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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

WESTERN WATERSHEDS PROJECT,

Plaintiff,

v.

U.S. FISH AND WILDLIFE SERVICE,
NOAA FISHERIES, U.S. FOREST SERVICE,
JACK WHITWORTH, and WHITWORTH
RANCHES, INC,

Defendants.

No. 4:12-cv-197-BLW

DECLARATION OF ALEX BROTT

1. My name is Alex Brott. I am a currently a senior at Whitman College in Walla Walla, Washington, majoring in environmental studies and politics. I was an intern for Western Watersheds Project during the summer of 2012. The following facts are based on my personal knowledge; and if called as a witness I would and could testify thereto.

2. On July 23 and 24, 2012, I visited the Camas Creek allotment. This declaration describes what I personally observed during that visit and presents photographs that I took on

those days. All of the photos were taken with a Panasonic Lumix DMC-TS3 camera that embeds the GPS coordinates of the location at which the photo was taken into the photo. The coordinates from the camera are pasted below each photo, along with a description.

Meyer's Cove Exclosure

3. Upon arriving in the allotment on July 23, I first visited the Meyer's Cove exclosure. I understand cattle are to be excluded from the exclosure at all times, due to the area's importance for spawning.

4. I walked about half the length of this exclosure, starting near the West Fork ford (a road ford near the middle of the exclosure), walking upstream to the ford that makes the upstream exclosure boundary, and returning to the West Fork ford.

5. I first walked inside the exclosure along the West Fork road, on the right side of Camas Creek (all references to left and right are if you were descending the river). A cow and calf were standing in the road near Camas Creek. As I approached, they ran across the creek at the ford.



Fig. 1: Cow and calf crossing Camas Creek at West Fork ford, within Meyer's Cove exclosure. 44.829775° N, 114.496642° W

6. Upon reaching the creek, I observed that the lightweight fence that lined the upstream side of the ford had collapsed and was lying on the ground on the right bank, such that cattle could walk across the fence to freely enter and exit the enclosure.



Fig. 2: Fence on right bank of upstream side of West Fork ford lying on ground. 44.829775° N, 114.496642° W.

7. The fence on the downstream side of the ford was partially collapsed. The top wire was still in the air, but the lower wires and many of the posts were lying on the ground, such that calves and possibly cows could walk under the top wire.



Fig. 3: Partially collapsed fence on right bank of downstream side of West Fork ford.
44.829775° N, 114.496642° W.

8. I crossed the downed fence upstream of the ford and walked upstream. There was fresh cow waste right under the fence, showing that cows had walked over the downed fence.



Fig. 4: Fresh cow waste under collapsed fence on right bank of upstream side of West Fork ford.
44.825464° N, 114.500131° W.

9. As I walked upstream along the creek, the ground was covered with fresh cow waste.



Fig. 5: Fresh cow waste on right side of Camas Creek, upstream of West Fork ford. 44.825464° N, 114.500131° W.



Fig. 6: Fresh cow waste on right side of Camas Creek, upstream of West Fork ford. 44.825236° N, 114.499856° W.



Fig. 7: Fresh cow waste on right side of Camas Creek, upstream of West Fork ford. 44.825131° N, 114.500042° W

10. I also noticed that the riverbank was slumping or shearing off in places where the cows had been.



Fig. 8: Slumping right bank of Camas Creek, upstream of West Fork ford; fresh cow waste visible on gravel. 44.825131° N, 114.500042° W

11. There were many cow hoof prints and fresh cow waste right next to the creek.



Fig. 9: Cow hoof prints and fresh cow waste along right bank of Camas Creek, upstream of West Fork ford. 44.824706° N, 114.499842° W.

12. I saw a Columbia spotted frog in the exclosure.



Fig. 10: Columbia spotted frog in exclosure. 44.824025° N, 114.499767° W

13. About halfway between the West Fork ford and the ford at the top of the exclosure, I started seeing cows on both sides of the creek. In total, as I walked to the upstream

end of the exclosure, then back down, I observed at least 33 cows inside the exclosure. This is a conservative count. I kept careful track of cows crossing the creek so as not to double-count them. I did not count cows that I heard mooing or crashing through brush, but did not see. There were very likely more cows in brushy areas that I could not see. Photos of the cows inside the exclosure follow.

14. Several cows were in the dense brush on the right side of the river.



Fig. 11. Cow inside exclosure between road fords. 44.822911° N, 114.499319° W.



Fig. 12. Cows inside exclosure between road fords. 44.823194° N, 114.499183° W



Fig. 13. Cow inside exclosure between road fords. 44.822728° N, 114.498853° W

15. I saw several cows walking and drinking on the banks.



Fig. 14. Two cows on left bank, inside exclosure between road fords. 44.823208° N, 114.499492° W



Fig. 15. Cow drinking, inside exclosure between road fords. 44.823439° N, 114.499703° W

16. I saw one cow drinking on the right bank, and then crossing the creek.



Fig. 16. Cow on right bank, inside exclosure between road fords. 44.823097° N, 114.499744° W.



Fig. 17. Cow beginning to cross creek, inside exclosure between road fords.
44.823542° N, 114.499256° W.

17. Midway across the creek, the cow stopped to take a break and drink.



Fig. 18. Cow in creek, inside exclosure between road fords. Two cows in background, also inside exclosure. 44.823161° N, 114.499472° W



Fig. 19. Cow drinking in creek, inside exclosure between road fords. Two cows in background, also inside exclosure. 44.823161° N, 114.499472° W.

18. The crossing cow joined a large bull standing on the left bank.



Fig. 20. Bull on left bank, inside exclosure between road fords. 44.823033° N, 114.499289° W.

19. Just below the upstream end of the exclosure, there was a herd of about ten cows along the river.



Fig. 21. Cows in left side of exclosure. 44.822728° N, 114.498853° W.

20. I could see the brand on several of the cows, which was the brand of Whitworth Ranches, an X with a tail on the bottom left corner.



Fig. 22. Cow inside exclosure. 44.822375° N, 114.498575° W.

21. At the road ford at the upstream end of the exclosure, I observed that the lightweight fence strung across the banks and creek was lying almost completely on the ground on the right bank.



Fig. 23. Collapsed fence on right bank, upstream end of exclosure. 44.822206°N, 114.497031° W.

22. I later saw a cow approach the fence from inside the exclosure and cross it to get out.

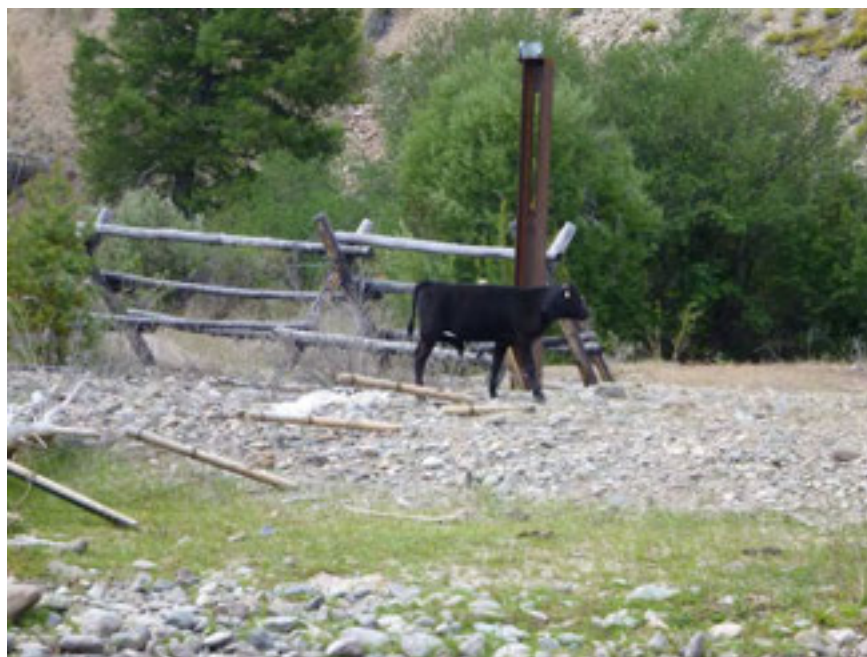


Fig. 24. Cow crossing collapsed fence on right bank, upstream end of exclosure. 44.822167° N, 114.497108° W.

23. As I walked downstream inside the exclosure on the left bank, I saw a herd of 21 cows just above the West Fork ford.



Fig. 25: Herd of cows in exclosure, just above West Fork ford. 44.823517° N, 114.499906° W.



Fig. 26: Herd of cows in exclosure, just above West Fork ford. 44.824572° N, 114.500592° W.

24. I briefly looked around the West Fork pasture near the West Fork ford (just

outside of the enclosure). It was denuded and covered with cow pies.



Fig. 27: Heavily trampled spring in West Fork pasture near West Fork ford. 44.826344° N, 114.501167° W.



Fig. 28: Denuded area in West Fork pasture near West Fork ford. 44.826344° N, 114.501167° W.



Fig. 29: Denuded area in West Fork pasture near West Fork ford. 44.826344° N, 114.501167° W.

25. I returned to the West Fork ford to cross Camas Creek. Before crossing I saw a cow jump into the creek from the right side in order to cross.



Fig. 30: Cow jumping into creek just above West Fork ford. 44.826344° N, 114.501167° W

26. I also saw a cow and calf loafing in the creek at this spot.



Fig. 31: Cow and calf loafing in creek just above West Fork ford. 44.825656° N, 114.500608° W.

Castle Creek

27. I next hiked to the Castle Creek drainage. A drift fence crosses Castle Creek and I understand is supposed to keep cattle from drifting into lower Castle Creek. I hiked to the drift fence and observed that the lowest wire on the barbed wire fence crossing the creek was broken. The resulting gap between the next highest wire and the creek was large enough to allow a cow through. Fig. 32. Also, one of the support poles for the drift fence on the south side of Castle Creek had fallen down, with the fence wires on the ground, and it would be easy for a cow to step over the fence. Fig. 33.



Fig. 32: Drift fence crossing Castle Creek, with lowest wire broken. 44.822167° N, 114.497108° W.



Fig. 33: Downed pole on Castle Creek drift fence. 44.822167° N, 114.497108° W.

28. I continued walking up the Castle Creek road past the drift fence, until I hit private land. I observed a total of 21 cattle on the flat areas between the road and Castle Creek

on this walk. Fig. 34. The cows had the Whitworth Ranches brand described earlier. Fig. 35.



Fig. 34: 16 of 21 cows observed along Castle Creek on July 23. 44.799386° N, 114.436944° W



Fig. 35: Cow with Whitworth Ranches brand on eartag. 44.805675° N, 114.445556° W

Furnace Creek

29. After camping along Camas Creek, I hiked to Furnace Creek on July 24. A drift fence also crosses Furnace Creek and I understand it is intended to keep cattle from drifting into Camas Creek. I observed that the drift fence was leaning at a low angle while crossing Furnace Creek, probably allowing a cow to step over the fence. Fig. 36. I also observed a gap around the south end of the drift fence through which a cow could walk. Fig. 37.



Fig. 36: Furnace Creek drift fencing askew. 44.762911° N, 114.468233° W



Fig. 37: Gap around south end of Furnace Creek drift fence. 44.765089° N, 114.485614° W.

30. I next hiked up to the Hidden Valley Ranch area, where White Goat Creek comes into Camas Creek. I hiked past the Hidden Valley Ranch into the east White Goat Creek drainage. About half a mile above Camas Creek I observed several cows with the Whitworth Ranches eartags.



Fig. 38: Cow near White Goat Creek, with Whitworth Ranches eartag. 44.738453° N, 114.481100° W



Fig. 39: Two cows on trail near White Goat Creek. 44.738453° N, 114.481100° W

31. I began hiking back down Camas Creek. Below Furnace Creek, I passed a cattle drive of roughly 50-60 cows being driven up the road towards Furnace Creek. After I passed them and continued downstream, I saw two straggler cows along Camas Creek.



Fig. 40: Cows along Camas Creek, downstream of herd. 44.770978° N, 114.481158° W.

32. While crossing the Camas Creek ford that forms the upstream boundary of the Meyer's Cove exclosure on my way out, I observed that the lightweight exclosure fence was in even worse shape than before. While before, it had only collapsed on the right bank, now it had completely collapsed across the entire creek and right bank.



Fig. 41: Collapsed fence, with posts lying down in creek and on right bank. 44.814636° N, 114.490833° W.

33. On my way out I noticed that there were several broken poles in the buck and pole fencing that forms most of the exclosure fencing



Fig. 42: Exclosure fence. 44.824844° N, 114.498389° W.



Fig. 43: Exclosure fence. 44.824844° N, 114.498389° W

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 27th day of September, 2012.

/s/ Alex Brott

Alex Brott

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of September, 2012, I caused the foregoing DECLARATION OF ALEX BROTT to be electronically filed with the Clerk of the Court using the CM/ECF system, which sent a Notice of Electronic Filing to the opposing counsel of record listed below:

• Erik Petersen Erik.Petersen@usdoj.gov

I further certify that I will cause the foregoing to be mailed via certified U.S. Mail to:

Jack Whitworth
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HC 62 Box 2120
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/s/ Kristin F. Ruether

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