UNREST IN THE WEST

WELCOME TO NEVADA'S NYE COUNTY, WHOSE ANGRY RESIDENTS ARE SPEARHEADING THE REGION'S CHARGE AGAINST WASHINGTON

ERIK LARSON/TONOPAH

SITTING ON A BALE OF BARLEY destined for his cattle, Dick Carver gets just a little misty eyed as he recalls the moment that propelled him to leadership of a rebellion now sweeping the West. Usually mild mannered and affable, the Nevada rancher and Nye County commissioner reached a point last year when he had had enough. To him, federal intrusion into the daily life of his county had simply grown too great, so on July 4, 1994--Independence Day--he took the law into his own hands. His weapon of choice: a rusting, yellow D-7 Caterpillar bulldozer.

Carver sat astride the 22-ton machine, his dust-caked face streaked with the paths of recent tears. He remembers being frightened and tense as he guided the Cat toward an armed U.S. Forest Service agent holding a hand-lettered sign ordering Carver to stop. The agent stumbled and wound up briefly crawling on hands and knees. But Carver kept coming. He pulled out a pocket-size copy of the U.S. Constitution, which he keeps with him always, and waved it defiantly at the agent as a crowd of about 200 people, a quarter of them armed, cheered him forward. "I was damn scared," says Carver. He was afraid someone--maybe the agent, maybe an overzealous spectator--would draw a gun and trigger a cascade of violence. "I told myself, 'Dick, you've got to keep going. Because if you stop, the people are going to do something, and someone's going to get hurt.'"

Carver had climbed aboard the Caterpillar to bulldoze open a weather-damaged road across a national forest. The hitch was, he wanted to do so without federal permission. Although plainly illegal, in Carver's mind it was an act of civil disobedience--a frontier Boston Tea Party--warranted by the tyranny he and his fellow citizens in Nye had long endured. But in this case, the purported tyrant was the U.S. government.

The incident immediately made Carver a leading voice in the so-called county-supremacy movement now gaining momentum throughout the West. It also triggered a major federal lawsuit seeking to assert once and for all the government's ownership of federal lands in Nye County and, by legal inference, its possession of public lands that cover one-third of the nation's ground. The Justice Department estimates that at least 35 counties, primarily in Arizona, New Mexico, Nevada and California, have declared authority over federal lands within their boundaries. Other estimates put the number far higher. The National Federal Lands Conference, a Utah organization devoted to fostering resistance, believes more than 300 counties have claimed some degree of sovereignty over federal lands, and many more have considered the idea, including counties in states as far east as Maine and Florida.

The new rebelliousness has created a breeding ground for violence, especially in the austere rural settlements that bracket the Continental Divide. Pipe bombs have been found in the Gila Wilderness in New Mexico. An unknown assailant fired shots at a Forest Service biologist in California. Federal agents recently arrested a man after he tried to buy explosives that he allegedly planned to use in blowing up an irs office in Austin, Texas. And in Carson City, Nevada, last August, a bomb destroyed the family van of a forest ranger while it was parked in his driveway. The explosion was the second this year in which ranger Guy Pence, who once supervised Forest Service lands in Nye County, was the apparent target. Now no one can park in the visitors' spaces next to the agency's office in Sparks. Soon after the bombing, Senator Harry Reid, a Nevada Democrat whose support is centered in Las Vegas and Reno, decried the spreading ethos of defiance: "It is as if a sickness has swept our country." Whatever the diagnosis may be, nowhere are the symptoms more profound than in Nye.

Some of Dick Carver's critics have tried to link him to militias and white supremacists, but it is a mistake to dismiss him as a just another extremist crackpot. The forces powering the Nye County rebellion are those resculpting the political and social landscape of America at large. They just happened to have converged with their greatest intensity in the West, where private and public interests clash directly and daily, typically over such visceral issues as land and water. The angry rebels range from ranchers fed up with bureaucrats' telling them when and where to graze their cattle to developers denied crucial water rights. "We're talking about things that go right down to the heart," says Nebraska

Governor Ben Nelson, a Democrat and chairman of the Western Governors' Association. Although a moderate, he confesses that he too gets fed up with federally mandated burdens like those imposed by the Safe Drinking Water Act of 1974, which requires even struggling communities to spend heavily to upgrade their water systems. "When you're a Governor," he says, "and you see what this does to your communities, you really do want to strike your desk and say, 'No more!'"

THE NEW MOVEMENT IS NO MERE rekindling of the '70s' Sagebrush Rebellion, although it does share the same goal of increasing local control over federal lands. Carver, who carries his Constitution in his shirt pocket even while baling hay, is a product of the same antifederalist ferment that produced such widely divergent events as the Oklahoma City bombing and Ross Perot's recent proposal to launch a new political party. Nye's particular brand of rebellion is driven too by an intense feeling that the combined forces of federal law, environmental activism and urban growth may have doomed a mythic frontier life-style. Says Karl Hess Jr., a senior fellow of the Cato Institute, a conservative think tank: "What they really want is to build walls against the future."

The Justice Department's lawsuit, filed last March in Las Vegas federal court, could be decided next month, but any decision is certain to be appealed all the way to the Supreme Court. Roger Marzulla, a former Assistant U.S. Attorney General who is now defending Nye County, calls it one of the most important cases of the century in shaping the role of the Federal Government, and likens the bulldozer incident to "Rosa Parks' saying, 'I'm going to sit in the front of the bus.'" Carver, even less modest, calls it "the shot heard round the world, but fired with a bulldozer, not a gun."

NYE COUNTY'S LEGAL ARGUMENTS MAY BE open to challenge, but its disaffection is real and deep. The third largest county in America, Nye is an immense wedge covering more than 18,000 sq. mi., about the size of Vermont and New Hampshire combined, but is occupied by only 20,000 people. Plenty of elbow room--except for the fact that the Federal Government owns 93% of the land. The Bureau of Land Management (BLM) controls most of the valleys, the U.S. Forest Service most of the uplands. The Defense Department too claims huge chunks of the county, including the Nevada Test Site, where it detonated hundreds of nuclear devices, and the Tonopah Test Range, the darling of paranormal buffs, who know it by the nickname Dreamland and suspect that all manner of spooky events have occurred there. Even the airspace over Nye is largely restricted to military aircraft. Jet fighters scream up Carver's Big Smoky Valley, occasionally roaring past cars at sagetop altitude. A bank of nuclear-radiation sensors, still religiously monitored, stands outside the county's old courthouse in Tonopah, the county seat. The ultimate metaphor for federal intrusion is the Energy Department's hotly controversial proposal to use Yucca Mountain, in Nye, for the nation's first high-level radioactive-waste dump.

"It really is like being in a colony," says Trish Rippie, a Tonopah real estate agent. What makes this presence particularly stifling, she says, is that it runs directly counter to the independent character of the region and of the people who moved here for the low taxes, the lack of rules--Nye has no zoning laws--and the overall sense of freedom. "I think just about everybody here would like to see a revolution and have the Federal Government washed away," she says. "But nobody really wants a shooting war. We'd be annihilated."

Hostility toward the Federal Government suffuses Nye County to a degree that an Easterner might find hard to believe. Even though most of the county is under federal control, residents still have more breathing space than most Americans--only one person per square mile, in contrast to 3,000 per square mile in California's Orange County. And despite federal regulations, Nye Countians can still graze the government-owned meadows, fish the lakes and hunt the forests. But these days the climate is such that every incident, however minor, seems to reinforce the case for rebellion. Jim Merlino, director of the Tonopah Convention Center, says he used to be able to get a BLM permit to cut a Christmas tree anywhere. Last year he learned he could cut his trees only from specific areas. "That's just a really little thing," he says. "But what are they going to do next time--tell me this is the one tree I can cut?"

In conversation with a visitor, Nye County administrator William Offutt at first tries to minimize the county's rebelliousness. "I'd say there's maybe a dozen people who are really charged up on this issue," he says. But as the conversation evolves, his own hostility becomes clear, as does that of three other county officials present in his office. They spin out stories of federal snubs and restrictions, including the BLM's refusal to allow the county to run a phone wire through a roadside ditch to the county landfill without first having an archaeological appraisal.

As Offutt cites his litany of federal offenses, his anger builds. He believes federal land managers are engaged in a deliberate campaign to stifle development in the county as revenge for its passage in 1993 of two resolutions declaring its authority to manage federal lands. Offutt stands angrily smoking a cigarette. "There's no rationale for doing an archaeological study there. None at all. It's just a way of sticking an ice pick in the county."

Federal employees feel caught between empathy and the law. Ted Angle, an associate district manager of the BLM who once supervised its Nye lands, says the National Historic Preservation Act tied his hands. The law requires an archaeological review for any construction project on federal lands; the BLM's recommendations must in turn be reviewed by a state historic-preservation office, which must then report back to the BLM. "It's just not a negotiable thing for us," he says.

THE PHONE-LINE CASE TILTED toward absurdity, however, when the initial BLM report got lost--and nobody knew it until weeks later. The BLM resubmitted the report and got an expedited review, but in the meantime, Angle says, the county chose a newly available cellular service and blamed the BLM for taking too long. "You've got to understand local politics," says Angle, a self-described conservative Republican. "Dick Carver would love to embarrass the BLM as much as he can."

Offutt and his staff are still smarting from what they see as the latest vengeful snub by the government. Jim Nelson, supervisor of the Toiyabe and Humboldt national forests, was scheduled to meet with Nye's commissioners one day this summer to try to ease the mounting hostility. That morning one of Nelson's employees delivered a letter to the gathered commissioners stating that Nelson would not be coming after all; he says now he couldn't attend because of the pending Justice lawsuit. The commissioners weren't terribly surprised, says Rachel Nicholson, a county attorney also present in Offutt's office. Says she: "They expect to be kicked in the teeth every time, so they're used to it."

At one point the county offered an olive branch. Shocked by news of the bombing of Guy Pence's family van, the county called an emergency meeting and voted to offer a $100,000 reward to help find the culprit. But Nelson and Pence belittled the reward and blamed the county for helping conjure the lawless climate that led to the bombing. Stung, the county met again and unanimously withdrew the reward. "We didn't really expect gratitude," says Cameron McRae, chairman of the commission. "But we surely didn't expect to get it thrown in our faces."

Coloring the hostility is a large dose of the paranoia that has seeped into American political discourse over the past year, especially since the Oklahoma City bombing. These days it seems no conversation in Nye County can conclude without some reference to Waco and Ruby Ridge. "What these have done," says Carver, "is show how the oppressive bureaucrats think they can run over the tops of the American people." He thinks both incidents contributed to the presence of guns among the spectators the day he bulldozed the road. He is convinced federal agents are monitoring his travels. During a speech last month to 100 people in Park Rapids, Minnesota, part of a week-long speaking tour, Carver asked his audience, "Is there anyone from the Justice Department monitoring me? I know you are; don't be afraid to stand up."

So far, Carver has taken his message to audiences in 23 states. "Isn't it a shame that our people fear the government?" he asked the Park Rapids audience. He wore a white Western shirt and new Wrangler jeans that arced below a belly well accustomed to butter, eggs and beef. His head bore the usual stigmata of a ranching life: pale baby-smooth forehead over a raw, wind-scrubbed face. He eyed the crowd a moment, then answered his rhetorical question: "That's tyranny."

Carver's time on the podium was bracketed by apostles of the extreme. The speaker who preceded him announced that federal environmental laws and the international biodiversity treaty would force mass relocations in the Midwest--80% of Wisconsin's population would have to move. The speaker after Carver proudly disclosed that he was the cartoonist whose leaflet, stacked at the auditorium entrance, reprised a conspiracy theory about the Rockefellers' and Rothschilds' controlling the world. Carver left the room to avoid hearing his remarks.

Carver takes offense when critics try to link him to extremists, particularly white supremacists, and cites the fact that one branch of the Carver family helped rear George Washington Carver. "So black people are special to us," he says. He disavows fringe rhetoric but feels that as an elected official, he cannot discriminate against any audience just because its views are more extreme than his. Carver's policy: "If they pay for travel, if they give me a place to sleep, a hot dog to eat, I'll come. But I do not ally myself with any of them."

CARVER LIKES TO NOTE THAT HE WAS BORN on Friday the 13th, in October 1944, six years after his parents settled in the Big Smoky Valley. The family homestead became a small town, Carver Station--known locally as Carvers--but otherwise the valley looks the way it did a half-century ago. He now raises 100 head of cattle on about 860 acres of his own land--making him possibly the only rancher in the county movement without a direct financial stake in how federal land gets managed.

Proud of his self-sufficiency, Carver wastes nothing. He and his wife live in a low, raw-wood house surrounded by stacks of wood, dour sheds and fragments of ancient vehicles--a crane, a road grader and balloon-fendered pickups. His father raised trout for the state, but only one of the seven trout ponds remains, mirror-still against a shoreline of mechanical debris. Carver cobbles a living from ranching, welding, serving the county and driving his three bulldozers for paying customers. On the night before a midmorning interview, he was up until 4 a.m., harvesting barley with a 1956 John Deere tractor he maintains himself. "Out here," he says, "you can't just run down to the corner to have your car repaired."

He credits another rancher with setting him on the road to rebellion. Soon after his election as county commissioner in 1988 (he got drunk one night at an Elks dance and committed himself to running), Carver paid a call on Wayne Hage, owner of the Pine Creek Ranch in Monitor Valley, a vast paradise of amber grass and cornflower blue water just over the Toquima Range from Carver's ranch. Hage had battled the Forest Service for more than a decade, charging its officials with so closely managing his access to public land that the agency eventually drove him out of business. The Forest Service counters that Hage abused his land and repeatedly broke agency rules. The dispute, now legend in Nye and embellished with wild tales of forest rangers armed with AK-47s holding Hage at gunpoint, resulted in the confiscation of 104 head of his cattle. He later filed a still pending $28 million claim against the government for driving him out of business. Hage recalls telling Carver, "If the county commissioners don't take action now, there isn't going to be an economy a few years down the road."

Until the mid-1970s, relations between ranchers and the agencies had been cordial. If a rancher wanted a grazing permit, federal approval was virtually automatic. According to federal policy at the time, the best use of federal rangelands was to graze livestock, and only ranchers could acquire permits, which were offered at bargain prices. Grazing is still a bargain. Last year the BLM and the Forest Service set their grazing fee at $1.61 per adult cow per month, a fraction of the fees charged by private landowners--less, too, says Johanna Wald of the Natural Resources Defense Council, than the monthly cost of feeding a cat. Ranchers themselves often leased their federal allotments to other ranchers for several times the original fee.

As the environmental movement began gaining political clout in the late 1970s, however, the cushy relationship between ranchers and rangers began to erode. By the late 1980s, partly because of new legislation and partly under pressure from federal courts, federal land managers began acting like environmentalists, aggressively regulating how and when ranchers could use their allotments.

This new federal activism coincided with growing interest in desert lands from hikers, hunters and recreational-vehicle buffs, especially those who had fled expensive and overbuilt locales like San Francisco and Los Angeles in favor of Las Vegas and Reno, turning both into boomtowns. "The public wants access," says Cato's Hess. "They want to see wild country that looks wild; they want to see wildlife--and a lot of it; they want to see clear water, not muddy; and they don't want to see cow turds everywhere."

These days any effort by the BLM to reassign a grazing permit is likely to draw comment from hunting groups, environmentalists and off-road drivers, when 10 years ago only ranchers would have bothered, says Bob Neary, who until his retirement from the BLM last month was acting area manager of 6 million acres in Nye and neighboring Esmeralda County. In August a new set of federal rules took effect, known as Rangeland Reform '94 (named for the year the regulations were first published). Heavily promoted by Interior Secretary Bruce Babbitt, the package gives environmentalists and other nonranchers far more say in decisions about grazing allotments. It galvanized opposition to the Clinton Administration and turned Babbitt into a king-size political liability. "It got all the sleeping dogs awake," says the BLM's Angle. Babbitt, through a spokesperson, declined comment, citing the pending litigation.

Ranchers take particular offense at the fact that now the BLM and the Forest Service are offering other animals a seat in the great rangeland diner. The Forest Service has cut back the number of cattle allowed on some allotments in order to support new herds of elk introduced onto the range. And for the first time the BLM has reserved land for wild horses, the kind Carver's father once captured and killed and ground into feed for his trout.

On a day-to-day basis, federal land managers wield immense power over the lives and fortunes of all ranchers who depend on public land. Contrary to popular perception nurtured by such TV series as Bonanza and Dallas, many ranches in the West and Southwest are small, barely solvent operations whose owners, like Carver, often make ends meet by moonlighting at some other occupation. Their fiscal equilibrium is easily upset by orders from federal land managers to reduce the number of cattle on their allotments or to shift them to other lands. "Some of those operations are so marginal," says Neary, "if they have to leave the range or go somewhere else, they'll be out of business."

It is the bureaucratic ease with which such make-or-break decisions get made that most rankles the citizens of Nye. "I've told the Forest Service and the BLM, 'Don't be coming to me to render assistance if you take people's property without due process,'" says Sheriff Wade Lieseke Jr., who has run the county's 117-person force since 1990. "A forest ranger can take your cattle just by signing a piece of paper? A forest ranger? Give me a break."

Carver's political epiphany occurred at 3 a.m. one day in October 1993, well after he became a commissioner. He was writing a letter protesting Rangeland Reform '94, then newly proposed. "It was like someone turned on a switch," Carver says. At Wayne Hage's urging, he had already studied how Catron County, New Mexico, which pioneered the county rebellion in the early 1990s, had asserted its authority over federal lands within its borders. Carver recalls asking himself, "Why am I responding to Bruce Babbitt on Rangeland Reform when in fact the state of Nevada owns the land?" He successfully lobbied his fellow commissioners to pass Nye's own version of the so-called Catron Ordinances. But Carver wanted more. Other counties had passed such resolutions but had not tried to enforce them, thus leaving them with no more punch than a letter to the editor. He wanted a fight. "We knew we had to take some action," he says.

HE FOUND HIS BATTLEFIELD. The county had petitioned the Forest Service to reopen a former stagecoach trail, known as the Jefferson Canyon Road, that linked Carver's Big Smoky Valley with Hage's Monitor Valley. The Forest Service said an archaeological survey would first need to be done. But Carver wanted to open the road right away, without the agency's approval--his way of firing a shot across the government's bow. With the blessings of his fellow commissioners, he set the event for Independence Day.

DAWN BROKE ON THE D-7 CATERPILLAR draped in an American flag. Carver had asked the county's public-works director to choose the most expendable of the county's earthmovers in case the Forest Service impounded it. Carver fired it up and began shaving the land along the existing right-of-way, then stopped for a brief ceremony. A large crowd had gathered in the canyon, no mean feat considering its inaccessibility. Carver's son-in-law sang the national anthem. People showed up whom Carver had known in grade school but had not seen since. "I got so emotional," he says, "there were tears running down my face."

Two forest officials arrived, David Young, a law-enforcement agent, and David Grider, then the district ranger. When the crowd saw that Young was armed, some 50 people--by Carver's count--strapped on their own handguns. Carver saw Grider talking into his radio and wondered if other agents had massed below. "I thought this was going to be a mini-Waco," he says.

A sheriff's deputy climbed aboard the Cat to address the crowd and urged everyone to be civil. But a local rancher also climbed aboard and declared that peaceful solutions were no longer enough.

Carver began driving again. Young did not interfere until Carver began plowing a roadbed outside the existing right-of-way. He stepped suddenly in front of the bulldozer and unfurled a sign stating STOP--DISTURBANCE NOT AUTHORIZED. But Carver kept going, at one point brandishing his Constitution. "At no time was [Young] ever in danger," Carver insists. "He stumbled once, but I wasn't going to run him over."

The event ended without violence. Word of the Jefferson Canyon Road affair spread quickly through the West and immediately drew the ire of the Justice Department. The government filed its lawsuit against the county in March. Says defense attorney Marzulla: "I think they thought it was a bunch of crackpots and they would squash them to the ground.

What they did not plan on is that they would get a massive, substantial and competent defense of this case."

"That's nonsense," says Peter Coppelman, the Justice Department's Deputy Assistant Attorney General for environment and natural resources, who argued the case in July before an overflowing courtroom. "We picked Nye for one reason only: Nye was actively defying federal authority and creating potentially violent situations, sending letters threatening to arrest federal employees who were simply doing their jobs. We didn't pick Nye. Nye picked us."

HISTORY RUNS THROUGH THE CASE LIKE A strand of barbed wire. Briefs for both sides cite the 1848 Treaty of Guadalupe Hidalgo, through which the U.S. acquired much of the West from Mexico, as if it were signed yesterday. Distilled to its bare essence, Nye County's argument is this: Under the "equal footing" doctrine, new states admitted to the Union were to enter with all the dignity and sovereignty of the original 13. By retaining so much of Nevada's land, the government gave it second-class status, in violation of the equal-footing doctrine. Says Marzulla: "The Constitution simply does not allow the Federal Government to hold in perpetuity one-third of the landmass of the U.S."

The government counters that the equal-footing doctrine was meant only to ensure that each state would have equal political standing in Washington; it argues, further, that Nevada, as a condition of its entry into the Union in 1864, explicitly gave up all rights to the lands within its proposed boundaries. "Legally, the county-supremacy arguments are completely bogus, but politically, they're very potent," says Justice attorney Coppelman. "What Dick Carver basically does is carry a copy of the Constitution in his pocket, and he just whips it out and waves it around when you ask what's the authority for the county-supremacy ordinances. He just says, 'Here it is.' And until we get a court to specifically reject those arguments, we're going to have people believing they have some legal validity."

And that, he says, has meant danger for federal officials throughout the West. "Whenever you have an enforcement officer confronted by a citizen who refuses to comply with legal requirements, you have the potential for violence. So this is definitely a very volatile situation."

Other counties that have passed rebel ordinances are watching the Nye case closely. A decision favoring Nye, although subject to immediate appeal, could cause a dramatic increase in the rebellion's popularity. But a decision against the county, considered far more likely, might deepen the rebels' already profound alienation.

What matters most is the unrest that prompted the lawsuit in the first place. The message carried by Carver embodies a warning that every presidential hopeful would do well to heed. Something has come unfastened in the West, and everybody has guns. "By circling the wagons, they see it's just them against the world," says the Cato Institute's Hess. He fears, he says, that the owner of some marginal ranch pushed to the brink by changing rules may turn desperate. "Someone's going to carry a gun, someone's going to shoot, someone's going to bomb a Forest Service office," he says. "And God knows what's going to happen then."