

IN THE SUPREME COURT OF THE STATE OF NEVADA

ABEL CÁNTARO CASTILLO,

Appellant,

vs.

WESTERN RANGE ASSOCIATION,

Respondent.

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APPENDIX VOLUME 10, PART 1

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CHRONOLOGICAL ORDER

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EXHIBIT 34

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EXHIBIT 34

RA 01914



Deposition of:
Tom Filbin

August 24, 2021

In the Matter of:

**Castillo, Abel Cántaro v. Western
Range Association**

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and)
those similarly situated,)
Plaintiff,)

vs.

WESTERN RANGE ASSOCIATION,)
Defendant.)

) Case No.: 3:16-cv-
) 00237-RCJ-CLB

TELEPHONIC DEPOSITION OF TOM FILBIN

Taken at Eureka, Nevada

On Tuesday, August 24, 2021

At 9:04 a.m.

Reported by: Margie L. Carlson
C.C.R. No. 287

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* * * * *

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1 slavery.

2 Q. Mr. Filbin, you testified that you use a
3 lot of different sources and information to make
4 sure that your operation complies; is that accurate?

5 A. Yes, that is.

6 Q. Is some of that information available to
7 you from the DOL or the Department of Labor?

8 A. We get information that is presented to
9 us with the Department of Labor, global, or address,
10 information, letterhead, whatever. It's information
11 that's passed on to us. I don't communicate with
12 the department myself.

13 Q. Is the Department of Labor information
14 that you are in possession of some of the
15 information that you rely upon to make sure that
16 your operation is compliant?

17 A. Yes.

18 Q. You also receive information from the
19 Department of Homeland Security.

20 A. Yes, we do.

21 Q. And do you rely on that to make sure that
22 you and your operation are in compliance?

23 A. Yes, we do our best.

24 Q. Do you receive information from what is
25 referred to as the USCIS or the United States USC --

1 I can never remember the exact acronyms. I don't
2 know how anybody does. United States -- we'll come
3 back to that. USCIS, have you heard of that
4 acronym?

5 A. I've heard of it, yup.

6 Q. Okay. And do you receive information
7 from them?

8 A. I believe we've been sent information
9 about them, yes.

10 Q. Do you rely on information you receive?

11 A. Yes.

12 Q. And have you received any circulars from
13 the United States Customs & Immigration Service,
14 which is USCIS?

15 A. Yes. Are you talking about their
16 documents like I-94s and some of that?

17 Q. Yes.

18 A. Yeah.

19 Q. And their circulars.

20 A. Yup, and sometimes they send posters and
21 all kinds of things.

22 Q. And you rely on that, don't you?

23 A. Yes, we do.

24 Q. Have you ever been informed by any of
25 these federal agencies that your operation was not

1 in compliance?

2 A. Never.

3 Q. Have you ever been informed by any state
4 agency that your operation was not in compliance?

5 A. Not that I know of.

6 Q. We used the term AI earlier in the
7 deposition, and then we used the term artificial
8 insemination, and I just wanted to clarify that
9 every time we were referring to AI we were referring
10 to artificial insemination and not artificial
11 intelligence, which is also AI; is that correct?

12 A. That's correct.

13 Q. Merino sheep are different than other
14 forms or breeds of sheep, correct?

15 A. Yes, they are unique.

16 MS. REIF: Objection, form.

17 MS. WINOGRAD:

18 Q. I have, I believe I've lived in Nevada
19 for 40 years also, but I came originally from a
20 city. I have sweaters that are Merino wool. Is
21 there some connection between Merino sheep and
22 Merino wool?

23 A. Yes, ma'am, that's the fiber from a
24 Merino, from a Merino sheep.

25 Q. So the sheep are bred for their wool and

1 not their meat, correct?

2 A. No, that's not correct. The Merino
3 sheep, the modern Merino sheep is a dual purpose
4 sheep for both meat and wool.

5 Q. Ah, okay, what is dual purpose? I --
6 I --

7 A. The dual purpose is two purposes, meat
8 and wool.

9 Q. Yeah, we've had a lot of testimony from
10 other ranch operations that they breed and they herd
11 sheep simply for meat so I, I thank you for that
12 explanation.

13 Is there a difference in the herders'
14 duties based upon whether they are Merino sheep or
15 other types of sheep.

16 MS. REIF: Objection, calls for
17 speculation.

18 A. Well, from 70 years of experience I would
19 say that there is not a whole lot of difference in
20 that regard, but our sheep, because we're a
21 feedstock operation, there is a difference.

22 MS. WINOGRAD:

23 Q. What is that difference?

24 A. Just because we're tracking genetics and
25 striving for better production toward the commercial

1 sheep pen. Commercial sheep pen's main job or duty
2 or enterprise is to produce meat and wool but with
3 the emphasis on the meat. In the Merino sheep
4 operation you have a totally different outlook on
5 things, and you're improving not only the meat
6 qualities but also the wool qualities. Wool
7 qualities help offset a lot of the expense because
8 it brings a superior price because it is a superior
9 product.

10 Q. It's a different product, isn't it?

11 A. It's absolutely different. It's the best
12 in the world. There's nothing that can equal it.

13 Q. From your 70 years of experience and your
14 personal understanding have you had occasion to be
15 in contact with other ranches in the herding
16 industry?

17 A. Absolutely. They're our customers.

18 Q. And in fact have you been in contact with
19 other ranches in Nevada?

20 A. Oh, yes, they come to our annual sale.

21 Q. From your understanding and experience,
22 which is vast, do you understand that your operation
23 and the way in which you utilize your herders is
24 different from other ranches?

25 A. Absolutely.

1 MS. REIF: Objection, form objection,
2 foundation.

3 THE WITNESS: Ma'am, I've run both kind
4 of ranches. I know.

5 MS. WINOGRAD: I don't doubt that.

6 Q. Do your herders actually work 24 hours a
7 day seven days a week?

8 A. No.

9 MS. REIF: Objection, calls for a legal
10 conclusion as to the definition of work.

11 MS. WINOGRAD:

12 Q. Are there days in which they work fewer
13 than four hours?

14 MS. REIF: Same objection.

15 A. No.

16 MS. WINOGRAD:

17 Q. Are there days in which they work more
18 than 12 hours?

19 MS. REIF: Same objection.

20 THE WITNESS: Did you hear my answer,
21 ma'am?

22 MS. WINOGRAD: No.

23 A. I said some of them. It could happen,
24 but it's not normal.

25 / / /

1 MS. WINOGRAD:

2 Q. Are there days in which they work fewer
3 than seven hours a day?

4 A. Yes.

5 MS. REIF: Same objection.

6 MS. WINOGRAD:

7 Q. Whether they work seven hours a day or
8 fewer, do they still get paid at the same rate of
9 salary?

10 A. Yes, paid by the month.

11 Q. And in your 70 years of experience and
12 your operations is it your understanding that being
13 on call requires active working?

14 MS. REIF: Objection, form.

15 A. No, they are available should something
16 arise. It's just like, you know, if your house
17 would catch on fire do you go outside.

18 MS. WINOGRAD:

19 Q. And when you say available, during the
20 times that they are available are they sometimes
21 utilizing electronics?

22 MS. REIF: Objection, calls for
23 speculation.

24 MS. WINOGRAD: I didn't hear the answer,
25 I'm sorry.

1 A. The answer was yes.

2 MS. WINOGRAD:

3 Q. And they get paid for that, don't they?

4 A. Yes, they do.

5 Q. Is it your experience based upon 70 years
6 in this industry that when they are not actively on
7 duty they are sometimes visiting with one another?

8 MS. REIF: Objection, form and
9 foundation.

10 MS. WINOGRAD: I'm sorry, I didn't hear
11 your answer.

12 A. I said they can, yes.

13 MS. WINOGRAD:

14 Q. Is it your experience based upon 70 years
15 in this industry that they eat meals?

16 A. Yes.

17 Q. Do they get paid to eat those meals at
18 the same rate of salary as if they were actively
19 herding?

20 A. Yes.

21 Q. Is it your experience based upon 70 years
22 in the industry that when they are not actively
23 herding they are sometimes and often sleeping?

24 A. Yes.

25 MS. REIF: Objection, form.

1 MS. WINOGRAD:

2 Q. And while they are sleeping do they still
3 get paid at their same rate of salary?

4 A. Yes.

5 Q. Based upon your testimony is it accurate
6 that even within your own operations over the years
7 there are huge differences between and among the
8 herder duties?

9 A. I didn't quite hear all that.

10 Q. I don't know if I can remember all of
11 that.

12 Is it your understanding based upon your
13 70 years in this industry and your own operations
14 that even within your own operation there are huge
15 differences between and among herder duties?

16 A. Yes, there are.

17 MS. REIF: Objection, vague.

18 MS. WINOGRAD: That's all I have.

19 MS. REIF: I do not have any other
20 questions. I assume Jerry has none.

21 MR. SNYDER: No, I'm good. Thank you,
22 Mr. Filbin. I appreciate your time very much.

23 THE WITNESS: You're welcome.

24 MS. REIF: Thank you very much,
25 Mr. Filbin.

REPORTER'S CERTIFICATE

STATE OF NEVADA)

) ss

COUNTY OF CLARK)

I, Margie L. Carlson, CCR No. 287, do hereby
certify:

That I reported the taking of the deposition
of the witness, TOM FILBIN, commencing on
August 24, 2021, at the hour of 9:04 a.m.

That prior to being examined, the witness was
duly sworn to testify to the truth and that I
thereafter transcribed said stenotypy notes and said
deposition is a complete, true, and accurate
transcription of said stenotypy notes taken down at
said time.

The witness and/or a party has requested to
read and sign the deposition transcript.

I further certify that I am not a relative or
employee of any party involved in said action, nor a
person financially interested in the action.

Dated at Las Vegas, Nevada, this 3rd day
of September, 2021.



Margie L. Carlson

CCR No. 287

EXHIBIT 35

FILED UNDER SEAL



Deposition of:
Pauline Inchauspe, 30(b)(6)

June 14, 2021

In the Matter of:
**Castillo, Abel Cántaro v. Western
Range Association**

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and those)
similarly situated,)

Plaintiff,)

vs.)

No. 3:16-CV-00237-RCJ-CLB

WESTERN RANGE ASSOCIATION,)

Defendant.)

ZOOM VIDEOCONFERENCE DEPOSITION OF SILVER CREEK RANCH,
INC., 30(b)(6) PAULINE INCHAUSPE

June 14, 2021

9:07 a.m.

Reported by:

SHANNON STEVENSON, RPR, CCR

Certificate No. 50461

CONTAINS CONFIDENTIAL TESTIMONY

Page 2

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* * *

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5	July 18, 2014, letter from Western Range Association, Bates Nos. WRA008482 through WRA008530	39	11
6	ETA Form 9142, Bates Nos. WRA008431 through WRA008481	53	10
7	I-29 Petition for a Nonimmigrant Worker, Bates Nos. WRA017104 through WRA017116	55	9

1 payments separate from the wages you paid on a
2 twice-a-month basis, would they also have been included
3 in the report that you submitted to us?

4 MS. WINOGRAD: Objection. Calls for
5 speculation.

6 THE WITNESS: I would say no.

7 Q BY MS. WEBBER: Okay. And why is that that the
8 bonuses wouldn't be included in the report?

9 A Because I give them cash.

10 Q Okay. Do you recall for the year 2018
11 providing cash bonuses to any of your herders?

12 A Yes, to one.

13 Q Okay. Which one was that?

14 A Felix.

15 Q To Felix De La Cruz?

16 A Yes.

17 Q And do you recall why you gave him a bonus in
18 2018?

19 A Because he -- I give it to him at a certain
20 period and it was because he did a good job lambing.

21 Q Okay. And how much did you give him?

22 A Is that anybody's business?

23 Q Well, the reason I'm asking is because if
24 plaintiffs end up prevailing and saying that the herders
25 should have been paid at a higher wage rate, obviously

1 have to offset what they were actually paid and not
2 always but sometimes bonuses are offset as well so that
3 it may reduce the amount that Mr. De La Cruz is owed if
4 he's owed anything if plaintiffs prevail. So for
5 Mr. De La Cruz' perspective if he gets a larger award, we
6 wouldn't object, but in fairness to any defendant who
7 might be required to pay if we prevail, I wanted to know
8 what payments people already received that might be
9 offset from anything that might be owed.

10 MS. WINOGRAD: Western Range Association is
11 going to move to strike that entire soliloquy.

12 You can answer if you can.

13 THE WITNESS: You won't like my answer. I
14 don't think it's anybody's business what we give for
15 bonus. I give bonuses on merit.

16 Q BY MS. WEBBER: I appreciate that. And I'm --
17 I certainly -- you know, it doesn't matter if I like your
18 answer or not or if anybody likes your answer as long as
19 you are giving your honest testimony, but it's
20 information that I think is relevant to the case. Are
21 you are declining to answer that question?

22 A Ask me it again so I know exactly what I'm
23 answering.

24 Q Sure. In 2018 how much of a bonus payment did
25 you make to Felix De La Cruz?

1 A I gave him a thousand dollars.

2 Q Thank you.

3 Turning to 2019, which starts on the next page
4 Silver 12, 00012, of Exhibit 4. I think for 2019 I
5 actually only had one question, and it's on the very last
6 page of the 2019 printout, so the very last page of
7 Exhibit 14 -- Exhibit 4, excuse me. And it's almost the
8 last line on that page. It's a check dated
9 December 31st, 2019, it's listed to Carlos, who we've
10 talked about, your very long-term employee, and the memo
11 says bonus for two, and then it's cut off and there's
12 just a series of asterisks without any amount listed.

13 Do you recall, first of all, if you made a
14 bonus payment to Carlos Gangas for 2019?

15 A Yes, I did.

16 Q Okay. And do you recall what -- was it for a
17 particular purpose or just for the overall work over the
18 course of the year?

19 A It was for overall work.

20 Q Okay. And was there --

21 A Excuse me. Can I take a break, please?

22 Q Absolutely. Absolutely.

23 A Thank you.

24 (Break taken at 9:51 a.m.)

25 (Back on the record at 10:00 a.m.)

1 MR. HALL: Christine, Pauline is apprehensive
2 about testifying about bonuses without it being
3 designated as confidential. She doesn't think they have
4 a need for each other to know. Doesn't want other
5 ranchers to necessarily know. If you have further
6 questions about those, can we put that as confidential
7 and go ahead and ask them.

8 MS. WEBBER: Absolutely. I'm happy to
9 retroactively designate our discussion of the bonuses so
10 far as confidential and for further questions about to
11 get into some follow-up on the 2019 bonuses. We'll treat
12 all of that as confidential, which means that other than
13 obviously the parties in litigation and the court that we
14 wouldn't share that information with anybody else
15 including other ranches, including any of the individuals
16 or individual herders wouldn't know about any other
17 herders' bonus amount. Okay?

18 MR. HALL: Thank you.

19 Q BY MS. WEBBER: So with respect to the 2019
20 year, do you recall the bonus amount that was paid to
21 Carlos Anibal, I forget his other name, Gangas?

22 A Yes.

23 Q And how much did he receive?

24 A 25,000.

25 Q And was that by this check 4943 that's listed

1 in the report?

2 A Yes.

3 Q Okay. And that sounds like even though he had
4 been paid relatively highly compared to your other
5 herders, \$25,000 is a very large bonus. Was there
6 something in particular that he had done in 2019 to earn
7 that bonus?

8 A He does good work all along. Way better work
9 than any of those other guys.

10 Q Understood. Is that the largest bonus that
11 you've ever paid a worker?

12 A Yes.

13 Q Was there anybody else in 2019 who you decided
14 merited any bonus payments?

15 A Felix.

16 Q Okay. And how much did you pay Felix in 2019?

17 A I really don't remember, but I think I gave him
18 a thousand dollars in the spring, a thousand dollars in
19 the fall.

20 Q Okay. Then turning to the 2020 report, which
21 actually goes back to Page 6 of Exhibit 4 is where the
22 2020 report begins. So for 2020 it looks like most of
23 your herders were paid \$820 twice a month, so \$1,640 per
24 month; is that right?

25 A Yes.

1 A No, they're not responsible 24 hours a day.

2 Q And what do you mean when you say "they're not
3 responsible 24 hours a day"?

4 A When they're -- the sheep are bedded down in
5 the middle of the day or in the night, there's nobody
6 responsible for them. They're bedded down. The
7 shepherd is at camp.

8 Q And how do you know that?

9 A I have eyes.

10 Q Right. But you can't be out at the various
11 locations where the shepherders are all the time; right?

12 A No. But there's ways of knowing.

13 Q Okay. How often do you personally get out to
14 the individual sheep camps to see where the herders are
15 with respect to the herd or a flock?

16 A In the wintertime, I'm there every other day.
17 And in the summertime, I rely on once a week to see what
18 they're doing, and during lambing I'm there every day.

19 Q Sure. So let's start with the summertime. Are
20 you -- you referred to providing provisions to the
21 herders once every seven days. Is that when you have
22 occasion to see what's going on with them and their
23 sheep?

24 A Yes.

25 MS. WINOGRAD: Objection. That misstates her

1 prior testimony. She said now it is every single day, it
2 used to be every three.

3 Q BY MS. WEBBER: I don't think we clarified
4 that, actually. I know you said there was a change with
5 respect to the calling card. With respect to the
6 frequency with which you provide provisions, was there a
7 period of time when you provided provisions every three
8 to four days or has it always been every seven days?

9 A In my father's time it was every six days.
10 Since I've taken over, they get groceries once a week.

11 Q Okay.

12 A Not always seven days, sometimes it is six. If
13 we're driving 200 miles they get groceries that day and I
14 won't go the sixth day in the wintertime. We use a
15 little bit of sense.

16 Q Of course.

17 A It's once a week.

18 Q Understood. And I take it you are one of the
19 individuals whose may be making those grocery deliveries
20 to the herders out at their camps; is that right?

21 A Yes, I am.

22 Q And are there other individuals who assist in
23 that as well, or is it always your responsibility?

24 A It's my responsibility.

25 Q Okay. And how much time do you spend with each

1 herder when you are dropping off the groceries?

2 A As much time as we need.

3 Q Okay. What's the range that you typically
4 spend?

5 A I spend the whole day with them when I'm down
6 there.

7 Q Okay. So even with all the driving that you
8 have to do to get there and get back, you are still able
9 to spend --

10 A It's the day. It takes me an hour or two to
11 get down there. I spend the majority of the day hauling
12 water to the sheep in the wintertime, and wintertime is a
13 long time there from November to March I'm there every
14 other day, and the whole day is dedicated to sheep that
15 day.

16 Q Okay.

17 A And there are two bands, so I do spend quite a
18 bit of time with those men.

19 Q In the winter you are down to two bands. So
20 you can alternate one day with one band and one day with
21 the other band?

22 A I do them both at the same time. It's
23 200 miles.

24 Q Understood. So you spend like half the day
25 with one band and half the day with the other band?

1 A Yes.

2 Q And then in -- so you said winter is November
3 to March, and then you've got lambing and sheering and
4 lambing; is that right?

5 A Yes.

6 Q When does your sheering begin?

7 A We shear April 1st, 31st or the 1st. It's a
8 one- to two-day process.

9 Q Okay. In order to do the sheering, do you need
10 to get the sheep gathered into one central location where
11 they are sheered?

12 A Then they're trailing from the winter to the
13 spring country, and so we shear them when they get to a
14 certain part of the trail.

15 Q And when you talk about trailing, does that
16 mean that the sheep are walking on the trail?

17 A Yes.

18 Q As opposed to being trucked?

19 A Yes. Our sheep don't get in a truck.

20 Q Okay. And how about the herders, are they
21 walking with the sheep or are they on horseback or
22 something else?

23 A Horses.

24 Q Okay. All of your herders have a horse that
25 they ride in the course of their duties?

1 A Yes.

2 Q And then in -- so you said winter is November
3 to March, and then you've got lambing and sheering and
4 lambing; is that right?

5 A Yes.

6 Q When does your sheering begin?

7 A We shear April 1st, 31st or the 1st. It's a
8 one- to two-day process.

9 Q Okay. In order to do the sheering, do you need
10 to get the sheep gathered into one central location where
11 they are sheered?

12 A Then they're trailing from the winter to the
13 spring country, and so we shear them when they get to a
14 certain part of the trail.

15 Q And when you talk about trailing, does that
16 mean that the sheep are walking on the trail?

17 A Yes.

18 Q As opposed to being trucked?

19 A Yes. Our sheep don't get in a truck.

20 Q Okay. And how about the herders, are they
21 walking with the sheep or are they on horseback or
22 something else?

23 A Horses.

24 Q Okay. All of your herders have a horse that
25 they ride in the course of their duties?

1 A Yes.

2 Q And when do they leave the winter grazing area
3 to start moving to the -- I think you called it the
4 spring?

5 A Yeah, the lambing ground.

6 Q Lambing ground, yes.

7 A They leave the 10th to the 15th of March, and
8 they get to the sheering place by the end of the month.

9 Q And then sheering, as you said, is just a
10 couple of days. And what happens next, do they continue
11 on to another location or do they stay there for lambing?

12 A No. They continue on for just a few miles, not
13 very far.

14 Q Okay. And then that's the lambing ground?

15 A Yes.

16 Q And since you refer to it as the lambing
17 ground, I take it this is not like back at the home and
18 ranch headquarters, this is still out on the range?

19 A For the majority of the sheep, it's out on the
20 range. But for the first-time lambers and the ewes that
21 have bad utters, they're separated and they're kept on
22 private property on the ranch.

23 Q Okay. And so it would be early April when
24 the ewes get to the lambing ground?

25 A Yes. April 10th or so. They're sorted for

1 in for sheering?

2 A Yes.

3 Q Okay. So about how long does it take them to
4 get from the lambing areas where they are in mid April
5 through mid May to where they're going to spend the rest
6 summer?

7 A It takes them about a month.

8 Q And when they're trailing, is the herder then
9 able to use the sheep camps that you described? I think
10 you said the Timberline sheep camps or are they using a
11 packed tent during the time when they're on the trail?

12 A They use a packed tent.

13 Q And then in the summer months, when they're out
14 on the range, they continue to use the tents; is that
15 correct?

16 A Yes.

17 Q And then how long do they remain in the
18 summer -- what you call the summer country, the summer
19 grazing area?

20 A They come -- the sheep come down off those
21 mountains, they're very high mountains. They come down
22 off those mountains end of August, first part of
23 September depending on the year to the corrals and we
24 wean all the lambs. All the lambs that we're going to
25 sell we wean. And then the sheep go back up in those

1 couple weeks, and then we trail south and go as the bird
2 flies probably 50 miles with them, and then they spend
3 the winter down there. And we take a couple weeks to do
4 that.

5 Q Okay.

6 A On a normal year.

7 Q And when you are trailing south to the winter
8 grounds, I assume if you are doing it over the course of
9 a couple weeks, that's still with a tent because you
10 can't be setting up camp?

11 A No.

12 Q You do have the sheep camp there?

13 A Yes. They have a sheep camp. They usually get
14 a sheep camp in September when it starts getting cool.

15 Q So both at the end -- I guess call it the fall,
16 between the end of summer when you weaned the lambs and
17 they go back up in the mountains, at that point they
18 would have sheep camps to stay in?

19 A No, not always. It depends on the summer.
20 Usually for the first -- when they go back up the 1st of
21 September until about the 20th of September, they're way
22 up, they're way back in the back country, they stay in
23 the tents. We tried a few years ago to take a sheep camp
24 closer to them. They didn't want that either. It's hard
25 on the horses, it's hard on the men to come down. It's

1 like a two-, three-hour ride off that mountain to come
2 down with just the horse. So they'd rather stay in the
3 tent. Then when they get closer to the corrals and days
4 are getting shorter, then we take them to camp and they
5 don't even all want to camp. Like Felix, he doesn't ever
6 want to sheep camp until he comes down out of there. He
7 said he'd much rather stay in the tent by the sheep than
8 ride to them.

9 Q I thought I had a bad commute.

10 A And that's a steep commute.

11 Q So probably mid to late September most of them
12 other than Felix perhaps will switch from the tents to
13 the sheep camps you described, and then those camps would
14 be moved as they -- with them as they are trailing to
15 where you spend the winter; is that right?

16 A Yes.

17 Q And obviously through the winter everybody's
18 home base is the sheep camp, no more campus tents; right?

19 A Yes.

20 Q And so that's through mid March when they start
21 the process of coming to where they're going to bring the
22 sheep to shear; is that right?

23 A Yes.

24 Q So we have the whole year cycle, thank you.

25 A Yes.

1 Q And do you keep any record of days worked,
2 particularly when somebody comes in the middle of a pay
3 period, do you make a record of when they arrived or when
4 they departed?

5 A Yes.

6 Q In between the day they arrive and the day they
7 depart, do the herders have any days off where they're
8 relieved of duty entirely for a period of time? I mean,
9 like an entire day or week, like using vacation?

10 A If they ask for vacation and they want to go to
11 town, but they rarely ask. They're not here for
12 vacation. They're here to make money.

13 Q And so do you have any reason then to keep
14 track of the days worked other than the day they arrive
15 and the day they leave?

16 A No.

17 Q All the days in between assumed to be work
18 days?

19 A No. And even when they ask to go to town for
20 something and I take them to town, I pay them the same.
21 I don't deduct that day.

22 Q Okay. If somebody asked to go to town, is that
23 usually just taking the day to drive, to have somebody
24 drive them there and drive them back, it's not an
25 extended stay?

1 A No, it's not an extended stay.

2 Q Okay. During the time that the herders are
3 packing when they're using the tents, I assume being in
4 tents they don't have, you know, running water, toilets,
5 electricity, anything like that, is that correct, as to
6 the tents?

7 A No, that's not correct. They are usually by
8 mountain streams I consider that running water. The
9 nature is their toilet, and they all have solar panels
10 and battery packs. They have power too. It's not a
11 correct sentence.

12 Q Okay. I guess I had a different notion of
13 running water, but appreciate the clarification.

14 When they're packing tents, they still have
15 solar panels available to charge a cell phone or other
16 communication devices?

17 A Yes.

18 Q I was going to contrast that with the sheep
19 camps where I understood that the sheep camps from your
20 declaration have more of what we might recognize as some
21 modern conveniences in terms of cooking with propane
22 stoves and even including propane refrigerators to be
23 able to keep food cold; correct?

24 A The only difference -- they have propane stoves
25 in the summer up on the mountain. They have portable

1 propane stoves with propane. They don't have to build a
2 fire. I don't want them to build a fire.

3 Q I can imagine particularly in the drought you
4 don't want a fire hazard?

5 A No. And the only danger in the wintertime they
6 have a refrigerator that they don't have up there.
7 That's the only modern convenience I'd see in my book.
8 They might be a little rougher, but they have everything
9 that they need up there in the summertime too.

10 Q In the summer without a refrigerator, how do
11 they keep their -- and they're getting groceries once a
12 week, how do they keep their food supply safe and edible?

13 A They're in the high country so they're not as
14 hot as it is down in the valleys, and they get fresh
15 meat, we butcher every week, so the fresh meat stays
16 better than frozen meat, and we give them fresh lamb so
17 they're not eating chicken or something that will spoil
18 quickly. They salt a lot of it, it cures with salt. Or
19 they roll it up. In the nighttime they hang it in a tree
20 and so it cools off, and daytime they role it up in their
21 beds and stash it in their tent into of a pad or
22 something so it stays that way.

23 Q Do you have any concern about the fresh meat
24 drawing in predators if it's hung on a tree?

25 A No. They have dogs all around them. They have

1 the Great Pyrenees and there is no predators get anywhere
2 near those camps. It's not bear country. Coyotes are
3 not coming there.

4 Q So in the mountains where they are for the
5 summer, there are coyotes, but not bears; is that
6 correct?

7 A Yes.

8 Q How about mountain lions?

9 A There's a few, but they're few and far between.
10 There is a lot of hunters in our area, so we don't have a
11 mountain lion problem either.

12 Q In terms of the coyotes, it sounds like you
13 rely on the Great Pyrenees dogs to keep them away?

14 A And some of the herders shoot the coyotes if
15 they see some during the day. And we have a government
16 hunt tracker that comes there and helps if we have a
17 coyote problem, and we also privately hire before lambing
18 and during lambing a helicopter that comes in and we pay
19 for depredation.

20 Q So and as you said, at least two of the herders
21 have rifles to be able to drive off coyotes by shooting
22 them; correct?

23 A Yeah. They kill them and then I give them a
24 bonus -- cash bonus for every coyote that they kill.

25 Q Okay.

1 A They are very proud of their coyotes that they
2 kill. Very proud.

3 Q How much do you pay per coyote?

4 A Hundred dollars.

5 Q Definitely worth getting a coyote then?

6 A It is in their book.

7 Q And so it sounds like in terms of dealing with
8 the coyote, you've got both what the herders do in terms
9 of seeking to shoot a coyote for the bounty, I think you
10 referred to a government trapper?

11 A Yes, trapper.

12 Q Trapper. And then sort of an added layer of
13 protection for lambing you have a helicopter come in to
14 do a broader clearance of coyotes?

15 A Yes. We unlike a lot of sheep outfits that are
16 around us have a lot better coyote control than a lot of
17 our other -- you know, I talked to other ones and we
18 have -- herders don't have a lot of problem with coyotes
19 on our place. Guard dogs help.

20 Q If they're getting hundred dollars to shoot
21 them, I assume they're not having a problem. They're
22 having a bonus.

23 A Yeah.

24 Q In terms of the Great Pyrenees, are they
25 particularly used at night or is that around-the-clock

1 thing with the Pyrenees?

2 A The Pyrenees are with the sheep around the
3 clock. They step their game up at night. That's what
4 they're trained for.

5 Q And given that the herders are staying in the
6 summer months in tents, allows them to have their tent
7 pretty close to where the sheep are for the night as
8 well?

9 A Yeah. They put their tents up on the mountains
10 but in places that are tent friendly, you know, a flat
11 place next to some trees. Like people would camping, but
12 up on the mountain. And the sheep usually sleep -- the
13 higher, steeper point of the mountain, that's where you
14 find the sheep sleeping. It's a little ways away, but
15 not real far. The sheep are by the tent.

16 Q I was, in part, wondering if the dogs were
17 close to the tents to drive off any scavagers that might
18 try to get to that bed roll with the lamb inside?

19 A There isn't those kinds of scavagers there.
20 And there's enough dogs up there that there are some camp
21 dogs. In fact, we call them camp dogs. They just follow
22 the herder around. There is usually one or two dogs that
23 come to camp every night and there's five or six or eight
24 that stay out with the sheep at night.

25 Q When you refer to camp dogs, those aren't the

1 STATE OF ARIZONA)
) ss
2 COUNTY OF MARICOPA)
3

4 BE IT KNOWN that the foregoing deposition was taken
5 before me, SHANNON STEVENSON, a Certified Reporter in and
6 for the County of Maricopa, State of Arizona; that the
7 witness before testifying was duly sworn to testify to
8 the whole truth; that the questions propounded to the
9 witness and the answers of the witness thereto were taken
10 down by me in shorthand and thereafter reduced to
11 computer-aided transcription under my direction; that the
12 foregoing 136 pages are a true and correct transcript of
13 all proceedings had upon the taking of said deposition,
14 all done to the best of my skill and ability.

15 I FURTHER CERTIFY that I am in no way related to any
16 of the parties hereto, nor am I in any way interested in
17 the outcome hereof.

18 (XXX) Signature was requested.

19 () Signature was not requested.

20 DATED at Phoenix, Arizona, this 29th day of June,
21 2021.

22 

23 SHANNON STEVENSON, CR, RPR
24 Certified Reporter
25 Certificate No. 50461

EXHIBIT 36

FILED UNDER SEAL

EXHIBIT 36

RA 01954



Deposition of:
Kerri Wright

April 30, 2021

In the Matter of:
**Castillo, Abel Cántaro v. Western
Range Association**

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and those)
similarly situated,)

Plaintiff,)

vs.)

Case No. 3:16-cv-
00237-RCJ-CLB

WESTERN RANGE ASSOCIATION,)

Defendant,)

REMOTE DEPOSITION OF KERRI WRIGHT
CONDUCTED VIA ZOOM VIDEOCONFERENCE

Friday, April 30, 2021

10:04 A.M.

Job No.: 4557423

Reported by: Marlene Duron, RPR,

CSR No. 13333, CCR No. 958

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and those)
similarly situated,)

Plaintiff,)

vs.)

Case No. 3:16-cv-
00237-RCJ-CLB

WESTERN RANGE ASSOCIATION,)

Defendant,)

DEPOSITION of KERRI WRIGHT, taken remotely via
Zoom videoconference, commencing at 10:04 a.m. on
Friday, April 30, 2021, before Marlene A. Duron, RPR,
CSR No. 13333, CCR No. 958.

1 APPEARANCES:

2
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Also present:

Monica Youree
(Videoconference appearance)

1 Can you tell me what specific sorts of things they might
2 do to ensure that sheep are appropriately fed?

3 A There are a lot of variables depending on where
4 they're at and the season. They may have to move them
5 on the range. They may have to move them very far on
6 some days. They may have to actually feed them hay.

7 Q If they need to feed them hay, where would they
8 access the hay to feed the sheep?

9 A From the ranch.

10 Q You mentioned whether a herder could get a
11 driver's license as one of the factors you considered in
12 evaluating job performance, correct?

13 A Yes.

14 Q How many of your herders are typically able to
15 obtain a driver's license?

16 A Almost all of them.

17 Q Okay. And under what circumstances do you need
18 your herders to be able to drive?

19 A Well, our ranch is very large. So they may
20 have to travel from range to range. They may have to
21 haul water, which includes driving. They like to be
22 able to go into town, and they're able to drive to do
23 that if they get a driver's license.

24 Q That's not one of their job responsibilities,
25 though, right?

1 form?

2 A Every pay period.

3 Q And what information does the form request?

4 A The -- their name, the pay period, the date,
5 the hours worked on each day, and the location of where
6 they were and what they were doing.

7 Q When you asked the number of hours worked each
8 day, is that just asking for a total number? Or did you
9 ask them to put in, like, this is what time I started,
10 this is what time I ended?

11 A Correct, start and stop times.

12 Q Okay. And did you have them do multiple start
13 and stop times so that if they stopped to eat lunch,
14 would you have them say that they stopped working, and
15 then after they finished lunch, have them start working
16 again?

17 A I asked them to be as accurate as they could
18 with it.

19 Q Did you -- did you give any direction to the
20 herders regarding what sorts of activities counted as
21 work?

22 A Such as training or -- can you clarify that?

23 Q Just anything that they might be doing in the
24 course of the day. So if they had to haul some water,
25 some that they might be using themselves to bathe and

1 some -- or -- and some that they might be using to water
2 the sheep, you know, would that be an activity that
3 would be included as part of their work time?

4 A Well, our program does not allow -- allow for
5 that. We haul them separate potable waters so they
6 don't have to haul their own water to bathe. So if they
7 were hauling water, it would be for the sheep. So
8 anything that they were doing to care for the sheep,
9 whether they were moving them on feet or hauling water
10 or building fence, putting them in a fenced area,
11 something like that, that counts as work activities.
12 When they're back at their camp having lunch or taking a
13 nap or back in for the evening, they're free to do
14 whatever they want.

15 Q And for part of the day, they might not be
16 hauling anything or setting up fence but just walking
17 around, keeping an eye on the sheep to make sure that
18 they're where they're supposed to be and they're not
19 wandering into the national park, correct?

20 A Correct.

21 Q And that's still part of their workday,
22 correct?

23 A Yes.

24 Q Okay. Could there be times that they could
25 even, you know, find a place to sit and keep an eye on

1 the sheep for a period of time to make sure they don't
2 stray and that's still part of their work of -- of
3 herding the sheep?

4 A Yes.

5 Q Do your herders go out with any dogs to assist
6 them?

7 A They do.

8 Q Okay. And all one kind of dog or just one --
9 or -- or do they have multiple types?

10 A Multiple types that they have, herding dogs and
11 guard dogs.

12 Q Okay. And do herders -- are the herders
13 responsible for feeding the dogs?

14 A Yes.

15 Q Okay. Providing water to the dogs?

16 A Yes.

17 Q Do they do any training with the dogs?

18 A Yes.

19 Q And all of that is also part of their workday,
20 correct?

21 A Yes.

22 Q Do you go over this with the herders so that
23 they know that, you know, even when they get back to the
24 camp at the end of day, if they take time to feed the
25 dogs, that -- that that is still part of their workday?

1 very thorough, so I thank you for that.

2 Ely is located in White Pine County, correct?

3 A Correct.

4 Q And there are 16 counties in Nevada, give or
5 take. There was, at one point, Bull Frog County. So
6 there was 17, but now there's 16, right?

7 A I don't even know that for sure.

8 Q Okay. Fine. That's fair enough. I -- I'm not
9 sure I know that, but I do remember Bull Frog County.

10 White Pine County gets temperatures up to
11 100 degrees in the summer sometimes, correct?

12 A Correct.

13 Q And it gets temperatures down to the 30s in the
14 winter, correct?

15 A Or colder, usually.

16 Q Or colder. You get some snow sometimes.

17 Would you agree with me that in the
18 sheepherding business within the state of Nevada, given
19 the -- the geography that is so diverse and a topography
20 which is so diverse, that no two sheepherding operations
21 are the same?

22 MS. WEBBER: Objection; foundation and form.

23 THE WITNESS: I would agree with that.

24 BY MS. WINOGRAD:

25 Q Would you expect to find -- without

1 speculating, based upon your knowledge of this industry,
2 would you expect to find big differences in the way that
3 different operations utilize herders?

4 MS. WEBBER: Object; foundation, form, calls
5 for speculation, also leading.

6 MS. WINOGRAD: Wait a minute. This isn't my
7 witness. I get to lead her.

8 BY MS. WINOGRAD:

9 Q Go ahead. I'm sorry.

10 A Do I answer?

11 MS. WEBBER: Yes.

12 THE WITNESS: Sorry. You'll have to repeat the
13 question.

14 MS. WINOGRAD: Madam Court Reporter, can you
15 read it back, please, because I can't remember it.

16 (Record read as follows:

17 "Would you expect to find -- without
18 speculating, based upon your knowledge
19 of this industry, would you expect to
20 find big differences in the way that
21 different operations utilize herders?")

22 MS. WEBBER: Same objection.

23 THE WITNESS: I would expect to find
24 differences.

25 ///

1 BY MS. WINOGRAD:

2 Q And that's been your experience, correct?

3 A It has.

4 MS. WEBBER: Objection; contrary to prior
5 testimony. She doesn't have any other experience.

6 BY MS. WINOGRAD:

7 Q In fact, within your own operation, you utilize
8 and have utilized herders differently over the various
9 seasons and years, correct?

10 A Correct.

11 Q Is White Pine County considered high desert?

12 A Yes.

13 Q And it's a little bit different, say, than the
14 Ruby Mountains in Elko County, correct?

15 MS. WEBBER: Objection; foundation --

16 THE WITNESS: Yes.

17 MS. WEBBER: -- also vague as to --

18 BY MS. WINOGRAD:

19 Q How -- how's it different?

20 A Different elevations, different feeds,
21 different terrain.

22 Q Based upon your experience, the different
23 elevations, the different terrain and the different
24 weather -- again, based upon your experience, would you
25 expect the tools to be the same between and among the

1 various ranches in Elko County and in White Pine County?

2 MS. WEBBER: Objection; lack of foundation.

3 THE WITNESS: I -- I would expect differences
4 in the tools.

5 BY MS. WINOGRAD:

6 Q Would you expect differences in the herder
7 duties?

8 MS. WEBBER: I'm sorry, I couldn't hear that.
9 In -- difference in the --

10 MS. WINOGRAD: The herder duties.

11 MS. WEBBER: Objection; foundation.

12 THE WITNESS: I -- I do -- I would expect
13 differences, yeah. I -- I think some things would be
14 the same, but some things would be different.

15 BY MS. WINOGRAD:

16 Q Are you familiar with Ellison Ranching in Elko
17 County?

18 A I am not.

19 Q Are you familiar with David and Bonnie Ingle in
20 Elko County?

21 A I am not.

22 Q Do you have any understanding whatsoever of how
23 they utilize their H-2A herders?

24 A I do not.

25 Q Are you familiar with the Dufurrena -- or the

1 Dufurrena Sheep Ranch in Humboldt County?

2 A I am not.

3 Q Are you familiar with the Green Goat Operation
4 in Humboldt County?

5 A I am not.

6 Q Do you have any understanding about how they
7 utilize their H-2A workers?

8 A I have no information on that.

9 Q How about Lander County? Do you have any
10 understanding of how the Lander County Western Range
11 Association workers utilize these -- its H-2A workers?

12 A I do not.

13 Q Do you have any understanding of how the Eureka
14 County Western Range Association members utilizes its
15 H-2A workers?

16 A I do not.

17 Q How about Clark County, down near Las Vegas?
18 Do you have any understanding of how the Clark County
19 Western Range Association members utilize their H-2A
20 workers?

21 A I do not.

22 Q Would you expect that the Mojave Desert H-2A
23 workers would have the same duties as your operation?

24 MS. WEBBER: Objection; foundation.

25 THE WITNESS: I expect there would be

1 differences in the duties due to terrain, different
2 terrain.

3 BY MS. WINOGRAD:

4 Q And weather?

5 A And weather, yes.

6 Q Are you familiar with any of the Western Range
7 Association operations in Lyon County?

8 A No.

9 Q So you have no understanding of how the Western
10 Range Association members in Lyon County utilize H-2A
11 workers, correct?

12 A Correct.

13 Q Based upon your experience in this industry,
14 would you expect them to be different than the White
15 Pine Operation that you operate?

16 MS. WEBBER: Objection as to foundation.

17 THE WITNESS: I would expect them to be
18 different.

19 BY MS. WINOGRAD:

20 Q Okay. The only ones we really haven't covered
21 are Washoe, Pershing, and Churchill counties. And I can
22 do this separately or I can do them all together, but
23 I'm going to put them together, even though they're in
24 different places. Do you have any familiarity with the
25 Washoe County, Pershing County or Churchill County

1 Western Range Association operations?

2 A I do not.

3 Q And would you expect them to be different and
4 utilize H-2A workers differently than your operation?

5 A Yes.

6 MS. WEBBER: Objection; foundation. As you've
7 just established that she has no familiarity, she can't
8 possibly testify as to any similarities or differences.

9 BY MS. WINOGRAD:

10 Q Please answer.

11 A I would expect differences.

12 Q Why?

13 A Different terrain, different weather, different
14 conditions, different elevations.

15 Q They're all herding sheep, though. Isn't that
16 all the same?

17 A A lot of different situations with herding
18 sheep.

19 Q Does the number of H-2A herders that your
20 operation employs vary from month to month?

21 A It can, yes.

22 Q And that would be reflected in the payroll
23 stubs, correct?

24 A Yes.

25 Q So as we sit here today, in -- April 30th --

1 it's almost end of April of 2021. Thinking back to the
2 timeframe from 2012 to 2018 or even to present, do you
3 have an estimate of the number of H-2A herders employed
4 in January?

5 A Not without looking back at records.

6 Q So -- and that goes for February through
7 December as well, correct?

8 A Correct.

9 Q And it's your belief that they vary from
10 month to month sometimes?

11 A Yes. Not every month, because they're on
12 long-term contracts, but it can change from one month to
13 the next.

14 Q And does seasonality cause that to change?

15 MS. WEBBER: Objection as to form.

16 THE WITNESS: Not as much with the amount of
17 herders that we have seasonally. I mean, we try to keep
18 a consistent amount throughout the year, but they're
19 always -- they have their own time schedules of rotating
20 in and out.

21 BY MS. WINOGRAD:

22 Q Based upon your experience in this industry, is
23 it your understanding that different Western Range
24 Association ranches in different topographies and
25 geographies have different seasons for performing the

1 duties that sheepherders perform?

2 MS. WEBBER: Objection; foundation.

3 THE WITNESS: I would assume that they do have
4 differences in the duties per season.

5 BY MS. WINOGRAD:

6 Q And would you agree that the -- the seasons in
7 Clark County for lambing or shearing might be different
8 than the seasons in Elko County?

9 MS. WEBBER: Objection; foundation.

10 THE WITNESS: Yes, I would assume so.

11 BY MS. WINOGRAD:

12 Q Regarding the differences between and among the
13 ranches that are Western Range Association members,
14 would you also expect on-range herders to have different
15 types of housing based upon the geography, weather, and
16 topography?

17 MS. WEBBER: Objection; foundation.

18 THE WITNESS: Yes, I would assume there's
19 differences.

20 BY MS. WINOGRAD:

21 Q And that's based upon your experience in this
22 industry, correct?

23 A Yes.

24 Q Were there times of the year or months that you
25 recall that your operation recognized things like nap

1 time and -- and time in town and those sorts of things
2 as time that your herders were not actually working?

3 MS. WEBBER: Objection; foundation and form.

4 THE WITNESS: Yes, I would recognize that as
5 time off.

6 BY MS. WINOGRAD:

7 Q Were there some weeks in which the average
8 actual working timeframe was four to five hours?

9 MS. WEBBER: Per week?

10 MS. WINOGRAD: Per day.

11 MS. WEBBER: Objection; foundation and form.

12 THE WITNESS: Yes, I would think so.

13 BY MS. WINOGRAD:

14 Q And what do you base that on?

15 A A lot of different variables: where they are
16 on the range, how -- how close they are to their camp,
17 how warm it is, how well the sheep are doing. If they
18 have to move them a lot that day, one herder may just
19 have to walk out and check the sheep, make sure they
20 have plenty of water. And he's free to go back to his
21 camp for a good part of the day. And then he'll walk
22 back out in the afternoon and -- and check them again,
23 bed them down for the night, not really spend that much
24 time.

25 Q When sheep bed down for the night, what does

1 that mean?

2 A When they put them all together and -- in a
3 bunch or in a contained corral and -- and put them up
4 for the night.

5 Q You testified earlier -- and I'm
6 paraphrasing -- to the effect that the dogs are expected
7 to do their job when the herders are sleeping at night;
8 is that correct?

9 A Yes.

10 Q And so is it your expectation and your
11 experience that the herders with your operation sleep at
12 night?

13 A Yes, they do sleep at night.

14 Q Do they take meals during the day?

15 A Yes, they do.

16 Q Do they take naps during the day sometimes?

17 MS. WEBBER: Objection; foundation.

18 THE WITNESS: I assume so.

19 BY MS. WINOGRAD:

20 Q Do they go into town sometimes, as you
21 testified, for recreational purposes?

22 A Yes.

23 MS. WEBBER: Objection; foundation.

24 BY MS. WINOGRAD:

25 Q And as you sit here today, you are not

1 specifically familiar with the operations of any other
2 Western Range Association Nevada-located ranches, are
3 you?

4 A No, I'm not.

5 Q With regard to your understanding of the job
6 order reference to 24/7, is it your understanding that
7 any given herder actually works 24 hours in a given day?

8 A They do not work 24 hours in a given day.

9 Q And during the time that you were a Western
10 Range member, was it your understanding that they never
11 worked 24 hours in a given day?

12 A That's correct.

13 Q Referring your attention to what's been marked
14 as Exhibit 4 -- and if you could put that up, because I
15 have to use paper copies, I'm afraid.

16 A Okay. I have it up.

17 Q Okay. Thank you.

18 Exhibit 4 is information you provided to
19 Western Range Association as -- or for the master job
20 order; is that correct?

21 A Yes.

22 Q And Exhibit 4 covers the years 2011 through and
23 including 2015, correct? I know you're going to have to
24 scroll.

25 A Yes, it says 2012.

1 Q The first one on there should be 2011, June 23,
2 2011.

3 A Okay. Yes.

4 Q Okay. And with the information that you
5 provided to Western Range Association based upon the
6 personal knowledge you had when you filled these out and
7 the individual salaries, it was your understanding that
8 you were in compliance with state and federal laws,
9 correct?

10 A Yes.

11 MS. WEBBER: Objection; vague, calls for a
12 legal conclusion.

13 BY MS. WINOGRAD:

14 Q Has there ever been a situation since 2011
15 where the Department of Labor has cited you -- your
16 operation for failure to comply with wage requirements?

17 A No, I've never been cited.

18 Q Your operation has never been cited?

19 A Yes, correct.

20 Q And you would know if they had been, wouldn't
21 you?

22 A Yes.

23 Q Every year are you required to -- actually,
24 either that or it's every two years -- fulfill certain
25 forms that you receive from the Department of Labor that

1 require either self-certification or certification from
2 the state workforce authority, which in Nevada is DETR?

3 A To -- for inspection of the housing?

4 Q Yes.

5 A Yes.

6 Q Has the state workforce authority in Nevada,
7 DETR, ever indicated to you or anybody that you know of
8 in your operation that you were out of compliance?

9 A No, we've never been out of compliance.

10 Q As of 2015, were you ever -- when you were a --
11 a Western Range Association member, were you ever in
12 receipt of any complaint from a herder or an advocacy
13 group that you had failed to pay the correct wage?

14 A No.

15 Q As of 2015, when you were a Western Range
16 Association member, did you ever receive notification
17 from the Department of Labor that you were being
18 audited?

19 A No.

20 Q As of 2015, when you were a Western Range
21 Association member, did you ever receive any
22 notification from the Department of Labor that you were
23 being investigated?

24 A No.

25 Can I make a correction on the audit, too? I

1 have had some audits, but I don't recall whether they
2 were with Western Range or for sheepherders or farm
3 laborers.

4 Q And on those audits, there were no violations
5 found, were there?

6 A No.

7 Q As of 2015, when you were a Western Range
8 Association member, did you ever receive any complaints
9 that any workers felt they had been exploited?

10 A No.

11 Q Would you agree with me that when your
12 employees are playing soccer, they're not herding sheep?

13 A I would agree to that.

14 Q You indicated that in your operation there's no
15 shearing that occurs, correct?

16 A There is shearing, but we hire a contracted
17 shearer so the herders do not shear. They -- they may
18 be there bringing their herds into the shearing camp,
19 and they may be helping to corral the sheep, but they do
20 not do the actual removal of the wool.

21 Q So in your particular operation, there -- it is
22 not part of the H-2A duties that your employees perform
23 to shear the sheep, correct?

24 A Correct.

25 Q And when you talked about -- forgive me, I'm a

1 correct?

2 A We have a safety policy about ATVs. So we do
3 not have any on the ranch. We do have utility vehicles,
4 which are more like the side-by-sides, with a seat belt
5 and a helmet. So it's a safety policy for us.

6 Q And that is specific to your operation,
7 correct?

8 A Correct.

9 Q Would you agree that --
10 Pardon? Oh, I just heard some -- I don't know
11 what that is.

12 Would you agree that the types of plants in Ely
13 that could pose a danger to sheep are different than the
14 types of plants in the Mojave Desert in Clark County
15 that could pose a danger to sheep?

16 A I'm not a plant expert, but I would agree that
17 there are different types of plants in this area that
18 could pose a danger. We have several here in the Ely
19 area.

20 Q Are there some plants, that you know of, that
21 are specific to the Ely area?

22 A Brigham tea, halogeton, foxtail. So those
23 things can be dangerous for the sheep.

24 Q And -- and that affects what the H-2A herder
25 duties are, doesn't it?

1 A Yes.

2 Q With regard to other operations, do you know
3 how they ensure the feeding and watering of their sheep?

4 A I do not know anything about other operations.

5 Q And that would pertain also to how they handle
6 fencing, driver's license, vehicle use, on-range,
7 off-range, time, ran- -- ranch housing, range housing,
8 and lambing operations?

9 A Yes, it would pertain to all that. I don't
10 know about other people's operations.

11 Q In your experience would you expect them to be
12 different, even within the state of Nevada?

13 MS. WEBBER: Objection; lack of foundation.

14 THE WITNESS: I would expect them to be
15 different.

16 BY MS. WINOGRAD:

17 Q You testified on Ms. Webber's questioning on
18 numerous occasions that there are a lot of variables.
19 What do you mean by that?

20 MS. WEBBER: Objection; vague.

21 THE WITNESS: Yeah, there are a lot of
22 variables in the entire job. Can you be more specific
23 to what -- maybe --

24 BY MS. WINOGRAD:

25 Q That's --

1 A -- one thing that you want variables on?

2 Q No. I -- what I -- I will rephrase the
3 question.

4 Many times when Ms. Webber asked you a question
5 about a method or a procedure, you testified there are a
6 lot of variables. What did you mean by that?

7 MS. WEBBER: Objection; vague.

8 THE WITNESS: I meant that there are a lot of
9 things that can change the duties and the workday and
10 the time spent of a herder. Those being feed, water,
11 weather, the -- whether -- whether they have to haul
12 water or whether they're near a stream, whether they
13 have to move them far out on a range or whether they're
14 in close, what season it is, all those things.

15 BY MS. WINOGRAD:

16 Q And that's even within a single ranch in a
17 single -- albeit large -- location in Ely, Nevada,
18 correct?

19 A Yes.

20 MS. WINOGRAD: We're going to take a
21 five-minute break. I think I'm done, but I'm going to
22 just take a very short break, and we'll get the court
23 reporter out by 4:30.

24 MS. WEBBER: Well, I'm going to have a couple
25 follow-up questions in response, and -- and we have to

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF CLARK)
4

5 I, MARLENE A. DURON, a Certified Court
6 Reporter in the State of Nevada, holding
7 Certificate No. 958, do hereby certify that KERRI
8 WRIGHT, the witness named in the foregoing deposition,
9 was by me duly sworn; that said deposition was taken
10 Friday, April 30, 2021, at the time and place set forth
11 on the first page hereof.

12 That upon taking the taking of the deposition,
13 the words of the witness were written down by me in
14 stenotypy and thereafter transcribed by computer under
15 my supervision; that the foregoing is a true, and
16 correct transcript of the testimony given by the
17 witness.

18 I further certify that I am neither counsel for
19 or in any way related to any party to said action, nor
20 in any way interested in the result or outcome there.

21 Dated this 13th day of April, 2021, at
22 Las Vegas, Nevada.
23

24 

25 Marlene A. Duron, CCR No. 958

EXHIBIT 37

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EXHIBIT 37

RA 01982

ROUGH DRAFT

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

1

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3

4 ABEL CANARO CASTILLO on behalf
5 of himself and those similarly
6 situated,

7 Plaintiff

8 vs.

9 WESTERN RANGE ASSOCIATION

10 Defendant

11

12

13

14 The telephonic conferenced deposition of

15 BLAKE LAMBERT was held on Wednesday, November 17,

16 2021, commencing at 9:30 A.M., PST at Winnemucca,

17 Nevada before Louisa B. McIntire-Brooks, Notary

18 Public.

19

20 Also present: Monica Youree, Western Range Association

21 REPORTED BY: Louisa B. McIntire-Brooks

CASE NUMBER:

3:16-cv-00237-RCJ-CLB

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ON BEHALF OF BLAKE LAMBERT:

2

JERRY SNYDER, ESQUIRE

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INDEX

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Deposition of: Blake Lambert

November 17, 2021

21 A. Not to my recollection.

38

1 Q. Do you recall ever being approached by
2 Western Range Association about employing a domestic
3 herder?

4 A. I don't recall.

5 Q. Further down on that page, just the next
6 box says 16, job description. Do you see that?

7 A. Yes.

8 Q. Can you take a moment and just read that
9 bold description to yourself and then when you're done,
10 my question is, is this an accurate description of the
11 job performed by your herders?

12 MS. GUNDERSON: I'm going to do an
13 objection to form, vague, the time.

14 A. Yes and no.

15 Q. Could you elaborate please?

16 A. Well, we don't dock and we don't shear, we
17 don't lamb. That would be it.

18 Q. Instead of lambing, do you kid?

19 A. Yes, we do.

20 Q. Okay. Do you not shear the goats at all or
21 do you mean that like someone else shears the goats?

39

1 A. No. We shear no goats.

2 Q. Okay.

3 A. They have hair, not wool.

4 Q. Understood. Just to be clear, when you say
5 you don't dock, you mean the ranch doesn't dock or they
6 don't get docked at all?

7 A. It would be very painful. Docking is the
8 removal of their tail.

9 Q. Um-hum.

10 A. No, we don't dock goats.

11 Q. Got it. Does the ranch castrate the male
12 goats?

13 A. Yes.

14 Q. Do they earmark the female goats?

15 A. No. All goats get a scrapie tag in the
16 state that they're originally from. Male and female.

17 Q. Understood. I believe you said besides
18 those exceptions you just listed, the rest of the
19 description is an accurate description of the job
20 performed by your herders; is that right?

21 MS. GUNDERSON: Objection to form,

40

1 misstates his prior testimony.

2 A. Well, remember, we run on deeded grounds.
3 We really don't have plant problems like you do out in
4 open range. Predators, they really don't -- they don't
5 have guns. Very rarely -- in all the years, I only
6 remember one or two. And, yeah, it's a broad range.
7 It would fit part of it.

8 Q. You said in all the years you remember one
9 or two. Sorry. One or two what.

10 A. You know, areas that you could have
11 predators.

12 Q. Okay. Do you mean you remember one or two
13 areas where you could have predators or do you mean you
14 remember predators one or two times?

15 A. I remember a couple different areas we had
16 the airplane fly twice that year because we had coyotes
17 coming off the river.

18 Q. Okay. Understanding what you just said
19 about only recalling one or two times when there were
20 coyotes, is it still part of your herders' job to guard
21 against predators, to be aware of where they might be?

⬆

41

1 A. It's the dog's job.

2 Q. If the dog were to alert the herder to a
3 predator, how would you expect the herder to respond?

4 MS. GUNDERSON: Objection to form,

5 hypothetical.

6 A. The herder would pick up the carcass of the
7 coyote. The Great Pyrenees would kill it.

8 Q. Okay.

9 A. The Great Pyrenees is going to kill the
10 predator and a lot of times you don't find the carcass.

11 Q. Okay. If the herder did find the carcass,
12 would you expect the herder to inform the ranch that
13 there had been a herder problem or a predator problem?

14 A. No.

15 Q. No?

16 A. I need you to hold for a second please.

17 MS. GUNDERSON: We have been going for an
18 hour. It could be a good time for a break.

19 MS. REIF: Let's go off the record. We can
20 take about a ten minute break.

21 (A discussion was held off the record.)

⬆

42

1 Q. Mr. Lambert, you were speaking before how
2 if one of your herders leaves the ranch, then you or
3 one of your family members will go and fill in for the
4 herder to look after the goats. Is that because there
5 needs to be someone with the goats to attend to them at

6 all times?

7 MS. GUNDERSON: Objection to form,
8 foundation, calls for speculation.

9 A. You know, it's a very large investment.
10 Besides, there's a -- as a rancher, it's encompassed,
11 it's an obligation to take care of something that's
12 living and breathing. So, I mean, can they take care
13 of their self? Possibly. But it's my investment. So
14 we maintain their wellbeing.

15 Ours are different than free range, Miss.
16 We have ours in paddock, we have them on pivots,
17 they're in an acre to two acres, but we move them
18 across the ground. So, I mean -- I would be -- you
19 know, we watch over our livestock.

20 Q. Understood. What is a paddock?

21 A. A box made of temporary portable fencing.

↑

43

1 You can call it a wagon wheel. You can call it
2 anything you like. We run our goats in a confined area
3 and we move the goats as the feed gets harvested.

4 Q. Okay. You also mentioned that you run
5 quite a bit on deeded land. So, is it the herders'
6 responsibility to ensure that the goats are staying
7 within the proper boundaries of whatever lands they're

8 on?

9 MS. GUNDERSON: Objection to form,
10 misstates prior testimony. And I didn't hear his
11 answer.

12 A. It's my responsibility.

13 Q. Sorry about that. I think you said it's
14 your responsibility?

15 A. Yeah.

16 Q. Do you instruct the herders about where to
17 keep the goats to ensure that they are properly within
18 the boundaries of whatever land you may be on?

19 A. All the deeded property has perimeter
20 fencing. It's pretty self explanatory. The herders --
21 my herders, to work for us, Miss, had to be self

44

1 spankers. I'll just get right to the chase. I didn't
2 tell them when to get out of the house. I didn't tell
3 them when to get in the house. I didn't tell them when
4 to go eat lunch, when to eat breakfast, when to eat
5 dinner. They just knew their job. And they pretty
6 well knew their job on the feed because there's
7 perimeter fencing. Once I showed them one thing, it
8 was -- it's not like open range sheep. These are
9 goats. They're confined. It's not like a sheep

10 operation. I have been in the sheep business. Okay?

11 So, no, it's self explanatory. They can see the
12 boundaries.

13 Q. Okay. When you say it's perimeter fencing,
14 I just want to make sure I understand, is it permanent
15 or is it set up by someone like on a case by case
16 basis?

17 A. Our places have perimeter fencing that was
18 fixed.

19 Q. Is the fencing short enough that goats can
20 jump over it?

21 A. I guess if they didn't have water and food

45

1 they would.

2 Q. Do the herders ever have to haul water for
3 the goats to drink?

4 MS. GUNDERSON: Objection, vague as to
5 time.

6 A. This was deeded property that they have to
7 haul. But most of the property had fresh water at
8 their night penning in their location on the deeded
9 property.

10 Q. Okay. Do you still have that Document C
11 open in front of you?

EXHIBIT 38

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EXHIBIT 38

RA 01993

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

13 ABEL CANTARO CASTILLO on
14 behalf of himself and those similarly
15 situated,

16 Plaintiff,

17 v.

18 WESTERN RANGE ASSOCIATION,
19 Defendant

Case No.: 3:16-cv-00237-RCJ-CLB

**DECLARATION OF HANK
DUFURRENA**

20
21 1. I am a manager of Dufurrena Sheep Company, a sole proprietorship.
22 I run a sheep operation in North Central Nevada, with our base ranch near the
23 town of Denio.

24 2. I employ temporary, non-immigrant guest workers pursuant to the
25 H-2A program. Western Range Association administers many aspects of member
26
27
28

1 participation in the H-2A program. I am a member of the Western Range
2 Association.

3 3. I typically employed four H2A sheep herders at a time. Western
4 Range Association handles all the paperwork involved in obtaining H-2A herders
5 for our ranch, including filing Form 790 (job clearance order), Form 9142/9142A
6 (application for certification), and INS Form I-192 (visa application). WRA also
7 arranges travel the herder's home country and the United States.
8

9 4. I the H-2A range herders a monthly wage rate based upon a
10 directive from the Federal Department of Labor, Wage and Hour Division, that
11 dictates wages and hours for each state in which H-2A range herders are
12 employed, including Nevada. It is my understanding the Department of labor
13 refers to this rate as the AEWR.
14

15 5. I have always used the DOL's AEWR as the base rate of pay which
16 we pay to my H2A employees. I do not pay bonuses to my H2A employees.
17

18 6. I run a herd of approximately 1600 ewes. The ewes lamb in a
19 lambing shed located on the Denio ranch. During the lambing season in March
20 and early April, our herders work 10 to 12 hours per day. When all the lambs
21 have been born, the sheep move onto the spring and summer ranges in Humboldt
22 and Eastern Pershing County.
23

24 7. While on the ranch the herders live in sheep camp trailers or travel
25 trailers. These trailers have a cookstove and heating stove. During this time, the
26 herders have access to a common building which has showers, a kitchen, and a
27 television room. I supply them with groceries which they prepare.
28

1 8. While on the range, the live either in sheep camp trailers or in tents.
2 I set up the herder's camps, bring them groceries every few days, including fresh
3 produce, meat, and eggs. The herders stay in touch on a nearly daily basis and let
4 me know of any particular grocery or supply requests. Whether in trailers or in
5 tents, the herders have a solar system to charge their phones and other
6 electronics.
7

8 9. While on the range, the herders work relatively short days. Their job
9 duties on a particular day usually take 2-3 hours in the morning and 2-3 hours in
10 the afternoon.
11

12 10. I supply the herders with sheep dogs. However, unlike many sheep
13 ranchers, I do not use guard dogs.
14

15 11. I provide herders all the camp equipment and supplies that they
16 need, as well as the all the tools that they need to do their jobs. I also provide a
17 cell phone and a calling plan that includes calls to Mexico and/or Peru. I provide
18 the herders any supplies or personal items that they require.
19

20 12. The foregoing is true and made under penalty of perjury under the
21 law of the State of Nevada.
22

DATED: March 15, 2021

23 
24 HANK DUFURRENA
25
26
27
28

EXHIBIT 39

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EXHIBIT 39

RA 01997

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17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA

19 *****

20 ABEL CANTARO CASTILLO on
21 behalf of himself and those similarly
22 situated,

23 Plaintiff,

24 v.

25 WESTERN RANGE ASSOCIATION,

26 Defendant

27 Case No.: 3:16-cv-00237-RCJ-CLB

28 **DECLARATION OF AULENE
RATLIFF**

1 I am a minority shareholder and an employee of Ellison Ranching
Company ("Ellison"). Ellison is a sheep ranch in Northeastern Nevada. We graze
sheep mostly on public land grazing allotments in Lander and Elko Counties.

2 We employ temporary, non-immigrant guest workers pursuant to
the H-2A program. Western Range Association administers many aspects of

1 member participation in the H-2A program. Ellison is a member of the Western
2 Range Association.

3 3. Ellison typically employs between fifteen and seventeen H2A
4 herders at a time. Western Range Association handled all the paperwork
5 involved in obtaining H-2A herders for our ranch, including filing Form 790 (job
6 clearance order), Form 9142/9142A (application for certification), and INS Form
7 I-192 (visa application). WRA also arranges travel to and from the herder's home
8 country and the United States.

9
10 4. Ellison pays the H-2A range herders a monthly wage rate based
11 upon a directive from the Federal Department of Labor, Wage and Hour Division,
12 that dictates wages and hours for each state in which H-2A range herders are
13 employed, including Nevada. It is my understanding the Department of labor
14 refers to this rate as the AEWR.

15
16 5. Ellison has used the DOL's AEWR as the base rate of pay which we
17 pay to my H2A employees. In addition, we pay a Christmas bonus and pay more
18 experienced workers a higher wage. We also provide two weeks of paid vacation
19 every year. Attached hereto as **Exhibit 1** are payroll records for the past 3 years.

20
21 6. We run a herd of approximately 8000 ewes. During the winter, these
22 ewes are usually broken into 5 bands on the winter range near Battle Mountain.
23 Each band is accompanied by two herders.

24
25 7. We shear the sheep in March. Our ewes begin lambing in April. The
26 ewes that are lambing for the first time lamb in sheds, while the rest lamb on the
27 range. The sheep are then broken into nine bands and moved onto their summer
28

1 range. One of the bands is trailed to the summer range, and the remaining sheep
2 are transported by truck.

3 8. During most of the year (from mid-May through February), the
4 herders day typically consists of getting up with the sheep at sunrise and
5 attending to them while they graze until mid-morning, when the sheep lay down
6 for several hours. While the sheep are down, the herder has little to do in the way
7 of job duties and can occupy himself pretty much as he pleases. The sheep begin
8 grazing again around 3:00 or 4:00 in the afternoon, and continue to do so for
9 three hours or so. As such, the herder typically works around 6 hour per day and
10 has the rest of his time to himself. Somedays may be longer, based on the needs
11 of the sheep, but a relatively short day is typical. When we are shearing and
12 lambing in March, April, and part of May, the herders work 10 to 12 hours per
13 day.
14

15
16 9. For most of the year, our herders live in sheep camp trailers. That
17 are equipped with a propane stove. While on the summer range, the herders live
18 in 9'x9' canvas wall tents. They move the camps using a horse, which we also
19 provide. Herders can also request that we bring them in to town to take care of
20 any personal errands they might have, and we make arrangements to
21 accommodate these requests.
22

23
24 10. At all times of the year, the camp tender resupplies the herders with
25 food and other supplies every 5 days. We provide a set list of food that is
26 appropriate to the conditions and the tastes of the herders. We try to
27 accommodate any special requests for items that the herders want.
28

1 11. We supply the herders with herding dogs and guard dogs. We do not
2 provide firearms to the herders. We hire a private trapper who goes ahead of the
3 sheep to trap predators on the range before the sheep arrive.

4 12. We provide herders all the camp equipment and supplies that they
5 need, as well as the all the tools that they need to do their jobs. The herders are
6 responsible for buying their own clothing.

7 13. Herders usually have their own cell phones, so we provide a prepaid
8 calling card. Because cell coverage in this corner of the state is somewhat limited,
9 we also have a camp tender check on herders every five days.

10 14. The foregoing is true and made under penalty of perjury under the
11 law of the State of Nevada.
12
13

DATED: March 15, 2021

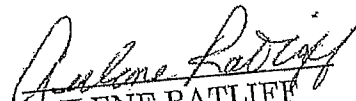
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17 AULENE RATLIFF
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28

EXHIBIT 40

FILED UNDER SEAL

EXHIBIT 40

RA 02002

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16 Attorneys for Third Party Ranches

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

17 ABEL CANTARO CASTILLO on behalf
18 of himself and those similarly situated,

19 Plaintiff,

20 v.

21 WESTERN RANGE ASSOCIATION,

22 Defendant

Case No.: 3:16-cv-00237-RCJ-CLB

**DECLARATION OF KRISTOFOR
LEINASSAR**

23
24
25 1. I am a shareholder and Officer of FIM Corp. (FIM), a ranching and
26 livestock corporation headquartered in Smith Valley, Lyon County, Nevada.
27
28

1 2. FIM is a sheep operation which grazes sheep on the high deserts of
2 Nevada and the Eastern Sierras. We employ temporary, non-immigrant guest
3 workers pursuant to the H-2A program. Western Range Association administers
4 many aspects of member participation in the H-2A program. Our ranch is a member
5 of Western Range Association.

6 3. FIM employs six to nine H2A workers at a time, depending on the
7 season. During the fall and winter, we typically have about 6 guest workers. In Spring
8 and Summer, we typically have nine.

9 4. Western Range Association handles all the paperwork involved in
10 obtaining H-2A herders for our ranch, including filing Form 790 (job clearance order),
11 Form 9142/9142A (application for certification), and INS Form I-192 (visa
12 application). WRA also arranges travel between herders' home country and the
13 United States. Most of our herders are either returning employees or herders referred
14 by existing employees.

15 5. I have reviewed our payroll records for the past three years, which
16 records the Federal Department of Labor and the Nevada Labor Commissioner
17 require us to retain. Over the years for which we have records, we paid the herders a
18 monthly salary, in bi-weekly installments, as required by the Federal Department of
19 Labor, Wage and Hour Division, and the Nevada State Workforce Authority (SWA),
20 (DETR) for labor certification.

21 6. Our payroll records for 2020 are attached hereto as **Exhibit 1**. Our
22 payroll records for 2019 are attached hereto as **Exhibit 2**. Our payroll records for
23 2018 are attached hereto as **Exhibit 3**.

1 7. Prior to and during the time for which we have records, it is my
2 recollection that we paid the H-2A range herders a monthly wage rate based upon a
3 directive from the Federal Department of Labor, Wage and Hour Division, that
4 dictates wages and hours for each state in which H-2A range herders are employed,
5 including Nevada. It is my understanding the Department of labor refers to this rate
6 as the AEWR.

7 8. We have always used the DOL's AEWR as the base rate of pay which
8 we pay to my H2A employees. Due to extenuating circumstances, a herder may work
9 more than an eight hour work day and is compensated for additional time.

10 9. During January, February, and March, our herders are grazing sheep
11 on a mix of public desert lands in lower elevations and on alfalfa stubble in Mason
12 and Smith Valleys. During January and February, the workers typically work 35 to 40
13 hours per week. The tasks they perform during this time period including herding
14 sheep, providing protection from predators, watering sheep, hauling water, feeding
15 sheep, treating the herd for illness or injury as necessary, which may include
16 administering veterinary supplies, and assisting in the process of getting the sheep
17 shorn.
18

19 10. In March and April, when the ewes begin to drop lambs, the herders
20 typically work approximately 45 - 50 hours per week. All lambing is done in lambing
21 sheds located on the home ranch. After the ewes lamb, the sheep are marked and
22 separated into bands of 600 to 1000. During this time, the herders are not on the
23 range, but remain on the ranch in fixed housing certified by the State of Nevada.
24
25
26
27
28

11. In May and June, the sheep continue to graze on the desert in lower valleys, and we begin moving them to high country grazing allotments on the Eastern slope of the Sierra Nevada. Again, during this time, the herders job duties include herding sheep, providing protection from predators, watering sheep, hauling water, feeding sheep, treating the herd for illness or injury as necessary, which may include the administration of other veterinary supplies.

12. In July through mid-September, the sheep are on the summer range. During this time, the herders work between 40 and 50 hours per week. Their duties are similar to the sheep herding duties in the other months: herding sheep, providing protection from predators, watering sheep, hauling water, feeding sheep, treating the herd for illness or injury as necessary, etc. In addition, during this time, the lambs are weened and separated from ewes, and lambs are sold and shipped. Routine annual culling and working/ treating the flock occur during this time, and winter bands are prepared for winter grazing.

13. During the summer, we graze sheep on our allotments. We do not keep any records that reflect where the sheep are on a daily basis.

14. From October to December, the sheep move to the winter ranges, grazing in the desert valleys and on alfalfa stubble. Rams are placed into the flock to breed sheep, and the sheep are grouped into the winter bands. During this time period, the herders work approximately 35 hours per week.

15. We provide the herders with room and board. When the herders are working on the home ranch, they have a kitchen facility to prepare meals. While on

1 the ranch, the herders live in fixed housing with individual rooms for each herder.

2 This fixed housing is inspected annually by the State of Nevada.

3 16. When the herders are on the range during the winter months, they live
4 in camp trailers that are adequately heated. During the summer months, they live in
5 sheep camps equipped with heavy duty tents and adequate camp supplies. During
6 the summer months, a camp tender visits every four to seven days to bring groceries
7 and supplies. Attached hereto as **Exhibit 4** is a list of the type of groceries that we
8 provide to herders on the range.
9

10 17. The herders are also provided a burro and dogs to act as guard dogs
11 and herding dogs. However, the herders also are provided with a rifle for protection
12 from predators. If the herders report significant incidents of predation (such as a
13 mountain lion, which may kill multiple lambs in a night,) we will engage an
14 independent contractor for predator control.
15

16 18. We also provide the sheep herders with the tools they need, including a
17 sheep hook, shovel, knives, veterinary supplies, camp supplies, and a cell phone.

18 19. In addition, we provide transportation to and from town for personal
19 needs such as doctor and dentist appointments, banking, etc.

20 20. The foregoing is true and made under penalty of perjury under the law
21 of the State of Nevada.
22

23 DATED: March 15, 2021

24 
25 KRISTOFOR LEINASSAR
26
27
28

EXHIBIT 41

FILED UNDER SEAL

EXHIBIT 41

RA 02008

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16 Attorneys for Third Party Ranches

17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA

19 *****

20 ABEL CANTARO CASTILLO on
21 behalf of himself and those similarly
22 situated,

23 Plaintiff,

24 v.

25 WESTERN RANGE ASSOCIATION,

26 Defendant

27 Case No.: 3:16-cv-00237-RCJ-CLB

28 **DECLARATION OF PAULINE
INCHAUSPE**

1 I am an owner and officer of Silver Creek Ranch, Inc. ("Silver
Creek") Silver Creek is a sheep producer based near Austin, Nevada. Our sheep
graze almost exclusively on federal grazing allotments in Central Nevada. Last
year, for the first time, I pastured sheep on alfalfa stubble near Fallon, Nevada
for about one month in the fall.

IN THE SUPREME COURT OF THE STATE OF NEVADA

ABEL CÁNTARO CASTILLO,

No. 85926

Appellant,

vs.

WESTERN RANGE ASSOCIATION,

Respondent.

RESPONDENT WESTERN RANGE ASSOCIATION'S
APPENDIX VOLUME 10, PART 1

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WESTERN RANGE ASSOCIATION

CHRONOLOGICAL ORDER

Date	ECF	Document	Volume	Page Numbers
6/16/2017	117	El Tejon's Motion to Dismiss Second Amended Complaint with Exhibits A-H	1	RA 00001 - RA 00073
6/20/2017	118	Mountain Plains' Motion to Dismiss Second Amended Complaint with Exhibit 1	1	RA 00074 – RA 00096
6/27/2017	121	Estill Ranches' Motion to Dismiss Second Amended Complaint with Exhibit 1	1	RA 00097 – RA 00111
7/5/2017	124	Western Range Association's Motion to Dismiss Counts I, III, IV, V and IX Second Amended Complaint	1	RA 00112 – RA 00127
7/26/2017	129	Plaintiffs' Consolidated Opposition to Motion(s) to Dismiss Second Amended Complaint with Exhibits A-G	2	RA 00128 – RA 00327
2/13/2018	140	Order Dismissing Second Amended Complaint Without Prejudice and Without Leave to Amend Western Range Association's Answer to Second Amended Complaint	2	RA 00328 – RA 00341
1/13/2021	242	Plaintiff's Status Conference Report	2	RA 00342 – RA 00348

Date	ECF	Document	Volume	Pages Numbers
7/9/2021	252	Plaintiff's Response to Deposition Objections Exhibits 1- 4	3	RA 00349- RA 00398
10/29/2021	264	Plaintiff's Motion for Class Certification Plaintiff's Memorandum in Support of Motion for Class Certification With Exhibits 1-4	3	RA 00399 – RA 00585
10/29/2021	264	Exhibits 5-26 to Plaintiff's Motion for Class Certification Plaintiff's Memorandum in Support of Motion for Class Certification	4	RA 00586 – RA 00828
10/29/2021	264	Exhibits 27-37 to Plaintiff's Motion for Class Certification Plaintiff's Memorandum in Support of Motion for Class Certification	5	RA 00829 – RA 01067
10/29/2021	264	Exhibits 38- 53 to Plaintiff's Motion for Class Certification Plaintiff's Memorandum in Support of Motion for Class Certification	6	RA 01068 – RA 01272
10/29/2021	264	Exhibits 54- 64 to Plaintiff's Motion for Class Certification Plaintiff's Memorandum in Support of Motion for Class Certification	7	RA 01273 – RA 01483
11/22/2021	270	Western Range Association's Opposition to Plaintiff's Motion for Class Certification with Exhibits 1-21	8	RA 01484 – RA 01705

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11/22/2021	270	Exhibits 22- 33 Western Range Association's Opposition to Plaintiff's Motion for Class Certification	9	RA 01706 – RA 01913
11/22/2021	270	Exhibits 34- 48 to Western Range Association's Opposition to Plaintiff's Motion for Class Certification	10	RA 01914 – RA 02108
4/14/2022	300	Exhibits 1-6 to Western Range Association's Motion for Summary Judgment	11	RA 02109 – RA 02157
5/18/2022	310	Exhibits 1-5 to Western Range Association's Reply in Support of its Motion for Summary Judgment	11	RA 02158 – RA 02238

EXHIBIT 34

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EXHIBIT 34

RA 01914



Deposition of:
Tom Filbin

August 24, 2021

In the Matter of:

**Castillo, Abel Cántaro v. Western
Range Association**

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and)
those similarly situated,)
Plaintiff,)

vs.

WESTERN RANGE ASSOCIATION,)
Defendant.)

) Case No.: 3:16-cv-
) 00237-RCJ-CLB

TELEPHONIC DEPOSITION OF TOM FILBIN

Taken at Eureka, Nevada

On Tuesday, August 24, 2021

At 9:04 a.m.

Reported by: Margie L. Carlson
C.C.R. No. 287

APPEARANCES:

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(Via telephone)

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Also present:

MONICA YOUREE
(Via telephone)

* * * * *

I N D E X

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Exhibit 9 USCIS Form A-129	56

1 slavery.

2 Q. Mr. Filbin, you testified that you use a
3 lot of different sources and information to make
4 sure that your operation complies; is that accurate?

5 A. Yes, that is.

6 Q. Is some of that information available to
7 you from the DOL or the Department of Labor?

8 A. We get information that is presented to
9 us with the Department of Labor, global, or address,
10 information, letterhead, whatever. It's information
11 that's passed on to us. I don't communicate with
12 the department myself.

13 Q. Is the Department of Labor information
14 that you are in possession of some of the
15 information that you rely upon to make sure that
16 your operation is compliant?

17 A. Yes.

18 Q. You also receive information from the
19 Department of Homeland Security.

20 A. Yes, we do.

21 Q. And do you rely on that to make sure that
22 you and your operation are in compliance?

23 A. Yes, we do our best.

24 Q. Do you receive information from what is
25 referred to as the USCIS or the United States USC --

1 I can never remember the exact acronyms. I don't
2 know how anybody does. United States -- we'll come
3 back to that. USCIS, have you heard of that
4 acronym?

5 A. I've heard of it, yup.

6 Q. Okay. And do you receive information
7 from them?

8 A. I believe we've been sent information
9 about them, yes.

10 Q. Do you rely on information you receive?

11 A. Yes.

12 Q. And have you received any circulars from
13 the United States Customs & Immigration Service,
14 which is USCIS?

15 A. Yes. Are you talking about their
16 documents like I-94s and some of that?

17 Q. Yes.

18 A. Yeah.

19 Q. And their circulars.

20 A. Yup, and sometimes they send posters and
21 all kinds of things.

22 Q. And you rely on that, don't you?

23 A. Yes, we do.

24 Q. Have you ever been informed by any of
25 these federal agencies that your operation was not

1 in compliance?

2 A. Never.

3 Q. Have you ever been informed by any state
4 agency that your operation was not in compliance?

5 A. Not that I know of.

6 Q. We used the term AI earlier in the
7 deposition, and then we used the term artificial
8 insemination, and I just wanted to clarify that
9 every time we were referring to AI we were referring
10 to artificial insemination and not artificial
11 intelligence, which is also AI; is that correct?

12 A. That's correct.

13 Q. Merino sheep are different than other
14 forms or breeds of sheep, correct?

15 A. Yes, they are unique.

16 MS. REIF: Objection, form.

17 MS. WINOGRAD:

18 Q. I have, I believe I've lived in Nevada
19 for 40 years also, but I came originally from a
20 city. I have sweaters that are Merino wool. Is
21 there some connection between Merino sheep and
22 Merino wool?

23 A. Yes, ma'am, that's the fiber from a
24 Merino, from a Merino sheep.

25 Q. So the sheep are bred for their wool and

1 not their meat, correct?

2 A. No, that's not correct. The Merino
3 sheep, the modern Merino sheep is a dual purpose
4 sheep for both meat and wool.

5 Q. Ah, okay, what is dual purpose? I --
6 I --

7 A. The dual purpose is two purposes, meat
8 and wool.

9 Q. Yeah, we've had a lot of testimony from
10 other ranch operations that they breed and they herd
11 sheep simply for meat so I, I thank you for that
12 explanation.

13 Is there a difference in the herders'
14 duties based upon whether they are Merino sheep or
15 other types of sheep.

16 MS. REIF: Objection, calls for
17 speculation.

18 A. Well, from 70 years of experience I would
19 say that there is not a whole lot of difference in
20 that regard, but our sheep, because we're a
21 feedstock operation, there is a difference.

22 MS. WINOGRAD:

23 Q. What is that difference?

24 A. Just because we're tracking genetics and
25 striving for better production toward the commercial

1 sheep pen. Commercial sheep pen's main job or duty
2 or enterprise is to produce meat and wool but with
3 the emphasis on the meat. In the Merino sheep
4 operation you have a totally different outlook on
5 things, and you're improving not only the meat
6 qualities but also the wool qualities. Wool
7 qualities help offset a lot of the expense because
8 it brings a superior price because it is a superior
9 product.

10 Q. It's a different product, isn't it?

11 A. It's absolutely different. It's the best
12 in the world. There's nothing that can equal it.

13 Q. From your 70 years of experience and your
14 personal understanding have you had occasion to be
15 in contact with other ranches in the herding
16 industry?

17 A. Absolutely. They're our customers.

18 Q. And in fact have you been in contact with
19 other ranches in Nevada?

20 A. Oh, yes, they come to our annual sale.

21 Q. From your understanding and experience,
22 which is vast, do you understand that your operation
23 and the way in which you utilize your herders is
24 different from other ranches?

25 A. Absolutely.

1 MS. REIF: Objection, form objection,
2 foundation.

3 THE WITNESS: Ma'am, I've run both kind
4 of ranches. I know.

5 MS. WINOGRAD: I don't doubt that.

6 Q. Do your herders actually work 24 hours a
7 day seven days a week?

8 A. No.

9 MS. REIF: Objection, calls for a legal
10 conclusion as to the definition of work.

11 MS. WINOGRAD:

12 Q. Are there days in which they work fewer
13 than four hours?

14 MS. REIF: Same objection.

15 A. No.

16 MS. WINOGRAD:

17 Q. Are there days in which they work more
18 than 12 hours?

19 MS. REIF: Same objection.

20 THE WITNESS: Did you hear my answer,
21 ma'am?

22 MS. WINOGRAD: No.

23 A. I said some of them. It could happen,
24 but it's not normal.

25 / / /

1 MS. WINOGRAD:

2 Q. Are there days in which they work fewer
3 than seven hours a day?

4 A. Yes.

5 MS. REIF: Same objection.

6 MS. WINOGRAD:

7 Q. Whether they work seven hours a day or
8 fewer, do they still get paid at the same rate of
9 salary?

10 A. Yes, paid by the month.

11 Q. And in your 70 years of experience and
12 your operations is it your understanding that being
13 on call requires active working?

14 MS. REIF: Objection, form.

15 A. No, they are available should something
16 arise. It's just like, you know, if your house
17 would catch on fire do you go outside.

18 MS. WINOGRAD:

19 Q. And when you say available, during the
20 times that they are available are they sometimes
21 utilizing electronics?

22 MS. REIF: Objection, calls for
23 speculation.

24 MS. WINOGRAD: I didn't hear the answer,
25 I'm sorry.

1 A. The answer was yes.

2 MS. WINOGRAD:

3 Q. And they get paid for that, don't they?

4 A. Yes, they do.

5 Q. Is it your experience based upon 70 years
6 in this industry that when they are not actively on
7 duty they are sometimes visiting with one another?

8 MS. REIF: Objection, form and
9 foundation.

10 MS. WINOGRAD: I'm sorry, I didn't hear
11 your answer.

12 A. I said they can, yes.

13 MS. WINOGRAD:

14 Q. Is it your experience based upon 70 years
15 in this industry that they eat meals?

16 A. Yes.

17 Q. Do they get paid to eat those meals at
18 the same rate of salary as if they were actively
19 herding?

20 A. Yes.

21 Q. Is it your experience based upon 70 years
22 in the industry that when they are not actively
23 herding they are sometimes and often sleeping?

24 A. Yes.

25 MS. REIF: Objection, form.

1 MS. WINOGRAD:

2 Q. And while they are sleeping do they still
3 get paid at their same rate of salary?

4 A. Yes.

5 Q. Based upon your testimony is it accurate
6 that even within your own operations over the years
7 there are huge differences between and among the
8 herder duties?

9 A. I didn't quite hear all that.

10 Q. I don't know if I can remember all of
11 that.

12 Is it your understanding based upon your
13 70 years in this industry and your own operations
14 that even within your own operation there are huge
15 differences between and among herder duties?

16 A. Yes, there are.

17 MS. REIF: Objection, vague.

18 MS. WINOGRAD: That's all I have.

19 MS. REIF: I do not have any other
20 questions. I assume Jerry has none.

21 MR. SNYDER: No, I'm good. Thank you,
22 Mr. Filbin. I appreciate your time very much.

23 THE WITNESS: You're welcome.

24 MS. REIF: Thank you very much,
25 Mr. Filbin.

REPORTER'S CERTIFICATE

STATE OF NEVADA)

) ss

COUNTY OF CLARK)

I, Margie L. Carlson, CCR No. 287, do hereby
certify:

That I reported the taking of the deposition
of the witness, TOM FILBIN, commencing on
August 24, 2021, at the hour of 9:04 a.m.

That prior to being examined, the witness was
duly sworn to testify to the truth and that I
thereafter transcribed said stenotypy notes and said
deposition is a complete, true, and accurate
transcription of said stenotypy notes taken down at
said time.

The witness and/or a party has requested to
read and sign the deposition transcript.

I further certify that I am not a relative or
employee of any party involved in said action, nor a
person financially interested in the action.

Dated at Las Vegas, Nevada, this 3rd day
of September, 2021.



Margie L. Carlson

CCR No. 287

EXHIBIT 35

FILED UNDER SEAL



Deposition of:
Pauline Inchauspe, 30(b)(6)

June 14, 2021

In the Matter of:
**Castillo, Abel Cántaro v. Western
Range Association**

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800-734-5292 | calendar-dmv@veritext.com |

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and those)
similarly situated,)

Plaintiff,)

vs.)

No. 3:16-CV-00237-RCJ-CLB

WESTERN RANGE ASSOCIATION,)

Defendant.)

ZOOM VIDEOCONFERENCE DEPOSITION OF SILVER CREEK RANCH,
INC., 30(b)(6) PAULINE INCHAUSPE

June 14, 2021

9:07 a.m.

Reported by:

SHANNON STEVENSON, RPR, CCR

Certificate No. 50461

CONTAINS CONFIDENTIAL TESTIMONY

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1 payments separate from the wages you paid on a
2 twice-a-month basis, would they also have been included
3 in the report that you submitted to us?

4 MS. WINOGRAD: Objection. Calls for
5 speculation.

6 THE WITNESS: I would say no.

7 Q BY MS. WEBBER: Okay. And why is that that the
8 bonuses wouldn't be included in the report?

9 A Because I give them cash.

10 Q Okay. Do you recall for the year 2018
11 providing cash bonuses to any of your herders?

12 A Yes, to one.

13 Q Okay. Which one was that?

14 A Felix.

15 Q To Felix De La Cruz?

16 A Yes.

17 Q And do you recall why you gave him a bonus in
18 2018?

19 A Because he -- I give it to him at a certain
20 period and it was because he did a good job lambing.

21 Q Okay. And how much did you give him?

22 A Is that anybody's business?

23 Q Well, the reason I'm asking is because if
24 plaintiffs end up prevailing and saying that the herders
25 should have been paid at a higher wage rate, obviously

1 have to offset what they were actually paid and not
2 always but sometimes bonuses are offset as well so that
3 it may reduce the amount that Mr. De La Cruz is owed if
4 he's owed anything if plaintiffs prevail. So for
5 Mr. De La Cruz' perspective if he gets a larger award, we
6 wouldn't object, but in fairness to any defendant who
7 might be required to pay if we prevail, I wanted to know
8 what payments people already received that might be
9 offset from anything that might be owed.

10 MS. WINOGRAD: Western Range Association is
11 going to move to strike that entire soliloquy.

12 You can answer if you can.

13 THE WITNESS: You won't like my answer. I
14 don't think it's anybody's business what we give for
15 bonus. I give bonuses on merit.

16 Q BY MS. WEBBER: I appreciate that. And I'm --
17 I certainly -- you know, it doesn't matter if I like your
18 answer or not or if anybody likes your answer as long as
19 you are giving your honest testimony, but it's
20 information that I think is relevant to the case. Are
21 you are declining to answer that question?

22 A Ask me it again so I know exactly what I'm
23 answering.

24 Q Sure. In 2018 how much of a bonus payment did
25 you make to Felix De La Cruz?

1 A I gave him a thousand dollars.

2 Q Thank you.

3 Turning to 2019, which starts on the next page
4 Silver 12, 00012, of Exhibit 4. I think for 2019 I
5 actually only had one question, and it's on the very last
6 page of the 2019 printout, so the very last page of
7 Exhibit 14 -- Exhibit 4, excuse me. And it's almost the
8 last line on that page. It's a check dated
9 December 31st, 2019, it's listed to Carlos, who we've
10 talked about, your very long-term employee, and the memo
11 says bonus for two, and then it's cut off and there's
12 just a series of asterisks without any amount listed.

13 Do you recall, first of all, if you made a
14 bonus payment to Carlos Gangas for 2019?

15 A Yes, I did.

16 Q Okay. And do you recall what -- was it for a
17 particular purpose or just for the overall work over the
18 course of the year?

19 A It was for overall work.

20 Q Okay. And was there --

21 A Excuse me. Can I take a break, please?

22 Q Absolutely. Absolutely.

23 A Thank you.

24 (Break taken at 9:51 a.m.)

25 (Back on the record at 10:00 a.m.)

1 MR. HALL: Christine, Pauline is apprehensive
2 about testifying about bonuses without it being
3 designated as confidential. She doesn't think they have
4 a need for each other to know. Doesn't want other
5 ranchers to necessarily know. If you have further
6 questions about those, can we put that as confidential
7 and go ahead and ask them.

8 MS. WEBBER: Absolutely. I'm happy to
9 retroactively designate our discussion of the bonuses so
10 far as confidential and for further questions about to
11 get into some follow-up on the 2019 bonuses. We'll treat
12 all of that as confidential, which means that other than
13 obviously the parties in litigation and the court that we
14 wouldn't share that information with anybody else
15 including other ranches, including any of the individuals
16 or individual herders wouldn't know about any other
17 herders' bonus amount. Okay?

18 MR. HALL: Thank you.

19 Q BY MS. WEBBER: So with respect to the 2019
20 year, do you recall the bonus amount that was paid to
21 Carlos Anibal, I forget his other name, Gangas?

22 A Yes.

23 Q And how much did he receive?

24 A 25,000.

25 Q And was that by this check 4943 that's listed

1 in the report?

2 A Yes.

3 Q Okay. And that sounds like even though he had
4 been paid relatively highly compared to your other
5 herders, \$25,000 is a very large bonus. Was there
6 something in particular that he had done in 2019 to earn
7 that bonus?

8 A He does good work all along. Way better work
9 than any of those other guys.

10 Q Understood. Is that the largest bonus that
11 you've ever paid a worker?

12 A Yes.

13 Q Was there anybody else in 2019 who you decided
14 merited any bonus payments?

15 A Felix.

16 Q Okay. And how much did you pay Felix in 2019?

17 A I really don't remember, but I think I gave him
18 a thousand dollars in the spring, a thousand dollars in
19 the fall.

20 Q Okay. Then turning to the 2020 report, which
21 actually goes back to Page 6 of Exhibit 4 is where the
22 2020 report begins. So for 2020 it looks like most of
23 your herders were paid \$820 twice a month, so \$1,640 per
24 month; is that right?

25 A Yes.

1 A No, they're not responsible 24 hours a day.

2 Q And what do you mean when you say "they're not
3 responsible 24 hours a day"?

4 A When they're -- the sheep are bedded down in
5 the middle of the day or in the night, there's nobody
6 responsible for them. They're bedded down. The
7 shepherd is at camp.

8 Q And how do you know that?

9 A I have eyes.

10 Q Right. But you can't be out at the various
11 locations where the shepherders are all the time; right?

12 A No. But there's ways of knowing.

13 Q Okay. How often do you personally get out to
14 the individual sheep camps to see where the herders are
15 with respect to the herd or a flock?

16 A In the wintertime, I'm there every other day.
17 And in the summertime, I rely on once a week to see what
18 they're doing, and during lambing I'm there every day.

19 Q Sure. So let's start with the summertime. Are
20 you -- you referred to providing provisions to the
21 herders once every seven days. Is that when you have
22 occasion to see what's going on with them and their
23 sheep?

24 A Yes.

25 MS. WINOGRAD: Objection. That misstates her

1 prior testimony. She said now it is every single day, it
2 used to be every three.

3 Q BY MS. WEBBER: I don't think we clarified
4 that, actually. I know you said there was a change with
5 respect to the calling card. With respect to the
6 frequency with which you provide provisions, was there a
7 period of time when you provided provisions every three
8 to four days or has it always been every seven days?

9 A In my father's time it was every six days.
10 Since I've taken over, they get groceries once a week.

11 Q Okay.

12 A Not always seven days, sometimes it is six. If
13 we're driving 200 miles they get groceries that day and I
14 won't go the sixth day in the wintertime. We use a
15 little bit of sense.

16 Q Of course.

17 A It's once a week.

18 Q Understood. And I take it you are one of the
19 individuals whose may be making those grocery deliveries
20 to the herders out at their camps; is that right?

21 A Yes, I am.

22 Q And are there other individuals who assist in
23 that as well, or is it always your responsibility?

24 A It's my responsibility.

25 Q Okay. And how much time do you spend with each

1 herder when you are dropping off the groceries?

2 A As much time as we need.

3 Q Okay. What's the range that you typically
4 spend?

5 A I spend the whole day with them when I'm down
6 there.

7 Q Okay. So even with all the driving that you
8 have to do to get there and get back, you are still able
9 to spend --

10 A It's the day. It takes me an hour or two to
11 get down there. I spend the majority of the day hauling
12 water to the sheep in the wintertime, and wintertime is a
13 long time there from November to March I'm there every
14 other day, and the whole day is dedicated to sheep that
15 day.

16 Q Okay.

17 A And there are two bands, so I do spend quite a
18 bit of time with those men.

19 Q In the winter you are down to two bands. So
20 you can alternate one day with one band and one day with
21 the other band?

22 A I do them both at the same time. It's
23 200 miles.

24 Q Understood. So you spend like half the day
25 with one band and half the day with the other band?

1 A Yes.

2 Q And then in -- so you said winter is November
3 to March, and then you've got lambing and sheering and
4 lambing; is that right?

5 A Yes.

6 Q When does your sheering begin?

7 A We shear April 1st, 31st or the 1st. It's a
8 one- to two-day process.

9 Q Okay. In order to do the sheering, do you need
10 to get the sheep gathered into one central location where
11 they are sheered?

12 A Then they're trailing from the winter to the
13 spring country, and so we shear them when they get to a
14 certain part of the trail.

15 Q And when you talk about trailing, does that
16 mean that the sheep are walking on the trail?

17 A Yes.

18 Q As opposed to being trucked?

19 A Yes. Our sheep don't get in a truck.

20 Q Okay. And how about the herders, are they
21 walking with the sheep or are they on horseback or
22 something else?

23 A Horses.

24 Q Okay. All of your herders have a horse that
25 they ride in the course of their duties?

1 A Yes.

2 Q And then in -- so you said winter is November
3 to March, and then you've got lambing and sheering and
4 lambing; is that right?

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21 walking with the sheep or are they on horseback or
22 something else?

23 A Horses.

24 Q Okay. All of your herders have a horse that
25 they ride in the course of their duties?

1 A Yes.

2 Q And when do they leave the winter grazing area
3 to start moving to the -- I think you called it the
4 spring?

5 A Yeah, the lambing ground.

6 Q Lambing ground, yes.

7 A They leave the 10th to the 15th of March, and
8 they get to the sheering place by the end of the month.

9 Q And then sheering, as you said, is just a
10 couple of days. And what happens next, do they continue
11 on to another location or do they stay there for lambing?

12 A No. They continue on for just a few miles, not
13 very far.

14 Q Okay. And then that's the lambing ground?

15 A Yes.

16 Q And since you refer to it as the lambing
17 ground, I take it this is not like back at the home and
18 ranch headquarters, this is still out on the range?

19 A For the majority of the sheep, it's out on the
20 range. But for the first-time lambers and the ewes that
21 have bad utters, they're separated and they're kept on
22 private property on the ranch.

23 Q Okay. And so it would be early April when
24 the ewes get to the lambing ground?

25 A Yes. April 10th or so. They're sorted for

1 in for sheering?

2 A Yes.

3 Q Okay. So about how long does it take them to
4 get from the lambing areas where they are in mid April
5 through mid May to where they're going to spend the rest
6 summer?

7 A It takes them about a month.

8 Q And when they're trailing, is the herder then
9 able to use the sheep camps that you described? I think
10 you said the Timberline sheep camps or are they using a
11 packed tent during the time when they're on the trail?

12 A They use a packed tent.

13 Q And then in the summer months, when they're out
14 on the range, they continue to use the tents; is that
15 correct?

16 A Yes.

17 Q And then how long do they remain in the
18 summer -- what you call the summer country, the summer
19 grazing area?

20 A They come -- the sheep come down off those
21 mountains, they're very high mountains. They come down
22 off those mountains end of August, first part of
23 September depending on the year to the corrals and we
24 wean all the lambs. All the lambs that we're going to
25 sell we wean. And then the sheep go back up in those

1 couple weeks, and then we trail south and go as the bird
2 flies probably 50 miles with them, and then they spend
3 the winter down there. And we take a couple weeks to do
4 that.

5 Q Okay.

6 A On a normal year.

7 Q And when you are trailing south to the winter
8 grounds, I assume if you are doing it over the course of
9 a couple weeks, that's still with a tent because you
10 can't be setting up camp?

11 A No.

12 Q You do have the sheep camp there?

13 A Yes. They have a sheep camp. They usually get
14 a sheep camp in September when it starts getting cool.

15 Q So both at the end -- I guess call it the fall,
16 between the end of summer when you weaned the lambs and
17 they go back up in the mountains, at that point they
18 would have sheep camps to stay in?

19 A No, not always. It depends on the summer.
20 Usually for the first -- when they go back up the 1st of
21 September until about the 20th of September, they're way
22 up, they're way back in the back country, they stay in
23 the tents. We tried a few years ago to take a sheep camp
24 closer to them. They didn't want that either. It's hard
25 on the horses, it's hard on the men to come down. It's

1 like a two-, three-hour ride off that mountain to come
2 down with just the horse. So they'd rather stay in the
3 tent. Then when they get closer to the corrals and days
4 are getting shorter, then we take them to camp and they
5 don't even all want to camp. Like Felix, he doesn't ever
6 want to sheep camp until he comes down out of there. He
7 said he'd much rather stay in the tent by the sheep than
8 ride to them.

9 Q I thought I had a bad commute.

10 A And that's a steep commute.

11 Q So probably mid to late September most of them
12 other than Felix perhaps will switch from the tents to
13 the sheep camps you described, and then those camps would
14 be moved as they -- with them as they are trailing to
15 where you spend the winter; is that right?

16 A Yes.

17 Q And obviously through the winter everybody's
18 home base is the sheep camp, no more campus tents; right?

19 A Yes.

20 Q And so that's through mid March when they start
21 the process of coming to where they're going to bring the
22 sheep to shear; is that right?

23 A Yes.

24 Q So we have the whole year cycle, thank you.

25 A Yes.

1 Q And do you keep any record of days worked,
2 particularly when somebody comes in the middle of a pay
3 period, do you make a record of when they arrived or when
4 they departed?

5 A Yes.

6 Q In between the day they arrive and the day they
7 depart, do the herders have any days off where they're
8 relieved of duty entirely for a period of time? I mean,
9 like an entire day or week, like using vacation?

10 A If they ask for vacation and they want to go to
11 town, but they rarely ask. They're not here for
12 vacation. They're here to make money.

13 Q And so do you have any reason then to keep
14 track of the days worked other than the day they arrive
15 and the day they leave?

16 A No.

17 Q All the days in between assumed to be work
18 days?

19 A No. And even when they ask to go to town for
20 something and I take them to town, I pay them the same.
21 I don't deduct that day.

22 Q Okay. If somebody asked to go to town, is that
23 usually just taking the day to drive, to have somebody
24 drive them there and drive them back, it's not an
25 extended stay?

1 A No, it's not an extended stay.

2 Q Okay. During the time that the herders are
3 packing when they're using the tents, I assume being in
4 tents they don't have, you know, running water, toilets,
5 electricity, anything like that, is that correct, as to
6 the tents?

7 A No, that's not correct. They are usually by
8 mountain streams I consider that running water. The
9 nature is their toilet, and they all have solar panels
10 and battery packs. They have power too. It's not a
11 correct sentence.

12 Q Okay. I guess I had a different notion of
13 running water, but appreciate the clarification.

14 When they're packing tents, they still have
15 solar panels available to charge a cell phone or other
16 communication devices?

17 A Yes.

18 Q I was going to contrast that with the sheep
19 camps where I understood that the sheep camps from your
20 declaration have more of what we might recognize as some
21 modern conveniences in terms of cooking with propane
22 stoves and even including propane refrigerators to be
23 able to keep food cold; correct?

24 A The only difference -- they have propane stoves
25 in the summer up on the mountain. They have portable

1 propane stoves with propane. They don't have to build a
2 fire. I don't want them to build a fire.

3 Q I can imagine particularly in the drought you
4 don't want a fire hazard?

5 A No. And the only danger in the wintertime they
6 have a refrigerator that they don't have up there.
7 That's the only modern convenience I'd see in my book.
8 They might be a little rougher, but they have everything
9 that they need up there in the summertime too.

10 Q In the summer without a refrigerator, how do
11 they keep their -- and they're getting groceries once a
12 week, how do they keep their food supply safe and edible?

13 A They're in the high country so they're not as
14 hot as it is down in the valleys, and they get fresh
15 meat, we butcher every week, so the fresh meat stays
16 better than frozen meat, and we give them fresh lamb so
17 they're not eating chicken or something that will spoil
18 quickly. They salt a lot of it, it cures with salt. Or
19 they roll it up. In the nighttime they hang it in a tree
20 and so it cools off, and daytime they role it up in their
21 beds and stash it in their tent into of a pad or
22 something so it stays that way.

23 Q Do you have any concern about the fresh meat
24 drawing in predators if it's hung on a tree?

25 A No. They have dogs all around them. They have

1 the Great Pyrenees and there is no predators get anywhere
2 near those camps. It's not bear country. Coyotes are
3 not coming there.

4 Q So in the mountains where they are for the
5 summer, there are coyotes, but not bears; is that
6 correct?

7 A Yes.

8 Q How about mountain lions?

9 A There's a few, but they're few and far between.
10 There is a lot of hunters in our area, so we don't have a
11 mountain lion problem either.

12 Q In terms of the coyotes, it sounds like you
13 rely on the Great Pyrenees dogs to keep them away?

14 A And some of the herders shoot the coyotes if
15 they see some during the day. And we have a government
16 hunt tracker that comes there and helps if we have a
17 coyote problem, and we also privately hire before lambing
18 and during lambing a helicopter that comes in and we pay
19 for depredation.

20 Q So and as you said, at least two of the herders
21 have rifles to be able to drive off coyotes by shooting
22 them; correct?

23 A Yeah. They kill them and then I give them a
24 bonus -- cash bonus for every coyote that they kill.

25 Q Okay.

1 A They are very proud of their coyotes that they
2 kill. Very proud.

3 Q How much do you pay per coyote?

4 A Hundred dollars.

5 Q Definitely worth getting a coyote then?

6 A It is in their book.

7 Q And so it sounds like in terms of dealing with
8 the coyote, you've got both what the herders do in terms
9 of seeking to shoot a coyote for the bounty, I think you
10 referred to a government trapper?

11 A Yes, trapper.

12 Q Trapper. And then sort of an added layer of
13 protection for lambing you have a helicopter come in to
14 do a broader clearance of coyotes?

15 A Yes. We unlike a lot of sheep outfits that are
16 around us have a lot better coyote control than a lot of
17 our other -- you know, I talked to other ones and we
18 have -- herders don't have a lot of problem with coyotes
19 on our place. Guard dogs help.

20 Q If they're getting hundred dollars to shoot
21 them, I assume they're not having a problem. They're
22 having a bonus.

23 A Yeah.

24 Q In terms of the Great Pyrenees, are they
25 particularly used at night or is that around-the-clock

1 thing with the Pyrenees?

2 A The Pyrenees are with the sheep around the
3 clock. They step their game up at night. That's what
4 they're trained for.

5 Q And given that the herders are staying in the
6 summer months in tents, allows them to have their tent
7 pretty close to where the sheep are for the night as
8 well?

9 A Yeah. They put their tents up on the mountains
10 but in places that are tent friendly, you know, a flat
11 place next to some trees. Like people would camping, but
12 up on the mountain. And the sheep usually sleep -- the
13 higher, steeper point of the mountain, that's where you
14 find the sheep sleeping. It's a little ways away, but
15 not real far. The sheep are by the tent.

16 Q I was, in part, wondering if the dogs were
17 close to the tents to drive off any scavagers that might
18 try to get to that bed roll with the lamb inside?

19 A There isn't those kinds of scavagers there.
20 And there's enough dogs up there that there are some camp
21 dogs. In fact, we call them camp dogs. They just follow
22 the herder around. There is usually one or two dogs that
23 come to camp every night and there's five or six or eight
24 that stay out with the sheep at night.

25 Q When you refer to camp dogs, those aren't the

1 STATE OF ARIZONA)
) ss
2 COUNTY OF MARICOPA)
3

4 BE IT KNOWN that the foregoing deposition was taken
5 before me, SHANNON STEVENSON, a Certified Reporter in and
6 for the County of Maricopa, State of Arizona; that the
7 witness before testifying was duly sworn to testify to
8 the whole truth; that the questions propounded to the
9 witness and the answers of the witness thereto were taken
10 down by me in shorthand and thereafter reduced to
11 computer-aided transcription under my direction; that the
12 foregoing 136 pages are a true and correct transcript of
13 all proceedings had upon the taking of said deposition,
14 all done to the best of my skill and ability.

15 I FURTHER CERTIFY that I am in no way related to any
16 of the parties hereto, nor am I in any way interested in
17 the outcome hereof.

18 (XXX) Signature was requested.

19 () Signature was not requested.

20 DATED at Phoenix, Arizona, this 29th day of June,
21 2021.

22 

23 SHANNON STEVENSON, CR, RPR
24 Certified Reporter
25 Certificate No. 50461

EXHIBIT 36

FILED UNDER SEAL

EXHIBIT 36

RA 01954



Deposition of:
Kerri Wright

April 30, 2021

In the Matter of:
**Castillo, Abel Cántaro v. Western
Range Association**

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and those)
similarly situated,)

Plaintiff,)

vs.)

Case No. 3:16-cv-
00237-RCJ-CLB

WESTERN RANGE ASSOCIATION,)

Defendant,)

REMOTE DEPOSITION OF KERRI WRIGHT
CONDUCTED VIA ZOOM VIDEOCONFERENCE

Friday, April 30, 2021

10:04 A.M.

Job No.: 4557423

Reported by: Marlene Duron, RPR,

CSR No. 13333, CCR No. 958

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABEL CANTARO CASTILLO on)
behalf of himself and those)
similarly situated,)

Plaintiff,)

vs.)

Case No. 3:16-cv-
00237-RCJ-CLB

WESTERN RANGE ASSOCIATION,)

Defendant,)

DEPOSITION of KERRI WRIGHT, taken remotely via
Zoom videoconference, commencing at 10:04 a.m. on
Friday, April 30, 2021, before Marlene A. Duron, RPR,
CSR No. 13333, CCR No. 958.

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22 Also present:

23 Monica Youree
24 (Videoconference appearance)
25

1 Can you tell me what specific sorts of things they might
2 do to ensure that sheep are appropriately fed?

3 A There are a lot of variables depending on where
4 they're at and the season. They may have to move them
5 on the range. They may have to move them very far on
6 some days. They may have to actually feed them hay.

7 Q If they need to feed them hay, where would they
8 access the hay to feed the sheep?

9 A From the ranch.

10 Q You mentioned whether a herder could get a
11 driver's license as one of the factors you considered in
12 evaluating job performance, correct?

13 A Yes.

14 Q How many of your herders are typically able to
15 obtain a driver's license?

16 A Almost all of them.

17 Q Okay. And under what circumstances do you need
18 your herders to be able to drive?

19 A Well, our ranch is very large. So they may
20 have to travel from range to range. They may have to
21 haul water, which includes driving. They like to be
22 able to go into town, and they're able to drive to do
23 that if they get a driver's license.

24 Q That's not one of their job responsibilities,
25 though, right?

1 form?

2 A Every pay period.

3 Q And what information does the form request?

4 A The -- their name, the pay period, the date,
5 the hours worked on each day, and the location of where
6 they were and what they were doing.

7 Q When you asked the number of hours worked each
8 day, is that just asking for a total number? Or did you
9 ask them to put in, like, this is what time I started,
10 this is what time I ended?

11 A Correct, start and stop times.

12 Q Okay. And did you have them do multiple start
13 and stop times so that if they stopped to eat lunch,
14 would you have them say that they stopped working, and
15 then after they finished lunch, have them start working
16 again?

17 A I asked them to be as accurate as they could
18 with it.

19 Q Did you -- did you give any direction to the
20 herders regarding what sorts of activities counted as
21 work?

22 A Such as training or -- can you clarify that?

23 Q Just anything that they might be doing in the
24 course of the day. So if they had to haul some water,
25 some that they might be using themselves to bathe and

1 some -- or -- and some that they might be using to water
2 the sheep, you know, would that be an activity that
3 would be included as part of their work time?

4 A Well, our program does not allow -- allow for
5 that. We haul them separate potable waters so they
6 don't have to haul their own water to bathe. So if they
7 were hauling water, it would be for the sheep. So
8 anything that they were doing to care for the sheep,
9 whether they were moving them on feet or hauling water
10 or building fence, putting them in a fenced area,
11 something like that, that counts as work activities.
12 When they're back at their camp having lunch or taking a
13 nap or back in for the evening, they're free to do
14 whatever they want.

15 Q And for part of the day, they might not be
16 hauling anything or setting up fence but just walking
17 around, keeping an eye on the sheep to make sure that
18 they're where they're supposed to be and they're not
19 wandering into the national park, correct?

20 A Correct.

21 Q And that's still part of their workday,
22 correct?

23 A Yes.

24 Q Okay. Could there be times that they could
25 even, you know, find a place to sit and keep an eye on

1 the sheep for a period of time to make sure they don't
2 stray and that's still part of their work of -- of
3 herding the sheep?

4 A Yes.

5 Q Do your herders go out with any dogs to assist
6 them?

7 A They do.

8 Q Okay. And all one kind of dog or just one --
9 or -- or do they have multiple types?

10 A Multiple types that they have, herding dogs and
11 guard dogs.

12 Q Okay. And do herders -- are the herders
13 responsible for feeding the dogs?

14 A Yes.

15 Q Okay. Providing water to the dogs?

16 A Yes.

17 Q Do they do any training with the dogs?

18 A Yes.

19 Q And all of that is also part of their workday,
20 correct?

21 A Yes.

22 Q Do you go over this with the herders so that
23 they know that, you know, even when they get back to the
24 camp at the end of day, if they take time to feed the
25 dogs, that -- that that is still part of their workday?

1 very thorough, so I thank you for that.

2 Ely is located in White Pine County, correct?

3 A Correct.

4 Q And there are 16 counties in Nevada, give or
5 take. There was, at one point, Bull Frog County. So
6 there was 17, but now there's 16, right?

7 A I don't even know that for sure.

8 Q Okay. Fine. That's fair enough. I -- I'm not
9 sure I know that, but I do remember Bull Frog County.

10 White Pine County gets temperatures up to
11 100 degrees in the summer sometimes, correct?

12 A Correct.

13 Q And it gets temperatures down to the 30s in the
14 winter, correct?

15 A Or colder, usually.

16 Q Or colder. You get some snow sometimes.

17 Would you agree with me that in the
18 sheepherding business within the state of Nevada, given
19 the -- the geography that is so diverse and a topography
20 which is so diverse, that no two sheepherding operations
21 are the same?

22 MS. WEBBER: Objection; foundation and form.

23 THE WITNESS: I would agree with that.

24 BY MS. WINOGRAD:

25 Q Would you expect to find -- without

1 speculating, based upon your knowledge of this industry,
2 would you expect to find big differences in the way that
3 different operations utilize herders?

4 MS. WEBBER: Object; foundation, form, calls
5 for speculation, also leading.

6 MS. WINOGRAD: Wait a minute. This isn't my
7 witness. I get to lead her.

8 BY MS. WINOGRAD:

9 Q Go ahead. I'm sorry.

10 A Do I answer?

11 MS. WEBBER: Yes.

12 THE WITNESS: Sorry. You'll have to repeat the
13 question.

14 MS. WINOGRAD: Madam Court Reporter, can you
15 read it back, please, because I can't remember it.

16 (Record read as follows:

17 "Would you expect to find -- without
18 speculating, based upon your knowledge
19 of this industry, would you expect to
20 find big differences in the way that
21 different operations utilize herders?")

22 MS. WEBBER: Same objection.

23 THE WITNESS: I would expect to find
24 differences.

25 ///

1 BY MS. WINOGRAD:

2 Q And that's been your experience, correct?

3 A It has.

4 MS. WEBBER: Objection; contrary to prior
5 testimony. She doesn't have any other experience.

6 BY MS. WINOGRAD:

7 Q In fact, within your own operation, you utilize
8 and have utilized herders differently over the various
9 seasons and years, correct?

10 A Correct.

11 Q Is White Pine County considered high desert?

12 A Yes.

13 Q And it's a little bit different, say, than the
14 Ruby Mountains in Elko County, correct?

15 MS. WEBBER: Objection; foundation --

16 THE WITNESS: Yes.

17 MS. WEBBER: -- also vague as to --

18 BY MS. WINOGRAD:

19 Q How -- how's it different?

20 A Different elevations, different feeds,
21 different terrain.

22 Q Based upon your experience, the different
23 elevations, the different terrain and the different
24 weather -- again, based upon your experience, would you
25 expect the tools to be the same between and among the

1 various ranches in Elko County and in White Pine County?

2 MS. WEBBER: Objection; lack of foundation.

3 THE WITNESS: I -- I would expect differences
4 in the tools.

5 BY MS. WINOGRAD:

6 Q Would you expect differences in the herder
7 duties?

8 MS. WEBBER: I'm sorry, I couldn't hear that.
9 In -- difference in the --

10 MS. WINOGRAD: The herder duties.

11 MS. WEBBER: Objection; foundation.

12 THE WITNESS: I -- I do -- I would expect
13 differences, yeah. I -- I think some things would be
14 the same, but some things would be different.

15 BY MS. WINOGRAD:

16 Q Are you familiar with Ellison Ranching in Elko
17 County?

18 A I am not.

19 Q Are you familiar with David and Bonnie Ingle in
20 Elko County?

21 A I am not.

22 Q Do you have any understanding whatsoever of how
23 they utilize their H-2A herders?

24 A I do not.

25 Q Are you familiar with the Dufurrena -- or the

1 Dufurrena Sheep Ranch in Humboldt County?

2 A I am not.

3 Q Are you familiar with the Green Goat Operation
4 in Humboldt County?

5 A I am not.

6 Q Do you have any understanding about how they
7 utilize their H-2A workers?

8 A I have no information on that.

9 Q How about Lander County? Do you have any
10 understanding of how the Lander County Western Range
11 Association workers utilize these -- its H-2A workers?

12 A I do not.

13 Q Do you have any understanding of how the Eureka
14 County Western Range Association members utilizes its
15 H-2A workers?

16 A I do not.

17 Q How about Clark County, down near Las Vegas?
18 Do you have any understanding of how the Clark County
19 Western Range Association members utilize their H-2A
20 workers?

21 A I do not.

22 Q Would you expect that the Mojave Desert H-2A
23 workers would have the same duties as your operation?

24 MS. WEBBER: Objection; foundation.

25 THE WITNESS: I expect there would be

1 differences in the duties due to terrain, different
2 terrain.

3 BY MS. WINOGRAD:

4 Q And weather?

5 A And weather, yes.

6 Q Are you familiar with any of the Western Range
7 Association operations in Lyon County?

8 A No.

9 Q So you have no understanding of how the Western
10 Range Association members in Lyon County utilize H-2A
11 workers, correct?

12 A Correct.

13 Q Based upon your experience in this industry,
14 would you expect them to be different than the White
15 Pine Operation that you operate?

16 MS. WEBBER: Objection as to foundation.

17 THE WITNESS: I would expect them to be
18 different.

19 BY MS. WINOGRAD:

20 Q Okay. The only ones we really haven't covered
21 are Washoe, Pershing, and Churchill counties. And I can
22 do this separately or I can do them all together, but
23 I'm going to put them together, even though they're in
24 different places. Do you have any familiarity with the
25 Washoe County, Pershing County or Churchill County

1 Western Range Association operations?

2 A I do not.

3 Q And would you expect them to be different and
4 utilize H-2A workers differently than your operation?

5 A Yes.

6 MS. WEBBER: Objection; foundation. As you've
7 just established that she has no familiarity, she can't
8 possibly testify as to any similarities or differences.

9 BY MS. WINOGRAD:

10 Q Please answer.

11 A I would expect differences.

12 Q Why?

13 A Different terrain, different weather, different
14 conditions, different elevations.

15 Q They're all herding sheep, though. Isn't that
16 all the same?

17 A A lot of different situations with herding
18 sheep.

19 Q Does the number of H-2A herders that your
20 operation employs vary from month to month?

21 A It can, yes.

22 Q And that would be reflected in the payroll
23 stubs, correct?

24 A Yes.

25 Q So as we sit here today, in -- April 30th --

1 it's almost end of April of 2021. Thinking back to the
2 timeframe from 2012 to 2018 or even to present, do you
3 have an estimate of the number of H-2A herders employed
4 in January?

5 A Not without looking back at records.

6 Q So -- and that goes for February through
7 December as well, correct?

8 A Correct.

9 Q And it's your belief that they vary from
10 month to month sometimes?

11 A Yes. Not every month, because they're on
12 long-term contracts, but it can change from one month to
13 the next.

14 Q And does seasonality cause that to change?

15 MS. WEBBER: Objection as to form.

16 THE WITNESS: Not as much with the amount of
17 herders that we have seasonally. I mean, we try to keep
18 a consistent amount throughout the year, but they're
19 always -- they have their own time schedules of rotating
20 in and out.

21 BY MS. WINOGRAD:

22 Q Based upon your experience in this industry, is
23 it your understanding that different Western Range
24 Association ranches in different topographies and
25 geographies have different seasons for performing the

1 duties that sheepherders perform?

2 MS. WEBBER: Objection; foundation.

3 THE WITNESS: I would assume that they do have
4 differences in the duties per season.

5 BY MS. WINOGRAD:

6 Q And would you agree that the -- the seasons in
7 Clark County for lambing or shearing might be different
8 than the seasons in Elko County?

9 MS. WEBBER: Objection; foundation.

10 THE WITNESS: Yes, I would assume so.

11 BY MS. WINOGRAD:

12 Q Regarding the differences between and among the
13 ranches that are Western Range Association members,
14 would you also expect on-range herders to have different
15 types of housing based upon the geography, weather, and
16 topography?

17 MS. WEBBER: Objection; foundation.

18 THE WITNESS: Yes, I would assume there's
19 differences.

20 BY MS. WINOGRAD:

21 Q And that's based upon your experience in this
22 industry, correct?

23 A Yes.

24 Q Were there times of the year or months that you
25 recall that your operation recognized things like nap

1 time and -- and time in town and those sorts of things
2 as time that your herders were not actually working?

3 MS. WEBBER: Objection; foundation and form.

4 THE WITNESS: Yes, I would recognize that as
5 time off.

6 BY MS. WINOGRAD:

7 Q Were there some weeks in which the average
8 actual working timeframe was four to five hours?

9 MS. WEBBER: Per week?

10 MS. WINOGRAD: Per day.

11 MS. WEBBER: Objection; foundation and form.

12 THE WITNESS: Yes, I would think so.

13 BY MS. WINOGRAD:

14 Q And what do you base that on?

15 A A lot of different variables: where they are
16 on the range, how -- how close they are to their camp,
17 how warm it is, how well the sheep are doing. If they
18 have to move them a lot that day, one herder may just
19 have to walk out and check the sheep, make sure they
20 have plenty of water. And he's free to go back to his
21 camp for a good part of the day. And then he'll walk
22 back out in the afternoon and -- and check them again,
23 bed them down for the night, not really spend that much
24 time.

25 Q When sheep bed down for the night, what does

1 that mean?

2 A When they put them all together and -- in a
3 bunch or in a contained corral and -- and put them up
4 for the night.

5 Q You testified earlier -- and I'm
6 paraphrasing -- to the effect that the dogs are expected
7 to do their job when the herders are sleeping at night;
8 is that correct?

9 A Yes.

10 Q And so is it your expectation and your
11 experience that the herders with your operation sleep at
12 night?

13 A Yes, they do sleep at night.

14 Q Do they take meals during the day?

15 A Yes, they do.

16 Q Do they take naps during the day sometimes?

17 MS. WEBBER: Objection; foundation.

18 THE WITNESS: I assume so.

19 BY MS. WINOGRAD:

20 Q Do they go into town sometimes, as you
21 testified, for recreational purposes?

22 A Yes.

23 MS. WEBBER: Objection; foundation.

24 BY MS. WINOGRAD:

25 Q And as you sit here today, you are not

1 specifically familiar with the operations of any other
2 Western Range Association Nevada-located ranches, are
3 you?

4 A No, I'm not.

5 Q With regard to your understanding of the job
6 order reference to 24/7, is it your understanding that
7 any given herder actually works 24 hours in a given day?

8 A They do not work 24 hours in a given day.

9 Q And during the time that you were a Western
10 Range member, was it your understanding that they never
11 worked 24 hours in a given day?

12 A That's correct.

13 Q Referring your attention to what's been marked
14 as Exhibit 4 -- and if you could put that up, because I
15 have to use paper copies, I'm afraid.

16 A Okay. I have it up.

17 Q Okay. Thank you.

18 Exhibit 4 is information you provided to
19 Western Range Association as -- or for the master job
20 order; is that correct?

21 A Yes.

22 Q And Exhibit 4 covers the years 2011 through and
23 including 2015, correct? I know you're going to have to
24 scroll.

25 A Yes, it says 2012.

1 Q The first one on there should be 2011, June 23,
2 2011.

3 A Okay. Yes.

4 Q Okay. And with the information that you
5 provided to Western Range Association based upon the
6 personal knowledge you had when you filled these out and
7 the individual salaries, it was your understanding that
8 you were in compliance with state and federal laws,
9 correct?

10 A Yes.

11 MS. WEBBER: Objection; vague, calls for a
12 legal conclusion.

13 BY MS. WINOGRAD:

14 Q Has there ever been a situation since 2011
15 where the Department of Labor has cited you -- your
16 operation for failure to comply with wage requirements?

17 A No, I've never been cited.

18 Q Your operation has never been cited?

19 A Yes, correct.

20 Q And you would know if they had been, wouldn't
21 you?

22 A Yes.

23 Q Every year are you required to -- actually,
24 either that or it's every two years -- fulfill certain
25 forms that you receive from the Department of Labor that

1 require either self-certification or certification from
2 the state workforce authority, which in Nevada is DETR?

3 A To -- for inspection of the housing?

4 Q Yes.

5 A Yes.

6 Q Has the state workforce authority in Nevada,
7 DETR, ever indicated to you or anybody that you know of
8 in your operation that you were out of compliance?

9 A No, we've never been out of compliance.

10 Q As of 2015, were you ever -- when you were a --
11 a Western Range Association member, were you ever in
12 receipt of any complaint from a herder or an advocacy
13 group that you had failed to pay the correct wage?

14 A No.

15 Q As of 2015, when you were a Western Range
16 Association member, did you ever receive notification
17 from the Department of Labor that you were being
18 audited?

19 A No.

20 Q As of 2015, when you were a Western Range
21 Association member, did you ever receive any
22 notification from the Department of Labor that you were
23 being investigated?

24 A No.

25 Can I make a correction on the audit, too? I

1 have had some audits, but I don't recall whether they
2 were with Western Range or for sheepherders or farm
3 laborers.

4 Q And on those audits, there were no violations
5 found, were there?

6 A No.

7 Q As of 2015, when you were a Western Range
8 Association member, did you ever receive any complaints
9 that any workers felt they had been exploited?

10 A No.

11 Q Would you agree with me that when your
12 employees are playing soccer, they're not herding sheep?

13 A I would agree to that.

14 Q You indicated that in your operation there's no
15 shearing that occurs, correct?

16 A There is shearing, but we hire a contracted
17 shearer so the herders do not shear. They -- they may
18 be there bringing their herds into the shearing camp,
19 and they may be helping to corral the sheep, but they do
20 not do the actual removal of the wool.

21 Q So in your particular operation, there -- it is
22 not part of the H-2A duties that your employees perform
23 to shear the sheep, correct?

24 A Correct.

25 Q And when you talked about -- forgive me, I'm a

1 correct?

2 A We have a safety policy about ATVs. So we do
3 not have any on the ranch. We do have utility vehicles,
4 which are more like the side-by-sides, with a seat belt
5 and a helmet. So it's a safety policy for us.

6 Q And that is specific to your operation,
7 correct?

8 A Correct.

9 Q Would you agree that --
10 Pardon? Oh, I just heard some -- I don't know
11 what that is.

12 Would you agree that the types of plants in Ely
13 that could pose a danger to sheep are different than the
14 types of plants in the Mojave Desert in Clark County
15 that could pose a danger to sheep?

16 A I'm not a plant expert, but I would agree that
17 there are different types of plants in this area that
18 could pose a danger. We have several here in the Ely
19 area.

20 Q Are there some plants, that you know of, that
21 are specific to the Ely area?

22 A Brigham tea, halogeton, foxtail. So those
23 things can be dangerous for the sheep.

24 Q And -- and that affects what the H-2A herder
25 duties are, doesn't it?

1 A Yes.

2 Q With regard to other operations, do you know
3 how they ensure the feeding and watering of their sheep?

4 A I do not know anything about other operations.

5 Q And that would pertain also to how they handle
6 fencing, driver's license, vehicle use, on-range,
7 off-range, time, ran- -- ranch housing, range housing,
8 and lambing operations?

9 A Yes, it would pertain to all that. I don't
10 know about other people's operations.

11 Q In your experience would you expect them to be
12 different, even within the state of Nevada?

13 MS. WEBBER: Objection; lack of foundation.

14 THE WITNESS: I would expect them to be
15 different.

16 BY MS. WINOGRAD:

17 Q You testified on Ms. Webber's questioning on
18 numerous occasions that there are a lot of variables.
19 What do you mean by that?

20 MS. WEBBER: Objection; vague.

21 THE WITNESS: Yeah, there are a lot of
22 variables in the entire job. Can you be more specific
23 to what -- maybe --

24 BY MS. WINOGRAD:

25 Q That's --

1 A -- one thing that you want variables on?

2 Q No. I -- what I -- I will rephrase the
3 question.

4 Many times when Ms. Webber asked you a question
5 about a method or a procedure, you testified there are a
6 lot of variables. What did you mean by that?

7 MS. WEBBER: Objection; vague.

8 THE WITNESS: I meant that there are a lot of
9 things that can change the duties and the workday and
10 the time spent of a herder. Those being feed, water,
11 weather, the -- whether -- whether they have to haul
12 water or whether they're near a stream, whether they
13 have to move them far out on a range or whether they're
14 in close, what season it is, all those things.

15 BY MS. WINOGRAD:

16 Q And that's even within a single ranch in a
17 single -- albeit large -- location in Ely, Nevada,
18 correct?

19 A Yes.

20 MS. WINOGRAD: We're going to take a
21 five-minute break. I think I'm done, but I'm going to
22 just take a very short break, and we'll get the court
23 reporter out by 4:30.

24 MS. WEBBER: Well, I'm going to have a couple
25 follow-up questions in response, and -- and we have to

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF CLARK)
4

5 I, MARLENE A. DURON, a Certified Court
6 Reporter in the State of Nevada, holding
7 Certificate No. 958, do hereby certify that KERRI
8 WRIGHT, the witness named in the foregoing deposition,
9 was by me duly sworn; that said deposition was taken
10 Friday, April 30, 2021, at the time and place set forth
11 on the first page hereof.

12 That upon taking the taking of the deposition,
13 the words of the witness were written down by me in
14 stenotypy and thereafter transcribed by computer under
15 my supervision; that the foregoing is a true, and
16 correct transcript of the testimony given by the
17 witness.

18 I further certify that I am neither counsel for
19 or in any way related to any party to said action, nor
20 in any way interested in the result or outcome there.

21 Dated this 13th day of April, 2021, at
22 Las Vegas, Nevada.
23

24 

25 Marlene A. Duron, CCR No. 958

EXHIBIT 37

FILED UNDER SEAL

EXHIBIT 37

RA 01982

ROUGH DRAFT

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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2

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4 ABEL CANARO CASTILLO on behalf
5 of himself and those similarly
6 situated,

7 Plaintiff

8 vs.

9 WESTERN RANGE ASSOCIATION

10 Defendant

11

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13

14 The telephonic conferenced deposition of

15 BLAKE LAMBERT was held on Wednesday, November 17,

16 2021, commencing at 9:30 A.M., PST at Winnemucca,

17 Nevada before Louisa B. McIntire-Brooks, Notary

18 Public.

19

20 Also present: Monica Youree, Western Range Association

21 REPORTED BY: Louisa B. McIntire-Brooks

CASE NUMBER:

3:16-cv-00237-RCJ-CLB

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ON BEHALF OF BLAKE LAMBERT:

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Deposition of: Blake Lambert

November 17, 2021

21 A. Not to my recollection.

38

1 Q. Do you recall ever being approached by
2 Western Range Association about employing a domestic
3 herder?

4 A. I don't recall.

5 Q. Further down on that page, just the next
6 box says 16, job description. Do you see that?

7 A. Yes.

8 Q. Can you take a moment and just read that
9 bold description to yourself and then when you're done,
10 my question is, is this an accurate description of the
11 job performed by your herders?

12 MS. GUNDERSON: I'm going to do an
13 objection to form, vague, the time.

14 A. Yes and no.

15 Q. Could you elaborate please?

16 A. Well, we don't dock and we don't shear, we
17 don't lamb. That would be it.

18 Q. Instead of lambing, do you kid?

19 A. Yes, we do.

20 Q. Okay. Do you not shear the goats at all or
21 do you mean that like someone else shears the goats?

39

1 A. No. We shear no goats.

2 Q. Okay.

3 A. They have hair, not wool.

4 Q. Understood. Just to be clear, when you say
5 you don't dock, you mean the ranch doesn't dock or they
6 don't get docked at all?

7 A. It would be very painful. Docking is the
8 removal of their tail.

9 Q. Um-hum.

10 A. No, we don't dock goats.

11 Q. Got it. Does the ranch castrate the male
12 goats?

13 A. Yes.

14 Q. Do they earmark the female goats?

15 A. No. All goats get a scrapie tag in the
16 state that they're originally from. Male and female.

17 Q. Understood. I believe you said besides
18 those exceptions you just listed, the rest of the
19 description is an accurate description of the job
20 performed by your herders; is that right?

21 MS. GUNDERSON: Objection to form,

40

1 misstates his prior testimony.

2 A. Well, remember, we run on deeded grounds.
3 We really don't have plant problems like you do out in
4 open range. Predators, they really don't -- they don't
5 have guns. Very rarely -- in all the years, I only
6 remember one or two. And, yeah, it's a broad range.
7 It would fit part of it.

8 Q. You said in all the years you remember one
9 or two. Sorry. One or two what.

10 A. You know, areas that you could have
11 predators.

12 Q. Okay. Do you mean you remember one or two
13 areas where you could have predators or do you mean you
14 remember predators one or two times?

15 A. I remember a couple different areas we had
16 the airplane fly twice that year because we had coyotes
17 coming off the river.

18 Q. Okay. Understanding what you just said
19 about only recalling one or two times when there were
20 coyotes, is it still part of your herders' job to guard
21 against predators, to be aware of where they might be?

▲

41

1 A. It's the dog's job.

2 Q. If the dog were to alert the herder to a
3 predator, how would you expect the herder to respond?

4 MS. GUNDERSON: Objection to form,

5 hypothetical.

6 A. The herder would pick up the carcass of the
7 coyote. The Great Pyrenees would kill it.

8 Q. Okay.

9 A. The Great Pyrenees is going to kill the
10 predator and a lot of times you don't find the carcass.

11 Q. Okay. If the herder did find the carcass,
12 would you expect the herder to inform the ranch that
13 there had been a herder problem or a predator problem?

14 A. No.

15 Q. No?

16 A. I need you to hold for a second please.

17 MS. GUNDERSON: We have been going for an
18 hour. It could be a good time for a break.

19 MS. REIF: Let's go off the record. We can
20 take about a ten minute break.

21 (A discussion was held off the record.)

⬆

42

1 Q. Mr. Lambert, you were speaking before how
2 if one of your herders leaves the ranch, then you or
3 one of your family members will go and fill in for the
4 herder to look after the goats. Is that because there
5 needs to be someone with the goats to attend to them at

6 all times?

7 MS. GUNDERSON: Objection to form,
8 foundation, calls for speculation.

9 A. You know, it's a very large investment.
10 Besides, there's a -- as a rancher, it's encompassed,
11 it's an obligation to take care of something that's
12 living and breathing. So, I mean, can they take care
13 of their self? Possibly. But it's my investment. So
14 we maintain their wellbeing.

15 Ours are different than free range, Miss.
16 We have ours in paddock, we have them on pivots,
17 they're in an acre to two acres, but we move them
18 across the ground. So, I mean -- I would be -- you
19 know, we watch over our livestock.

20 Q. Understood. What is a paddock?

21 A. A box made of temporary portable fencing.

↑

43

1 You can call it a wagon wheel. You can call it
2 anything you like. We run our goats in a confined area
3 and we move the goats as the feed gets harvested.

4 Q. Okay. You also mentioned that you run
5 quite a bit on deeded land. So, is it the herders'
6 responsibility to ensure that the goats are staying
7 within the proper boundaries of whatever lands they're

8 on?

9 MS. GUNDERSON: Objection to form,
10 misstates prior testimony. And I didn't hear his
11 answer.

12 A. It's my responsibility.

13 Q. Sorry about that. I think you said it's
14 your responsibility?

15 A. Yeah.

16 Q. Do you instruct the herders about where to
17 keep the goats to ensure that they are properly within
18 the boundaries of whatever land you may be on?

19 A. All the deeded property has perimeter
20 fencing. It's pretty self explanatory. The herders --
21 my herders, to work for us, Miss, had to be self

44

1 spankers. I'll just get right to the chase. I didn't
2 tell them when to get out of the house. I didn't tell
3 them when to get in the house. I didn't tell them when
4 to go eat lunch, when to eat breakfast, when to eat
5 dinner. They just knew their job. And they pretty
6 well knew their job on the feed because there's
7 perimeter fencing. Once I showed them one thing, it
8 was -- it's not like open range sheep. These are
9 goats. They're confined. It's not like a sheep

10 operation. I have been in the sheep business. Okay?

11 So, no, it's self explanatory. They can see the
12 boundaries.

13 Q. Okay. When you say it's perimeter fencing,
14 I just want to make sure I understand, is it permanent
15 or is it set up by someone like on a case by case
16 basis?

17 A. Our places have perimeter fencing that was
18 fixed.

19 Q. Is the fencing short enough that goats can
20 jump over it?

21 A. I guess if they didn't have water and food

45

1 they would.

2 Q. Do the herders ever have to haul water for
3 the goats to drink?

4 MS. GUNDERSON: Objection, vague as to
5 time.

6 A. This was deeded property that they have to
7 haul. But most of the property had fresh water at
8 their night penning in their location on the deeded
9 property.

10 Q. Okay. Do you still have that Document C
11 open in front of you?

EXHIBIT 38

FILED UNDER SEAL

EXHIBIT 38

RA 01993

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16 Attorneys for Third Party Ranches

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

13 ABEL CANTARO CASTILLO on
14 behalf of himself and those similarly
15 situated,

16 Plaintiff,

17 v.

18 WESTERN RANGE ASSOCIATION,
19 Defendant

Case No.: 3:16-cv-00237-RCJ-CLB

**DECLARATION OF HANK
DUFURRENA**

20
21 1. I am a manager of Dufurrena Sheep Company, a sole proprietorship.
22 I run a sheep operation in North Central Nevada, with our base ranch near the
23 town of Denio.

24 2. I employ temporary, non-immigrant guest workers pursuant to the
25 H-2A program. Western Range Association administers many aspects of member
26
27
28

1 participation in the H-2A program. I am a member of the Western Range
2 Association.

3 3. I typically employed four H2A sheep herders at a time. Western
4 Range Association handles all the paperwork involved in obtaining H-2A herders
5 for our ranch, including filing Form 790 (job clearance order), Form 9142/9142A
6 (application for certification), and INS Form I-192 (visa application). WRA also
7 arranges travel the herder's home country and the United States.
8

9 4. I the H-2A range herders a monthly wage rate based upon a
10 directive from the Federal Department of Labor, Wage and Hour Division, that
11 dictates wages and hours for each state in which H-2A range herders are
12 employed, including Nevada. It is my understanding the Department of labor
13 refers to this rate as the AEWR.
14

15 5. I have always used the DOL's AEWR as the base rate of pay which
16 we pay to my H2A employees. I do not pay bonuses to my H2A employees.
17

18 6. I run a herd of approximately 1600 ewes. The ewes lamb in a
19 lambing shed located on the Denio ranch. During the lambing season in March
20 and early April, our herders work 10 to 12 hours per day. When all the lambs
21 have been born, the sheep move onto the spring and summer ranges in Humboldt
22 and Eastern Pershing County.
23

24 7. While on the ranch the herders live in sheep camp trailers or travel
25 trailers. These trailers have a cookstove and heating stove. During this time, the
26 herders have access to a common building which has showers, a kitchen, and a
27 television room. I supply them with groceries which they prepare.
28

1 8. While on the range, the live either in sheep camp trailers or in tents.
2 I set up the herder's camps, bring them groceries every few days, including fresh
3 produce, meat, and eggs. The herders stay in touch on a nearly daily basis and let
4 me know of any particular grocery or supply requests. Whether in trailers or in
5 tents, the herders have a solar system to charge their phones and other
6 electronics.
7

8 9. While on the range, the herders work relatively short days. Their job
9 duties on a particular day usually take 2-3 hours in the morning and 2-3 hours in
10 the afternoon.
11

12 10. I supply the herders with sheep dogs. However, unlike many sheep
13 ranchers, I do not use guard dogs.
14

15 11. I provide herders all the camp equipment and supplies that they
16 need, as well as the all the tools that they need to do their jobs. I also provide a
17 cell phone and a calling plan that includes calls to Mexico and/or Peru. I provide
18 the herders any supplies or personal items that they require.
19

20 12. The foregoing is true and made under penalty of perjury under the
21 law of the State of Nevada.
22

DATED: March 15, 2021

23 
24 HANK DUFURRENA
25
26
27
28

EXHIBIT 39

FILED UNDER SEAL

EXHIBIT 39

RA 01997

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17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA

19 *****

20 ABEL CANTARO CASTILLO on
21 behalf of himself and those similarly
22 situated,

23 Plaintiff,

24 v.

25 WESTERN RANGE ASSOCIATION,

26 Defendant

27 Case No.: 3:16-cv-00237-RCJ-CLB

28 **DECLARATION OF AULENE
RATLIFF**

1 I am a minority shareholder and an employee of Ellison Ranching
Company ("Ellison"). Ellison is a sheep ranch in Northeastern Nevada. We graze
sheep mostly on public land grazing allotments in Lander and Elko Counties.

2 We employ temporary, non-immigrant guest workers pursuant to
the H-2A program. Western Range Association administers many aspects of

1 member participation in the H-2A program. Ellison is a member of the Western
2 Range Association.

3 3. Ellison typically employs between fifteen and seventeen H2A
4 herders at a time. Western Range Association handled all the paperwork
5 involved in obtaining H-2A herders for our ranch, including filing Form 790 (job
6 clearance order), Form 9142/9142A (application for certification), and INS Form
7 I-192 (visa application). WRA also arranges travel to and from the herder's home
8 country and the United States.

9
10 4. Ellison pays the H-2A range herders a monthly wage rate based
11 upon a directive from the Federal Department of Labor, Wage and Hour Division,
12 that dictates wages and hours for each state in which H-2A range herders are
13 employed, including Nevada. It is my understanding the Department of labor
14 refers to this rate as the AEWR.

15
16 5. Ellison has used the DOL's AEWR as the base rate of pay which we
17 pay to my H2A employees. In addition, we pay a Christmas bonus and pay more
18 experienced workers a higher wage. We also provide two weeks of paid vacation
19 every year. Attached hereto as **Exhibit 1** are payroll records for the past 3 years.

20
21 6. We run a herd of approximately 8000 ewes. During the winter, these
22 ewes are usually broken into 5 bands on the winter range near Battle Mountain.
23 Each band is accompanied by two herders.

24
25 7. We shear the sheep in March. Our ewes begin lambing in April. The
26 ewes that are lambing for the first time lamb in sheds, while the rest lamb on the
27 range. The sheep are then broken into nine bands and moved onto their summer
28

1 range. One of the bands is trailed to the summer range, and the remaining sheep
2 are transported by truck.

3 8. During most of the year (from mid-May through February), the
4 herders day typically consists of getting up with the sheep at sunrise and
5 attending to them while they graze until mid-morning, when the sheep lay down
6 for several hours. While the sheep are down, the herder has little to do in the way
7 of job duties and can occupy himself pretty much as he pleases. The sheep begin
8 grazing again around 3:00 or 4:00 in the afternoon, and continue to do so for
9 three hours or so. As such, the herder typically works around 6 hour per day and
10 has the rest of his time to himself. Somedays may be longer, based on the needs
11 of the sheep, but a relatively short day is typical. When we are shearing and
12 lambing in March, April, and part of May, the herders work 10 to 12 hours per
13 day.
14

15 9. For most of the year, our herders live in sheep camp trailers. That
16 are equipped with a propane stove. While on the summer range, the herders live
17 in 9'x9' canvas wall tents. They move the camps using a horse, which we also
18 provide. Herders can also request that we bring them in to town to take care of
19 any personal errands they might have, and we make arrangements to
20 accommodate these requests.
21

22 10. At all times of the year, the camp tender resupplies the herders with
23 food and other supplies every 5 days. We provide a set list of food that is
24 appropriate to the conditions and the tastes of the herders. We try to
25 accommodate any special requests for items that the herders want.
26
27
28

1 11. We supply the herders with herding dogs and guard dogs. We do not
2 provide firearms to the herders. We hire a private trapper who goes ahead of the
3 sheep to trap predators on the range before the sheep arrive.

4 12. We provide herders all the camp equipment and supplies that they
5 need, as well as the all the tools that they need to do their jobs. The herders are
6 responsible for buying their own clothing.

7 13. Herders usually have their own cell phones, so we provide a prepaid
8 calling card. Because cell coverage in this corner of the state is somewhat limited,
9 we also have a camp tender check on herders every five days.

10 14. The foregoing is true and made under penalty of perjury under the
11 law of the State of Nevada.
12
13

DATED: March 15, 2021

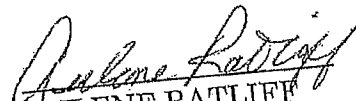
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15
16 
17 AULENE RATLIFF
18
19
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21
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28

EXHIBIT 40

FILED UNDER SEAL

EXHIBIT 40

RA 02002

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

17 ABEL CANTARO CASTILLO on behalf
18 of himself and those similarly situated,

19 Plaintiff,

20 v.

21 WESTERN RANGE ASSOCIATION,

22 Defendant

Case No.: 3:16-cv-00237-RCJ-CLB

**DECLARATION OF KRISTOFOR
LEINASSAR**

23
24
25 1. I am a shareholder and Officer of FIM Corp. (FIM), a ranching and
26 livestock corporation headquartered in Smith Valley, Lyon County, Nevada.
27
28

1 2. FIM is a sheep operation which grazes sheep on the high deserts of
2 Nevada and the Eastern Sierras. We employ temporary, non-immigrant guest
3 workers pursuant to the H-2A program. Western Range Association administers
4 many aspects of member participation in the H-2A program. Our ranch is a member
5 of Western Range Association.

6 3. FIM employs six to nine H2A workers at a time, depending on the
7 season. During the fall and winter, we typically have about 6 guest workers. In Spring
8 and Summer, we typically have nine.

9 4. Western Range Association handles all the paperwork involved in
10 obtaining H-2A herders for our ranch, including filing Form 790 (job clearance order),
11 Form 9142/9142A (application for certification), and INS Form I-192 (visa
12 application). WRA also arranges travel between herders' home country and the
13 United States. Most of our herders are either returning employees or herders referred
14 by existing employees.

15 5. I have reviewed our payroll records for the past three years, which
16 records the Federal Department of Labor and the Nevada Labor Commissioner
17 require us to retain. Over the years for which we have records, we paid the herders a
18 monthly salary, in bi-weekly installments, as required by the Federal Department of
19 Labor, Wage and Hour Division, and the Nevada State Workforce Authority (SWA),
20 (DETR) for labor certification.

21 6. Our payroll records for 2020 are attached hereto as **Exhibit 1**. Our
22 payroll records for 2019 are attached hereto as **Exhibit 2**. Our payroll records for
23 2018 are attached hereto as **Exhibit 3**.

1 7. Prior to and during the time for which we have records, it is my
2 recollection that we paid the H-2A range herders a monthly wage rate based upon a
3 directive from the Federal Department of Labor, Wage and Hour Division, that
4 dictates wages and hours for each state in which H-2A range herders are employed,
5 including Nevada. It is my understanding the Department of labor refers to this rate
6 as the AEWR.

7 8. We have always used the DOL's AEWR as the base rate of pay which
8 we pay to my H2A employees. Due to extenuating circumstances, a herder may work
9 more than an eight hour work day and is compensated for additional time.

10 9. During January, February, and March, our herders are grazing sheep
11 on a mix of public desert lands in lower elevations and on alfalfa stubble in Mason
12 and Smith Valleys. During January and February, the workers typically work 35 to 40
13 hours per week. The tasks they perform during this time period including herding
14 sheep, providing protection from predators, watering sheep, hauling water, feeding
15 sheep, treating the herd for illness or injury as necessary, which may include
16 administering veterinary supplies, and assisting in the process of getting the sheep
17 shorn.
18

19 10. In March and April, when the ewes begin to drop lambs, the herders
20 typically work approximately 45 - 50 hours per week. All lambing is done in lambing
21 sheds located on the home ranch. After the ewes lamb, the sheep are marked and
22 separated into bands of 600 to 1000. During this time, the herders are not on the
23 range, but remain on the ranch in fixed housing certified by the State of Nevada.
24
25
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11. In May and June, the sheep continue to graze on the desert in lower valleys, and we begin moving them to high country grazing allotments on the Eastern slope of the Sierra Nevada. Again, during this time, the herders job duties include herding sheep, providing protection from predators, watering sheep, hauling water, feeding sheep, treating the herd for illness or injury as necessary, which may include the administration of other veterinary supplies.

12. In July through mid-September, the sheep are on the summer range. During this time, the herders work between 40 and 50 hours per week. Their duties are similar to the sheep herding duties in the other months: herding sheep, providing protection from predators, watering sheep, hauling water, feeding sheep, treating the herd for illness or injury as necessary, etc. In addition, during this time, the lambs are weened and separated from ewes, and lambs are sold and shipped. Routine annual culling and working/ treating the flock occur during this time, and winter bands are prepared for winter grazing.

13. During the summer, we graze sheep on our allotments. We do not keep any records that reflect where the sheep are on a daily basis.

14. From October to December, the sheep move to the winter ranges, grazing in the desert valleys and on alfalfa stubble. Rams are placed into the flock to breed sheep, and the sheep are grouped into the winter bands. During this time period, the herders work approximately 35 hours per week.

15. We provide the herders with room and board. When the herders are working on the home ranch, they have a kitchen facility to prepare meals. While on

1 the ranch, the herders live in fixed housing with individual rooms for each herder.

2 This fixed housing is inspected annually by the State of Nevada.

3 16. When the herders are on the range during the winter months, they live
4 in camp trailers that are adequately heated. During the summer months, they live in
5 sheep camps equipped with heavy duty tents and adequate camp supplies. During
6 the summer months, a camp tender visits every four to seven days to bring groceries
7 and supplies. Attached hereto as **Exhibit 4** is a list of the type of groceries that we
8 provide to herders on the range.
9

10 17. The herders are also provided a burro and dogs to act as guard dogs
11 and herding dogs. However, the herders also are provided with a rifle for protection
12 from predators. If the herders report significant incidents of predation (such as a
13 mountain lion, which may kill multiple lambs in a night,) we will engage an
14 independent contractor for predator control.
15

16 18. We also provide the sheep herders with the tools they need, including a
17 sheep hook, shovel, knives, veterinary supplies, camp supplies, and a cell phone.

18 19. In addition, we provide transportation to and from town for personal
19 needs such as doctor and dentist appointments, banking, etc.

20 20. The foregoing is true and made under penalty of perjury under the law
21 of the State of Nevada.
22

23 DATED: March 15, 2021

24 
25 KRISTOFOR LEINASSAR
26
27
28

EXHIBIT 41

FILED UNDER SEAL

EXHIBIT 41

RA 02008

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16 Attorneys for Third Party Ranches

17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA

19 *****

20 ABEL CANTARO CASTILLO on
21 behalf of himself and those similarly
22 situated,

23 Plaintiff,

24 v.

25 WESTERN RANGE ASSOCIATION,

26 Defendant

27 Case No.: 3:16-cv-00237-RCJ-CLB

28 **DECLARATION OF PAULINE
INCHAUSPE**

1 I am an owner and officer of Silver Creek Ranch, Inc. ("Silver
Creek") Silver Creek is a sheep producer based near Austin, Nevada. Our sheep
graze almost exclusively on federal grazing allotments in Central Nevada. Last
year, for the first time, I pastured sheep on alfalfa stubble near Fallon, Nevada
for about one month in the fall.