

Battle Lines in the New West

By Hillary Rosner

Mount Sopris rises above Carbondale, Colorado like a watchful neighbor. It's a source of pride, recreation and tourism for this town, 23 miles northwest of Aspen. It's also a source of residents' drinking water, which originates from a spring in the mountainside. And, lately, that water has been causing a bitter battle between Carbondale and a millionaire who bought his dream ranch partway up the mountain where the spring-fed creek burbles its way toward town.

Garry and Sharon Snook bought their 55-acre retreat six years ago as a private getaway and a place to begin breeding Icelandic horses. Their trouble began when Carbondale officials learned that the Snooks were using chemical herbicides to kill weeds on the land, in what the town claimed was a violation of a local law that prevents pollution of its watershed. Carbondale sued Mr. Snook, persuading the court in late 2003 to halt his use of the chemicals. Mr. Snook is appealing the decision.

"You've got a part-time holiday getaway place on the one hand, and on the other hand the drinking water supply of 6,000 people," said Michael Hassig, the mayor of Carbondale.

The mountain spring water flows into a fork of Nettle Creek, which crosses Mr. Snook's property, Hanging Valley Ranch, before reaching Carbondale's water treatment plant and heading on down the slope to residents' faucets. Nettle Creek's purity has endowed it with mythic status in Carbondale. It is so pure, in fact, that the previous

owner of Hanging Valley Ranch is said to have run a pipe directly from the creek into his home for drinking water.

"Nettle Creek is more than simply the functional source of our water," said Mr. Hassig, who can see Mount Sopris from his office window on clear days. "There's much more of an emotional link. There's the town and right there, there's the peak. You can see the snow, you can see the mountain, you can see the snow fields, and then you turn on your tap water and that's the water."

So far, Nettle Creek has not shown signs of contamination. But Mr. Hassig says a sudden spill could poison it without forewarning. "That's the final issue from my perspective," he said. "There is no recourse. There is no testing, no monitoring, no warning, no knowledge until it's in the pipes and drunk."

Mr. Snook says he's being discriminated against because of his wealth, and that all he wanted was some privacy and quiet. Hanging Valley Ranch lies at the end of a Forest Service road, surrounded by the White River National Forest, with no other house visible for miles around. "I always wanted to have a piece of land, a ranch, with water running through it, right up in the mountains," Mr. Snook said. "The moment I drove onto this piece of property, I knew that that was it.

"It's a glorious setting," Mr. Hassig agreed. "I would hope that he'd be a good steward of that land. But it seems as if he moved to Carbondale, but he didn't move to Carbondale." Mr. Snook points out that he did not, in fact, move to Carbondale, but to unincorporated Pitkin County, which isn't even the same county as Carbondale.

The clash highlights thornier issues than who gets to use which chemicals on their fields and lawns. "In general there's a pretty drastic change taking place on the western

landscape," said Ekaterini Vlahos, an architect and assistant professor at the University of Colorado in Denver who studies ranchland preservation and conservation. "Traditional ranches in these resort areas are going to more of an amenity buyer."

A result of this trend, said Ms. Vlahos, a Colorado native, is that Westerners are "living on the land quite differently than we have in the past. Your perspective on what is here is totally different depending on how long you've been here." As the well-off settle in where farmers and ranchers once thrived, many residents of Colorado's mountain towns are relative newcomers. Yet they can still bristle when newer newcomers threaten to alter the pristine landscape that drew them in the first place.

In this new West, battle lines can be blurry. Despite owning a the nation's largest bicycle retailer, Performance, Inc., and another house on the Caribbean island Turks and Caicos, Mr. Snook fancies himself a country mouse, standing down the city mice who won't just leave him alone with his alfalfa. (Town officials have also objected to Mr. Snook's use of herbicides to cultivate his expansive bluegrass lawn, arguing that bluegrass has no place on a Western mountainside.) As if to prove the professionalism of his endeavors, he has emblazoned his pickup truck and baseball cap with the Hanging Valley Ranch logo.

Mr. Hassig, the mayor, also fancies himself the country mouse, fighting to keep Carbondale's traditional source of drinking water as pure as it always has been and digging in his heels to protect the town of about 5000 people from the whims of tony outsiders used to having their way. Yet Mr. Hassig, 52, is not exactly descended from homesteaders. He is a Yale-educated architect who grew up in New York and moved to Carbondale in 1991.

Mark Hamilton, the water lawyer representing the town, is also a Colorado transplant. He relocated from Washington, D.C., in 1991.

Mr. Snook has filed a countersuit in federal court in Denver, asserting that the town is singling him out because of his wealth. He is seeking damages under the equal protection clause of the 14th Amendment.

Hanging Valley Ranch previously belonged to Tom Ferguson, whose family ranched in the area for decades. Mr. Ferguson testified at the trial, under subpoena, that he had maintained the ranch without using chemical herbicides and that he relocated further west, near Grand Junction, in search of a region where people still ranched for a living.

Mr. Snook, a native of North Carolina with a lilting southern drawl, believes he has the right to use chemicals to kill weeds on Hanging Valley Ranch, which now includes alfalfa fields, bluegrass lawns, horse pastures, and flower beds. But a town ordinance states that "no one shall pollute or contaminate, or create conditions which will lead to pollution or contamination, of Nettle Creek or its tributaries." In court, the town cited a state law that empowers municipalities to protect against pollution within five miles of their watersheds.

"Everyone's entitled to use their property as they see fit as long as they don't unduly impact their neighbors," said Mr. Hamilton, who retained a University of Colorado biologist, Timothy Seastedt, who testified at the trial that there are ways to effectively control weeds on Mr. Snook's property without using chemicals. Alluding to Mr. Snook's choice of nonnative bluegrass, Mr. Hamilton added, "But when you make a choice to have the sort of aesthetic environment that he's developed up there in the place he's

chosen to put it, you have put in place a set of facts that will likely interfere with your neighbors."

Or as Mayor Hassig put it, "At the end of the day, it seems like he wants to make his Colorado ranch look like a North Carolina horse farm."

Mr. Snook contends the ordinance is inconsistent with federal law that regulates drinking water standards, which set specific levels at which various chemicals may safely be present in potable water. He also believes he is being treated differently from other landowners who live and farm within five miles of the town watershed. Standing next to shallow wells that draw from the Roaring Fork River, augmenting the water supply from Nettle Creek, Mr. Snook gestured at nearby farms, saying, "All of these people should be being sued just like me. They've got yards. Wouldn't you guess that they'd put Miracle Gro on their plants? If they have a field, it's more than likely that they'd put herbicides and pesticides."

Mr. Hamilton says that so far no water quality tests have found such chemicals. But the initial anger against Mr. Snook was fueled when a town official saw his truck heading up the mountain road with a 50-gallon drum of an herbicide called 2, 4D. A subsequent construction mishap on the property during the building of a decorative pond caused large quantities of dirt to fill the stream, stopping up the filters in the town's treatment plant. When town officials came up to investigate, they learned that Mr. Snook was using herbicides.

Mr. Hamilton also points out that the Roaring Fork wells, a more recent source of water for Carbondale, are part of a more sophisticated water treatment system that does not pose the same risk to drinking water as the Nettle Creek system. But he did not rule

out the possibility of action against residents found to be using herbicides along the river. More than a decade ago, the town solicited written agreements from riverfront residents not to use herbicides and pesticides on their property—what Mr. Hamilton calls an "additional assurance in the arsenal."

Joseph Edwards, Jr., a Carbondale lawyer who represented Mr. Snook in the initial lawsuit, insists that the town is overreacting to his client's use of chemicals, which he says is consistent with the "best management practices" authorized under state law for agricultural operations. "We've all heard the horror stories of the Love Canal," said Mr. Edwards. "But this ain't it."

Several years ago, Mr. Hassig said, Carbondale completed a comprehensive growth plan and wanted a slogan to accompany it. The winning line was "Don't try to change Carbondale. Let Carbondale change you."

Mr. Snook seems unlikely to let Carbondale change him. "They're standing on a soapbox," he said.