control and the only way that can be accomplished is for the Federal Government to transfer the BLM lands to the states. If Mr. Furtado was an employee of the State of Nevada he would have been removed in 2012 or 2013 and certainly by this time in 2014.

The BLM law enforcement agents in Nevada report to Salt Lake City and there is no local input. And the BLM is very reluctant to investigate stories of abuse. When the Elko County Commission considered the woodcutting incident the BLM was outraged and said the miners should have taken their complaint to the BLM. At an Elko County Commission meeting in the spring of 2013 the BLM said they would investigate the incident. But the investigation was not begun until the spring of 2014 and is proceeding very slowly. The investigator from California is starting to ask the right questions, but so much time has passed, over 14 months, that when the report does come out it will be an old story. Contrast that with what would have occurred if the citation had been issued by an Elko County Sheriff's Deputy. Because the Elko County Sheriff is an elected official and answers to the citizens of Elko County the Sheriff would have done an immediate investigation and taken appropriate action. If he found the officer had acted improperly he would have either disciplined him or fired him and that information would have been public. There is no corresponding accountability within the BLM. Even if the BLM, after this delayed investigation, finds that the agent acted improperly the BLM will keep any actions it takes secret to protect the reputation of the BLM.

On January 9, 2013 a delegation of the leadership of BLM law enforcement from Salt Lake City came to the Elko County Commission meeting and proposed a Memorandum of Understanding that would give the BLM Law Enforcement Agents the ability to cite for Elko County ordinances and Nevada State law. The Commission was opposed. The delegation then went on to explain that it really did not matter what Elko County did the BLM was going to enforce Elko County and Nevada State Law if the BLM decided to do so, including citing drivers on Elko County roads, Nevada State Highways and I-80 because those roads and highways passed through BLM lands.

In 1930 Gandhi began the Salt March that eventually gained freedom for the citizens of India. He said that it was the inalienable right of Indian citizens to have freedom and enjoy the fruits of their toil. Likewise the citizens of Nevada have the inalienable right to freedom and the fruits of their toil. The combined might of the BLM, especially BLM law enforcement and BLM Managers like Mr. Furtado are deriving Nevadans of their freedom and the fruits of their toil.

Congress must act to restore freedom.

Enclosures: Exhibit A: Mariluch Letter, Exhibit B: Hansen Letter, Exhibit C: Seldin Letter, Exhibit D: Filippini Letter

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