

Cliff & Bertha Gardner
HCR 60, Box 700
Ruby Valley, Nevada 89833
Feb. 8, 1994

*A copy of this letter
was delivered to the
County office, the
District Attorney's Office
and to Gene Gustin's
Office on Feb 8, 1994*

ADMINISTRATIVE NOTICE OF FACTS, AND DEMAND FOR RELIEF

Marshall Smith
Elko County District Attorney
Elko, Nevada 89801

Dear District Attorney Smith:

We find the following facts to be evident - that unethical or unlawful conduct on the part of certain public officials may be occurring - and therefor call for the appointment of a special prosecutor to investigate possible violations.

FACT 1: Possible Blackmail.

Because of ever increasing regulatory authority granted to state and federal government over the last three decades, federal and state personnel are now in a position whereby they can easily force ranching and mining interest to comply with their wishes for special projects and private land acquisition.

a. Newmont Gold contributed \$120,000 for the purchase of 7H Ranch for the Nevada Department of Wildlife.

b. Independence Mine purchased the Hawks Family Ranch for trade to the Bureau of Land Management for mine and mill sights.

c. Barrick Goldstrike contributed a large amount of money to fence a large portion of Mary's River - resulting in the exclusion of certain livestock including those belonging to the Hawks family.

FACT 2: Conflict of interest.

Mr. John C. Carpenter, member of the Nevada State Assembly, and owner of Ranchers Realty is alleged to have:

a. Mr. Carpenter with his considerable influence, played an important role in accomplishing the Mary's River, Rafter Diamond land exchange - putting thousands of acres of private land into BLM hands.

b. Mr. Carpenter acted as realtor for the purchase of the Kent Howard Ranch which gave the Department of Wildlife and the BLM control of nearly all the land along the Bruneau River, between the Charleston Reservoir to the Idaho boarder.

c. Mr. Carpenter acted as realtor in the, now in progress, Hawks Ranch purchase and exchange, involving Independence mining Co., the Bureau of Land Management, and Forest Service.

d. Mr. Carpenter was the principle who sold Berrick Gold the very property now being offered to the BLM for exchange.

e. Mr. Carpenter was also a leading proponent for Proposition 5, the initiative that put 47 million dollars in the hands of state agencys, for, among other things, the purchase of private lands and water rights.

f. Mr. Carpenter was the leading opponent of the so called Home Rule Land Use Plan and ordinances, which many believed were important in taking steps to stop governmental abuse of power and private land acquisition.

g. With a ranching background, Mr. Carpenter has been well aware of the continuing harassment and intimidation suffered by ranching families at the hands of government agents.

FACT 3; Lack of supportive data.

Neither the Forest Service, the BLM, the US Fish and Wildlife Service, nor the Nevada Department of Wildlife have the scientific data or historical information necessary to support or justify governmental land acquisition in Elko County.

a. Wetland value and quality have increased since settlement - a product of private ownership and interest.

b. Since settlement, cediment loads carried by the western streams and rivers has decreased - a result of reservoirs, flood irrigation and good private land stewardship.

c. Range conditions are better now, than at any time in known history.

d. The only harm that has occurred, has been reductions in certain wildlife. Since the mid 1960's there has been almost a steady reduction in mule deer, sage grouse, water fowl, and song birds - and this because of mismanagement by state and federal agencys.

FACT 4; Expanding governmental influence and political power.

a. Government is now the largest industry in the United States. It absorbs more than 50% of our Nations gross national product.

b. Government is now a political power of its own, influencing and in many instances controlling state, local and national politics.

FACT 5: State and Federal officials tend to ignore Constitutional law, and in many instances, even their own regulations.

a. Article 1, Sec. 8, clause 17 of the Constitution of the United States reads:

The Congress shall have the power to exercise authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful builings;...

Questions;

- i... Can the Federal government legally purchase or trade for lands within states without first obtaining approval of that states legislature?
- ii.. Is it lawful for the Federal government to hold lands within a state for any purpose other than for the erection of forts, magazines, arsenals, dock-yards or other needful buildings?
- iii. Does such an exchange or purchase violate the separations of power doctrine?

Where Congress exceeds its authority relative to the states, the departure from the plan of the Federal Constitution cannot be ratified by the consent of state officials, because the Constitution divides authority between federal and state governments for the protction of individuals and not for the benefit of states or state officials;... New York v, United Staes, 505 US-, 120 L Ed 2d 120, 112 S Ct, (1992).

iv.. Is such activity not subject to the NEPA process?

When federal government exchanges land, it must consider environmental impact not only of exchange itself, but also of proposed use of federal land once it passes into private hands;... Lockhart v. Kenops, C.A.8 (S.D.) 1991, 927 F.2d 1028, certiorari denied 112 S. St. 186,116 L.Ed.2d 148, rehearing denied 112 S. St. 670,116 L.Ed.2d 761.

FACT 6: Ranching families are being driven from the lands.

a. Non fee cost for running livestock on "Public Lands" has risen dramatically over the last twenty to thirty years. In 1966, non fee cost were roughly 16% higher for those running livestock on "Public Lands" than for those running livestock on private lands. By 1992, that had changed where it now cost livestock operators 60% more to run livestock on "Public Lands" than it dose to run Livestock on private lands.

b. Agency's are adding new "terms and conditions" to permits without proper consultation with permittees, and without proper scientific or regulatory support.

c. A article printed in the March 1993 of Beef magazine indicates that thirty percent of all original Forest Service permits have now been abandoned.

d. In the state of Nevada, there were over 235 BLM permittees that sold or abandoned their permits during a 15 year period, ending in 1988.

e. A recent survey by New Mexico State University shows that if grazing fees are raised as intended by the Clinton Administration, forty-two percent of all ranchers operating on federally managed lands will discontinue their operations. Its important to understand that when cost of running livestock on federal lands increase because of added "terms and conditions" the very same thing occurs.

FACT 7: Resource destruction.

When lands and resourses are managed by state and federal agencies:

a. Meadow lands are most often allowed to return to sagebrush.

b. Wetland vegetation such as willows, cattails, and wetland sedges disappear.

c. Upland vegetation becomes woody and unproductive from lack of grazing.

d. Creek side vegetation becomes decadent.

e. Productivity is lost - plant diversity is lost - insect production is lost - invertebrate populations decrease - many species of animals disappear.

f. Prey/predator populations are not kept in balance, resulting in the loss of large numbers of wildlife.

FACT 8: Tax burdens increase.

When private lands are acquired by governmental agencies there results a:

a. loss of tax base.

b. increased tax burden on those remaining in private industry.

c. increased employment and political clout of those in government.

d. decreased employment and political clout of those in the private sector.

e. increase in cost for expanded government.

FACT 9: Loss of economic and cultural opportunity.

When private lands are acquired by state and federal agencies there is then:

a. a loss of opportunity for those young people who would chose ranching as a livelihood.

b. a loss of ranch and agriculture related jobs within our communities.

c. a loss of traditional custom and culture within our communities and for the Nation.

Again, we ask that an investigation be undertaken, by special prosecutor, by appointment, to seek out and prosecute if criminal conduct is found to exist.

Sincerely yours,

A handwritten signature in cursive script that reads "Cliff Gardner".

Cliff Gardner

cc: Everett E. Gustin, Chairman of the Elko County Public Lands Commission.
Lee Chapman, Chairman of the Elko County Commission.

Presentation to
The Elko County Commisison
by Cliff Gardner
Feb. 16, 1994

Chairman Chapman and members of the Commission:

I appear before you today to ask that until all questions of illegality, and possible extortion are answered, that the Elko County Commission take action to oppose all pending and proposed land exchanges involving State and Federal Government.

Respectfully submitted

A handwritten signature in cursive script that reads "Cliff Gardner". The signature is written in dark ink and is positioned above the printed name.

Cliff Gardner