

Hage Forage Right Trial Ends With BLM and U.S. Forest Service Employees Found in Contempt

FOR IMMEDIATE RELEASE

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RENO, NV—Friday, August 31, a weeklong show-cause hearing ended with Chief Federal District Court Judge Robert C. Jones finding Tonopah Bureau of Land Management (BLM) manager Tom Seley and Humboldt-Toiyabe National Forest Service ranger (USFS) Steve Williams in contempt of court. The contempt, including witness intimidation, occurred during the pendency of the five-year-old forage right case, *U.S. v. Estate of E. Wayne Hage and Wayne N. Hage*.

Seley was specifically found having intent to destroy the Hages' property and business interests. "Mr. Seley can no longer be an administrator in this BLM district. I don't trust him to be unbiased. Nor can he supervise anybody in this district," the judge stated in his order from the bench.

The contempt finding was the result of the USFS and BLM having filed suit against Wayne N. Hage and the Estate of E. Wayne Hage in 2007 but then also seeking alternative remedies while the case was pending in derogation of the court's jurisdiction.

"The problem is Mr. Seley especially, and to a lesser extent, Mr. Williams...had to kill the business of Mr. Hage. They had to stop him in any way possible," the judge noted as the motive for their contemptuous actions. "My problem was that you were seeking remedy outside this court," he added.

The court noted, "You got a random draw of a judge. You submitted to this civil process." Then, Seley and Williams pursued their own remedies by trying to extort money out of third-party ranchers who had leased cattle to Wayne N. Hage. They issued trespass notices, demands for payments, their own judgments, and in one instance coerced a \$15,000 settlement. All of this was done during the time the court had jurisdiction over these issues.

Counts against Seley and Williams included filing on top of the Hages' vested and certificated stockwater rights with intent of converting those rights to a new permittee; sending 75 solicitations for 10-year grazing permits in the Ralston allotment aiming to destroy the Hages'

grazing preferences and water rights; issuing temporary permits to third parties, in particular Gary Snow of Fallon, Nev., with the knowledge that Snow's cattle would drink the waters belonging to the Hage family; and, finally, the assessment of fines, penalties and judgments on third parties whose cattle were under the legal possession of Wayne N. Hage.

Judge Jones remarked about the July 26 Federal Circuit Court of Appeals' ruling in the parallel constitutional Fifth Amendment takings case, *U.S. v. Hage*. The court expressly said the Hages have "an access right" to their waters. He also noted that the court did not overturn any of the Hages' property rights that the Court of Claims found the Hages to own. Also, the takings that were overturned were overturned on the basis that the claims were not ripe, not because the government was acting correctly.

The hearing began Monday, August 27, with a cadre of agency heads from Washington, D.C., regional and state offices turning up in Reno to defend their policies and employees in court. After intense questioning by the court, Judge Jones made witness credibility findings in which USFS Region 4 Director Harv Forsgren was found lying to the court, and Nevada head of the USFS, Jeanne Higgins, was not entirely truthful. After those findings, several other named witnesses did not testify.

In his bench ruling Friday night, Judge Jones stated: "The most persuasive testimony of anybody was Mr. Forsgren. I asked him has there been a decline in AUMs [animal unit months/livestock numbers] in the West. Then I asked him has there been a decline in the region, or this district. He said he doesn't know. He was prevaricating. His answer speaks volumes about his intent and his directives to Mr. Williams." The court noted that anybody who is school age or older knows "the history of the Forest Service in seeking reductions in AUMs and even an elimination of cattle grazing during the last four decades. Not so much with the BLM—they have learned that in the last two decades."

In his findings of witness intimidation, Judge Jones noted: "Their threats were not idle. They threatened one witness's father's [grazing] allotment." The judge referenced testimony wherein Steve Williams delivered trespass notices accompanied by an armed employee. In one instance the armed man snuck up behind one of the witnesses with his hands ready to draw his guns. "Packing a gun shows intent," the court noted.

In explaining the findings to Seley and Williams, the court found there was "intent to deprive this court of jurisdiction by intimidation of witnesses and threats against witnesses." He

added, “Where you crossed the line is you took civil action yourself in order to kill the business of Hage.”

Seley and Williams were held personally liable for damages totaling over \$33,000 should the BLM and USFS fail to fund the losses to Hage and third parties. In addition, Judge Jones imposed an injunction wherein the BLM and USFS are prevented from interfering with third-party leasing relationships when the livestock are in the clear operational control of Wayne N. Hage. The judge ordered Hage to reapply for a grazing permit and ordered the federal government to immediately issue permits to the Hages for the winter grazing season on the Ralston allotment.

The judge said he had already written 100 pages of his final decision from the main trial ending June 6. He indicated his published decision should be forthcoming in early October. Wayne N. Hage represented himself, *pro se*, and Mark Pollot, a Boise, Idaho, attorney, represented the Estate.

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Contacts:

Mark Pollot, Attorney for the Estate of E. Wayne Hage, phone 208-867-8389, email mpollot1@clear.net or Ramona Hage Morrison, phone: 775-722-2517, email rhmorrison@sbcglobal.net.