

IN THE SUPREME COURT OF THE STATE OF NEVADA

ABEL CÁNTARO CASTILLO,

Appellant,

vs.

WESTERN RANGE ASSOCIATION,

Respondent.

Electronically Filed
No. 85926
Jun 26 2023 06:18 PM
Elizabeth A. Brown
Clerk of Supreme Court

RESPONDENT WESTERN RANGE ASSOCIATION'S
APPENDIX VOLUME 6, PART 1

ELLEN JEAN WINOGRAD, ESQ.

Nevada State Bar No. 815

JOSE TAFOYA, ESQ.

Nevada State Bar No. 16011

WOODBURN AND WEDGE

6100 Neil Road, Suite 500

Reno, Nevada 89511

Tel: 775-688-3000

Fax: 775-688-3088

ewinograd@woodburnandwedge.com

jtafoya@woodburnandwedge.com

ANTHONY HALL, ESQ.

Nevada State Bar No. 5977

JONATHAN MCGUIRE, ESQ.

Nevada State Bar No. 15280

SIMONS HALL JOHNSTON, P.C.

690 Sierra Rose Drive

Reno, Nevada 89511

(775) 785-0088

ahall@shjnevada.com

jmcguire@shjnevada.com

ATTORNEYS FOR RESPONDENT
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

Date	ECF	Document	Volume	Page Numbers
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 38

SPECIAL PROCEDURES

LABOR CERTIFICATION PROCESS FOR

SHEEPHERDERS AND GOATHERDERS

UNDER

THE H-2A PROGRAM

Part I: Procedures Applicable to All Sheepherder and Goatherder Applications

Except as otherwise provided for in these special procedures, the basic H-2A regulations at 20 C.F.R. Part 655, Subpart B, and the H-2A operating guidelines in ETA Handbook No. 398 apply to sheepherder applications. These procedures apply as well to goatherders attending goats grazing on the range, and except as otherwise provided, references to sheep apply to goats as well. They do not apply to sheep and goat ranch hands who would be classified as "Farmworker, Livestock," 410.664-010 (DOT)

A. Filing of Applications

The filing procedures in 20 C.F.R. § 655.101 apply to an application which is being submitted for the purpose of certifying a job opportunity which is vacant, (an "initial" certification), and to an application being submitted for the purpose of "renewing" a certification for a position which is encumbered by a nonimmigrant foreign worker completing the first or second year of a planned 3-year work period with an employer (a "renewal" certification).

Exception: The filing procedure for the Western Range Association is an exception to this process in that "master" applications and job orders are used. See Part II, Section C.

B. Contents of Job Offers to U.S. and Foreign Workers

1. Job Specifications

As a general rule, the job specifications in Item No. 13 on the ETA 750 and Item No.11 on the Form ETA-790 should be based on the description in the Dictionary of Occupational Titles (D.O.T.) for "sheepherder (agric.)," 410.687-022 and "goatherder (agric.)," 410-687-014. Based on current practices in the industry, the following would be the standard job description:

Attends sheep and/or goat flock grazing on range or pasture: Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. May examine animals for signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking and shearing. May feed animals supplementary feed. May perform other farm or ranch chores related to the production and husbandry of sheep and/or goats on an incidental basis.

Employers who wish to supplement this description with additional duties which are required due to business necessity may do so on a case-by-case basis, with the review and approval of the Regional Office. In addition, Regional Offices may amplify this job description if it is believed

additional information, such as size of flocks (open range bands of sheep are often 1,000 head and up), necessity to use pack and saddle horses to reach range, and climatic conditions, is needed in order to provide a more comprehensive picture for recruitment purposes.

2. Hours

The description of anticipated hours of work in Item No. 9 on ETA-790 must show "on call for up to 24 hours per day, 7 days per week." This will exempt employers from those requirements in 20 C.F.R. § 655.102(b) (7) and (8) which require the recording and reporting of hours offered and worked.

3. Experience

The job offer may specify that applicants possess at least 1 - 3 months experience as sheepherders or in similar occupations involving the range tending and production of livestock. This is consistent with "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles," Part A. It is acceptable for job offers to state that one month summer herding and one month winter herding experience is desirable, but this cannot be required.

4. References

An H-2A employer may require an applicant to provide the name, address, and telephone number of a previous employer or other qualified individual who can serve as a reference about an applicant's experience in attending sheep or goats. However, a requesting employer's difficulty or delays in contacting a previous employer or other reference will not be considered a legitimate reason for deferring a decision on hiring or refusing to hire an applicant who is otherwise considered qualified and available, unless the applicant provided an inaccurate or falsified name, address or telephone number of a previous reference. Applicants who provide satisfactory reference information will be considered available for purposes of making a labor certification determination.

5. Period of Employment and Worker Contract

The total period of employment (Item No. 5 on Form ETA-790) must be for less than 1 year. The Regional Office cannot grant an H-2A labor certification for a period of time longer than 1 year minus 1 day.

Each sheepherder (goatherder) employer must offer all domestic hired sheepherders (goatherders) a contract which has a duration of employment period identical to the one on the employer's job order which the Regional Office used for labor certification determination purposes, unless the employer chooses to utilize the job order itself for this purpose, as the regulations permit. Employers may, however, negotiate a longer-term contract with U.S. workers after the U.S. workers arrive at the job site, provided that all the other terms and conditions in the job order are

not changed without prior approval from the Regional Office.

When a longer term contract is negotiated with a U.S. worker, the employer is not relieved of the responsibility for reimbursement to the worker for travel and subsistence expenses incurred in getting to the job site which were advanced by the employer and subsequently withheld from the worker's pay until 50% of the original contract period elapsed. These payments must be made to the U.S. worker at the 50% completion point of the original period of employment (about 6 months). The employer also is responsible for "return" transportation and subsistence expenses if the U.S. worker successfully fulfills his/her obligations under the original terms of employment for less than 1 year. However, such payment does not actually have to be made to the U.S. worker until the worker and the employer sever their employer/employee relationship, which will occur at a point in time subsequent to the end of the original period of employment when a longer term contract is negotiated. Successful completion of the "original" contract or job order entitles the worker to return transportation and subsistence regardless of performance under a "renewal" or extended contract.

Employers may negotiate longer term contracts (up to 3 years) with foreign workers provided that any contracts of a year or longer are expressly conditioned upon renewal of certification by DOL. In the event certification renewal is not obtained, the contract will be construed as being effective for the period of the initial certification, and the employer is liable for return transportation and subsistence after the worker completes employment for the initial certification period. The 3/4 guarantee for individual employers is based on the 1 year contract, as is the requirement for transportation reimbursement at 50% of the contract period.

Shepherd (goatherder) employers (except for WRA members) must be able to make available a copy of each worker/employer contract or the job order itself, for inspection by Employment Standards Administration, Wage and Hour compliance officers responsible for enforcing contractual obligation aspects of the H-2A program.

6. Wages

Employers requesting H-2A certification for shepherders and goatherders must offer U.S. and foreign workers, as a minimum the highest of the following: the prevailing wage rate for the occupation in the State as determined by the SESA prevailing wage survey and verified by the National Office, or a special monthly Adverse Effect Wage Rate (AEWR) established by the National Office, or the legal federal or state minimum wage rate. Workers must be paid twice monthly in accordance with the frequency of pay requirement at 20 C.F.R. § 655.102(b) (10), unless the employer/employee mutually agree to a monthly payment arrangement, and this is reflected in the contract. Employers may offer and pay wages higher than the established minimum depending upon experience and longevity as long as the same wage levels are offered to both foreign and U.S. workers.

Procedures for Setting Wages

SESAs should conduct prevailing wage surveys and submit them to the National Office by May 15th each year. The National Office will review and verify the findings, and communicate them to the Regional Offices by June 1st. The Regional Offices will publicize the new rates and send copies to the Western Range Association, Mountain Plains Association, and independent ranchers who participate in the H-2A program immediately upon receipt. The rates will become effective July 1st.

Prevailing wage surveys conducted by SESAs should be performed in accordance with the procedures set forth in the Forms Preparation Handbook, ETA Handbook No. 385, Pages 1-111 through 1-143, except that the SESA should not devote time distinguishing between In-State and Inter-State workers. Since the shepherd occupation is a year round job, all herders can legitimately be considered In-State after 6 months on the job and attempts to distinguish between In-State and Inter-State are largely artificial. If the SESA gets specific information that appropriately characterizes a herder as Inter-State, such herder should be listed in Column IV of the ETA 232. Otherwise, all herders should be listed in Column III.

SESAs should prepare the ETA-232 Report (wage surveys) on all domestic workers included in the survey according to ETA Handbook No. 385 instructions. A summary data sheet should be attached to the ETA-232 Report showing the number of domestic workers listed in Section 4, Columns II, III and IV on the ETA-232 form who have been reported by survey respondents or otherwise determined by the SESA to have received specific benefits, free housing and/or free board. This must be done for each separate wage rate listed on separate lines in Section 4, Column I. This will be used by the National Office in connection with the establishment of prevailing, common and normal practices which apply both to H-2A and non-criteria Intra- and Inter-State Orders.

For example, a completed ETA-232 form might show the following array:

<u>RATE</u>	<u>NO. OF U.S. WORKERS</u>		
	TOTAL	INSTATE	INTERSTATE
I	II	III	IV
TOTAL	26	23	3
\$1,000 Month	1	0	1
950 Month	1	0	1
800 Month	2	1	1
750 Month	9	9	0
725 Month	3	3	0
700 Month	1	1	0
675 Month	2	2	0
650 Month	7	7	0

In the proceeding example, an acceptable summary attachment might show the following:

BENEFITS PROVIDED TO WORKERS

SUMMARY	TOTAL WORKERS	NO-COST HOUSING	FREE BOARD	OTHER BENEFITS
Wage Rate	26	23	22	
\$1,000 Month	1	0	0	
950 Month	1	0	0	
800 Month	2	1	1	
750 Month	9	9	9	
725 Month	3	3	3	
700 Month	1	1	1	
675 Month	2	2	1	
650 Month	7	7	7	

In the above example, the correct wage determination would be \$750 a month in accordance with the 51 percent rule as outlined in the ETA Handbook 385, page 1-117.

In most instances, the results of the State prevailing wage survey will be used to establish the State prevailing wage. The only exception to this rule will be cases where modifications to ETA Handbook No. 385 procedures are necessary to compensate for inadequate sample sizes. In the event of inadequate sample sizes, as determined by the National and Regional Offices, every attempt will be made to establish a prevailing wage by using other comparable information, e.g., utilizing data from adjoining areas or States, merging sheepherder (goatherder) data from several States or using past survey data for sheepherders (goatherder) in that State. If inadequate sample sizes cannot be compensated through such practice (no relevant data in an adjoining wage reporting area or no relevant data in the previous year), then consideration should be given to merging sheepherder (goatherder) data across States to create regional prevailing wages or to surveys of comparable occupations in the same State. When regional prevailing wages are contemplated, consideration may be given to the regional groupings of States used by the U.S. Department of Agriculture when it conducts its quarterly farm wage surveys.

The determination of legal status may be affected by advising the survey respondent providing data to distinguish between those workers for whom the Form I-9 indicates they are U.S. citizens, permanent legal residents, or the recipient of temporary legal work authorization (other than an H-2A visa). (Note: It is not necessary for the survey interviewer to actually inspect the Form I-9.) If a mailed questionnaire is used to collect data, it must contain such instructions regarding the worker's legal status. Any worker personally interviewed to obtain data must similarly fall within the covered categories. However, in no event should survey respondents or workers be asked by SESA staff to present any documentation to support a claim of legal work status.

7. Board

All H-2A sheepherder (goatherder) employers must offer their U.S. and foreign workers free food. Board arrangements may involve the provision of three prepared meals a day when workers are in camp or free and convenient cooking facilities and provision of food for the workers to prepare themselves while in camp or on the range.

8. Positive Recruitment Plan

All sheepherder (goatherder) employers are exempt from the requirement to submit a positive recruitment plan at 20 C.F.R. § 655.102(d). However, the Regional Office, with National Office concurrence, may require special positive recruitment efforts in accordance with 20 C.F.R. § 655.105(a) if it is determined that there are a significant number of able and qualified U.S. workers, who, if recruited, would likely be willing to make themselves available for work at the time and place needed.

9. Advance Transportation and Subsistence Costs

All sheepherder (goatherder) employers must offer to provide advance transportation and

subsistence costs to workers being recruited. Determinations on advance transportation and subsistence matters shall be made in accordance with 20 C.F.R. § 655.102(b) (5).

10. Housing

All sheepherder (goatherder) housing is governed by the procedures presented in Part III.

11. H-2A Requirements for All Employers

All sheepherder (goatherder) employers must comply with the H-2A regulations provisions regarding the payment of a fee for granted certifications (20 C.F.R. § 655.103(h)) and proof of workers compensation or comparable insurance (20 C.F.R. § 102(b) (2)). The fee payment requirement applies to "renewal" as well as initial applications.

C. Regional Office Certification Determinations

The Regional Office may render a certification determination on sheepherder (goatherder) applications earlier than the normal **30** days before date of need deadline for such determinations as prescribed in the H-2A regulations. In exercising this discretion, the Regional Office will take into consideration past and continuing recruitment efforts and SESA-provided information (general or specific) on U.S. worker availability.

Part II: Procedures Applicable Only to Western Range Association (WRA) Applications

A. WRA Status

The WRA is an association of sheep ranchers which acts as a joint employer for H-2A program purposes with its rancher members. It represents the majority of employers of sheepherders who participate in the H-2A program. The WRA has provided appropriate Regional Offices with a statement setting forth details of its joint employer association relationship with its members, including the specific tasks and responsibilities it performs and assumes on behalf of the individual rancher members. The WRA operates as a joint employer solely for H-2A program purposes.

Regional Offices which have need for clarification of the role of the WRA should contact the WRA directly by letter or telephone. The address and telephone number is:

Western Range Association
6060 Sunrise Vista Drive, Suite 2400
Citrus Heights, California 95610-7057
(916) 962-1500

B. Advertising

The WRA will satisfy the advertising requirements of 20 C.F.R. § 655.103(d) (2) by placing advertisements once each quarter of the calendar year in newspapers of general circulation or trade journals in areas that the Regional Office determines to be potential sources of individuals interested in sheepherder jobs. The WRA may also conduct radio advertising in areas determined by the Regional Office.

At least once a year, in accordance with a schedule to be established, the WRA will submit a plan that sets forth the advertising agenda for the next year. This plan will be reviewed for sufficiency by the Regional Office. The Regional Office has the discretion to request additional or other methods of advertising if the Certifying Officer determines, based on his/her knowledge of the labor market, that U.S. workers are available. The Regional Office, upon receipt of the initial application, will assess the advertising plan to ascertain if the advertising agenda has been followed.

In the event the Regional Office and the WRA are not able to agree on the adequacy of the advertising plan, the WRA may request the National Office to intervene and resolve any disputes. Such requests must be in writing and be addressed to the Administrator, U.S. Department of Labor, Office of Workforce Security. The decision of the Administrator in such matters will be binding on the parties.

Advertisements shall generally conform to the language in the following format:

Range Shepherders (some experience needed). Immediate Openings Available. Attends sheep grazing on range or pasture. Herds sheep using trained dogs. Guards flock from predators and from eating poisonous plants. May examine animals for signs of illness and administer vaccines, medications and insecticides. May assist in lambing, docking and shearing. May perform other ranch duties incidental to goat/sheep production. Large flocks with single/pair herder. Free food, housing, tools, supplies and equipment provided. May be on call 24 hours per day, 7-days per week. Minimum 11-month employment. Employment for 3/4 of workdays guaranteed. Workers compensation provided. Transportation to job and subsistence provided; deducted from wages until 50% of employment contract completed, then paid to worker. Return transportation provided at end of employment contract. A reference is required. Employment available in several Western States including _____ (States) _____. Minimum salary varies according to State, from _____ to _____ per month. Contact (Local Office), (Phone No.) _____ or your nearest local office of the _____ (SESA) _____.

C. Year Round, Open Job Orders

Because of the historic shortage of domestic shepherders, the WRA has agreed to place with its rancher members any qualified U.S. worker who applies for a WRA job opening at any time of the year that such a qualified worker applies for shepherding employment. An open job order will be filed with Regional Offices and SESAs for this purpose.

The WRA will prepare and submit a "master" job order (Form ETA-790) to appropriate Regional Offices and the appropriate centralized H-2A processing location within the state of intended employment once each calendar year in accordance with a schedule to be established. This "master" job order will comply with all the requirements of 20 C.F.R. Part 653, Subpart F, and 20 C.F.R. Part 655, Subpart B (unless otherwise provided for in this document). "Master" orders should also conform to the guidelines in the H-2A Program Handbook, ETA No. 398, P. 1-9, and have as attachments names, addresses and phone numbers of all individual rancher members of the WRA and rancher-specific job information, e.g., number of openings; directions to ranch headquarters location; and estimated dates of need.

After these "master" orders are approved by the Regional Office, they will be distributed to all appropriate SESA local offices determined jointly by the Regional Office and the SESAs to be potential applicant holding offices. A copy of the approved "master" order will be returned to the WRA by the Regional Office. This procedure will be considered to comply with agricultural clearance order requirements at 20 C.F.R, Part 653, Subpart F, for WRA shepherd jobs only. If an interested applicant requests referral to a shepherding job from a local office where he/she is registered, and the WRA "master" order and attachments are not available at that office, that local office should contact the State office to secure a copy of the order before a referral is made.

The WRA must submit an ETA 750 form simultaneously to the RA and the centralized H-2A processing location within the state of intended employment no later than 45 days before each rancher's date of need setting forth the fact that a certification determination is requested no later than 30 days before the date of need for the specific ranchers. This will generate Regional Office certification determination activity which may include, at the discretion of the Regional Offices, securing reports from the WRA and SESAs on U.S. worker referrals.

The WRA may amend the "master" application on behalf of "new" employers or to show other changes in employer-specific needs at any time, subject to Regional Office approval.

D. Referral Procedures

A local office which locates and has for referral an available and qualified applicant should place a collect telephone call to the WRA central office at (916) 962-1500. This office will normally be open on weekdays from 8:00 a.m. to 4:30 p.m. Pacific time. The applicant interested in a sheepherder job should be physically present in the local office for interviewing by telephone when such calls to the WRA are made. In the event it is not possible to arrange for a direct conversation between the applicant and the WRA on the initial contact, the local office should schedule a subsequent telephone interview at a time convenient for both parties.

The WRA will conduct a telephone interview with the applicant while the applicant is in the SESA office to verify that the applicant is qualified, willing and available, and to determine if there is a job opening in the geographic area of the applicant's choice. The WRA will have current information on job openings with its specific employer members, and will attempt to the maximum extent possible to place an applicant with a rancher member in the geographic area of his/her choice within 3 working days of the telephone interview.

If the applicant is determined to be qualified and the geographic assignment choice can be accommodated, the WRA, after verbal authorization from the specific employer, will make a hiring commitment for the rancher member who has the job opening in which the applicant will be placed, subject to confirmation of past employment history with an applicant's reference. Failure to verify an applicant's reference is not justifiable cause for refusing to hire a SESA-referred worker, unless false or incorrect reference information is involved. The WRA/applicant telephone interview after SESA screening will satisfy the applicant's interviewing responsibility.

The WRA also may have available information on job openings with non-WRA member sheep ranchers. This information will be made available to the applicant and to the SESA in the event the WRA is not able to readily accommodate the geographic assignment choice of the applicant. However, this will not preclude the applicant from choosing a different geographic area for WRA-member placement purposes or from deferring a job choice decision until an opening in the geographic area of choice becomes available with a WRA-member.

After the matters of geographic location/assignment and reference checks are resolved, the applicant-holding local office will confirm with the WRA that the applicant has been hired and will facilitate the arrangements necessary to ensure that transportation and subsistence are provided in advance to the worker by the WRA. For reporting purposes, the local office confirming the placement will serve as both applicant-holding and order-holding office.

The WRA will provide documentation related to U.S. worker referrals and interviews and the results of such actions to the Regional Office. Information regarding reasons for refusing to hire referred U.S. workers will be provided to the Regional Office as required by the Regional Office Certifying Officer.

At its discretion, the Regional Office may secure U.S. worker referral information for individual rancher certification determination purposes from SESAs. At least once each calendar year, the Regional Office will conduct analyses of SESA referral activity against WRA job openings and compare the information with WRA-supplied information in order to ensure continued program integrity.

When certifications are granted, the Regional Office will issue the certification jointly to both the WRA and to the individual rancher member(s).

E. Transfer of Workers

1. Notifying Local Office

The WRA may transfer a domestic or foreign sheepherder from one rancher-member to another rancher-member, but not to employers who do not belong to the WRA. Such transfers may be made at the WRA's discretion. When a worker objects to a transfer, the WRA will consider the worker's concerns and preferences. However, ultimate refusal on the part of a worker to a transfer may subject the worker to dismissal for a lawful, job-related reason, as provided for in DOL regulations.

In order to ensure that the employer to whom a worker is being transferred has suitable housing to accommodate the worker, the WRA shall notify the local office serving the area of the employer receiving the transferred worker of the planned transfer no less than 7 working days prior to the transfer. This will permit the local office to ascertain the availability and suitability of housing. If suitable housing is not available, the local office shall inform the WRA and the planned transfer shall be put in abeyance until: (1) the housing is determined by the local office to be acceptable; or (2) the WRA effects a transfer to another employer who has suitable housing.

2. Contractual Obligations

The "new" employer assumes the existing obligations of the work contract entered into with the previous employer including a multi-year contract negotiated with the worker, and an amendment

to the existing contract will be made which reflects the new employer/employee relationship and will be on file in WRA's Office. WRA will maintain and make available for inspection a copy of all worker/employer contracts, and individual WRA members are relieved of this responsibility. If the worker is moved to another State with a different wage rate, the established wage rate for the "new" State applies. The WRA will amend the appropriate attachments to the "master" job order in order to reflect any changes in the employer's situation.

Part III: Mobile Housing for Range Shepherders

A. Procedures

In accordance with regulations at 20 C.F.R. § 655.102(b)(1)(ii), standards in this section must be used in determining the adequacy of mobile housing for use on the range. Housing used exclusively at the ranch site is subject to the same standards as those for other agricultural workers at 20 C.F.R. §§ 654.400-654.417, see also 29 C.F.R. § 1910.142.

Both range and ranch site housing may be self-certified by an employer. Individual employers must submit a signed statement with the application for labor certification assuring that the housing is available, is sufficient to accommodate the number of workers being requested, and meets DOL standards.

SESAs must inspect at least one-third of such self-certified housing once a year, and develop a schedule of inspections which ensures that each employer's housing is inspected at least once every 3 years. These inspections may be performed either before or after a request is submitted for foreign shepherders. Before referring a worker who is entitled to such housing, the local office must ensure that the housing is available and has been inspected in accordance with the 3-year schedule. If a SESA determines that an employer's housing does not meet DOL standards, the Certifying Officer may require additional inspections as needed.

B. Mobile Housing Standards

1. Housing Site

Housing sites shall be well drained and free from depressions in which water may stagnate.

2. Water Supply

a. An adequate and convenient supply of water that meets standards of the State health authority shall be provided. The amount of water provided must be enough for normal drinking, cooking, and bathing needs of each worker.

b. Individual drinking cups shall be provided.

C. Excreta and Liquid Waste Disposal

1. Facilities shall be provided and maintained for effective disposal of excreta and liquid waste according to requirements of State health authority or involved Federal agency.

2. If pits are used for the disposal by burying of excreta and liquid waste, they shall be

kept fly-tight when not filled in completely after each use.

D. Housing Structure

1. Housing shall be structurally sound, in good repair, in sanitary condition and shall provide protection to occupants against the elements.
2. Housing, other than tents, shall have flooring constructed of rigid materials easy to clean and so located as to prevent ground and surface water from entering.
3. Each housing unit shall have at least one window which can be opened or skylight opening directly to the outdoors.
4. Tents may be used where terrain and/or land regulations do not permit use of other more substantial mobile housing which provides facilities and protection closer in conformance with the Department's intent.

E. Heating

1. Where the climate in which the housing will be used is such that the safety and health of a sheepherder requires heated living quarters, all such quarters shall have properly installed, operable heating equipment which supplies adequate heat. In considering whether the heating equipment is acceptable, the RA shall first determine if the housing will be located in a National Forest Wilderness as specified in the Wilderness Act (16 U.S.C. §§ 1131-1136). Such a location has a bearing on the type of equipment practicable, or whether any heavy equipment is practicable. For example, Section 4 (c) of the Act (16 U.S.C. § 1133(c)) restricts certain motorized or mechanical transport and certain roads in wilderness areas. The U.S. Forest Service has regulations for this at 36 C.F.R. Part 293.

Aside from the above, other factors to consider in evaluating heating equipment are how severe the weather will be and the kinds of protective clothing and bedding made available to the herder. If the climate in which the housing will be used is mild and not reasonably expected to drop below 50 degrees Fahrenheit continuously for 24-hours, no separate heating equipment is required if proper protective clothing and bedding are available.

2. Any stoves or other sources of heat using combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. Portable electrical heaters may be used, and if approved by Underwriters' Laboratory, kerosene heaters may be used according to manufacturer's instructions.

If a solid or liquid fuel stove is used in a room with wooden or other combustible

flooring, there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.

3. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or stove pipe shall be of fireproof material. A vented metal collar shall be installed around a stovepipe or vent passing through a wall, ceiling, floor or roof.

4. When a heating system has automatic controls, the controls shall be of the type which cuts off the fuel supply when the flame fails or is interrupted or whenever a predetermined safe temperature or pressure is exceeded.

F. Lighting

1. In areas where it is not feasible to provide electrical service to mobile shepherd housing, including tents, lanterns shall be provided (Kerosene wick lights meet the definition of lantern).

2. Lanterns, where used, shall be provided in a minimum ratio of one per occupant of each unit, including tents.

G. Bathing, Laundry and Hand washing. Movable bathing, laundry and hand washing facilities shall be provided when it is not feasible to provide hot and cold water under pressure.

H. Food Storage. When mechanical refrigeration of food is not feasible, the worker must be provided with another means of keeping food fresh and preventing spoilage, such as a butane or propane gas refrigerator. Other proven methods of safeguarding fresh foods, such as salting, are acceptable.

I. Cooking and Eating Facilities

1. When workers or their families are permitted or required to cook in their individual unit, a space shall be provided with adequate lighting and ventilation.

2. Wall surfaces next to all food preparation and cooking areas shall be of nonabsorbent, easy to clean material. Wall surfaces next to cooking areas shall be of fire-resistant material.

J. Garbage and Other Refuse

1. Durable, fly-tight, clean containers shall be provided to each housing unit, including tents, for storing garbage and other refuse.

2. Provision shall be made for collecting or burying refuse, which includes garbage, at least twice a week or more often if necessary. Refuse disposal shall conform to Federal, State or local law, whichever applies.

K. Insect and Rodent Control. Appropriate materials, including sprays, must be provided to aid housing occupant in combating insects, rodents and other vermin.

L. Sleeping Facilities Separate sleeping unit shall be provided for each person, except in a family arrangement. Such a unit shall include a comfortable bed, cot or bunk with a clean mattress. When filing an application for certification, the employer may request a variance from the separate sleeping units requirement allow for a second herder to temporarily join the herding operation. The employer must explain why it is impractical to set up a second unit. The second herder must provide his/her individual sleeping bag or bed roll. If this is impractical, the employer must supply a sleeping bag or bed roll.

M. Fire, Safety and First Aid

1. All units in which people sleep or eat shall be constructed and maintained according to applicable State or local fire and safety law.
2. No flammable or volatile liquid or materials shall be stored in or next to room used for living purposes, except for those needed for current household use.
3. Mobile housing units for range use must have a second means of escape. The second egress must be a window which can be easily opened, a hatch or other provision. It must be demonstrated that the herder would be able to crawl through the second egress without difficulty.
4. Tents are not required to have a second means of escape, except when large tents with walls of rigid material are used. A heater may be used in a tent if the heater is approved by a testing service, such as Underwriters' Laboratory, and if the tent is fireproofed.
5. Adequate fire extinguishers in good working condition and first aid kits shall be provided in the mobile housing.

EXHIBIT 39

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
	CORRESPONDENCE SYMBOL OFLC
	DATE June 14, 2011

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 32-10

TO: CHICAGO NATIONAL PROCESSING CENTER PROGRAM DIRECTOR
STATE WORKFORCE AGENCY ADMINISTRATORS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Special Procedures: Labor Certification Process for Employers Engaged in
Sheepherding and Goatherding Occupations under the H-2A Program

- 1. Purpose.** To transmit special procedures, as updated to reflect regulatory and administrative changes in the H-2A Program, for employers who apply to the Department of Labor (Department) to obtain labor certifications to hire temporary agricultural foreign workers to perform sheepherding and/or goatherding activities.
- 2. References.** 20 CFR Part 655, Subpart B; 20 CFR Part 653, Subparts B and F; and 20 CFR Part 654, Subpart E; and Field Memorandum (FM) 24-01, Special Procedures: Labor Certification for Sheepherders and Goatherders under the H-2A Program; FM 74-89, Special Procedures: Labor Certification for Sheepherders under the H-2A Program; and ETA Handbook No. 385.
- 3. Background.** Historically, employers in several western states have utilized the provisions of the Immigration and Nationality Act (INA), 8 U.S.C. 1101, et seq., to import nonimmigrant foreign workers to work as sheepherders and goatherders in conjunction with their ranching activities.

The unique occupational characteristics of sheepherding (spending extended periods of time with grazing herds of sheep in isolated mountainous terrain; being on call to protect flocks from predators 24 hours a day, 7 days a week) have been recognized by the Department, the United States Citizenship and Immigration Service (USCIS), and Congress as significant factors in limiting the number of U.S. workers who might be available for and capable of performing these jobs.

During the early 1950's, Congress enacted three special laws authorizing the admission of a certain number of "foreign workers skilled in sheepherding" for many of these jobs. Special privileges were granted with respect to the issuance of visas which enabled the foreign

RESCISSIONS FM 24-01	EXPIRATION DATE Continuing
--------------------------------	--------------------------------------

workers to gain entry into the U.S. on an expedited basis, provided that they were otherwise admissible into the U.S. for permanent residence.

During 1955 and 1956, the House Judiciary Committee (Committee), in response to requests from sheep ranchers, undertook an investigation to examine allegations that a number of foreign sheepherders and goatherders admitted under the special laws were leaving sheepherding shortly after arriving in the U.S., and were instead employed in other industries and occupations.

The Committee's investigation substantiated many of these allegations. In a report issued on February 14, 1957, the Committee stated that American employers and the sheep raising industry had not fully benefitted from the services of foreign sheepherders, as was intended by the special legislation. The Committee recommended that no additional special legislation be enacted to admit foreign sheepherders and also that the future importation of foreign sheepherders be governed by the H-2 temporary worker provisions of the INA and administered by the Immigration and Naturalization Service (INS) (now, USCIS) and the Department. H.R. Rep. No. 67, 85th Cong., 1st Session (1957).

Following the issuance of the Committee's report, Congress permitted the special legislation to expire. No additional legislation for sheepherders has been enacted to date. The labor certification program for temporary foreign sheepherders and goatherders was implemented consistent with the H-2 program administered by INS (now, USCIS) and the Department.

In 1986, Congress passed the Immigration Reform and Control Act of 1986 (IRCA) which amended the INA and established the H-2A Program. In 1987, the Department issued an Interim Final Rule, promulgating the first H-2A regulations (the 1987 regulations) in accordance with IRCA. 54 FR 20496 (Jun. 1, 1987). The 1987 regulations provided for the administration of the H-2A Program by the Employment and Training Administration (ETA) Regional Administrators, and instituted procedures to offset the adverse effects of immigration on U.S. workers, procedures which did not exist until that time. Although neither the IRCA amendments nor the INA specifically address the employment of nonimmigrant foreign sheepherders and goatherders in the U.S., the Department's 1987 regulations established special procedures for certain occupations, as long as they did not deviate from the Secretary's statutory responsibility to determine U.S. worker availability and to make a determination as to the adverse effect of foreign workers on the wages and working conditions of U.S. workers.

After the promulgation of the 1987 regulations, the Department clarified precisely how and when certain new H-2A requirements and procedures would be applied to the sheepherder program. Subsequently, in 1989, the Department established special procedures for sheepherders and goatherders through FM 74-89. Due to the evolution of the H-2A Program, these special procedures were rescinded and new special procedures established by FM 24-01, which has been in use since August 1, 2001.

The 1987 regulations remained in effect, largely unchanged, until the Department promulgated new H-2A regulations on December 18, 2008. 73 FR 77110 (Dec. 18, 2008) (the 2008 Final Rule). The 2008 Final Rule implemented an attestation-based application

process and made several substantive changes to the program, but retained the special procedures concept. After the Department determined that the 2008 Final Rule did not meet H-2A Program policy objectives, the Department commenced another rulemaking process culminating in the publication of new H-2A regulations on February 12, 2010. 75 FR 6884 (Feb. 12, 2010) (the 2010 Final Rule). The 2010 Final Rule implements changes that affect special procedures for the occupations involved in sheep and goat herding. Section 20 CFR 655.102 (as amended by the 2010 Final Rule) provides the Office of Foreign Labor Certification (OFLC) Administrator with the authority to establish, continue, revise or revoke special procedures for processing H-2A applications, including those for sheepherders and goatherders, so long as those procedures do not deviate from statutory requirements under the INA.

This Training and Employment Guidance Letter (TEGL) updates the special procedures previously established for applications for occupations involved in sheepherding and goatherding to reflect organizational changes, in addition to new regulatory and policy objectives. It rescinds and replaces previous guidance disseminated under FM 24-01, Special Procedures: Labor Certification for Sheepherders and Goatherders Under the H-2A Program.

4. **Special Procedures.** Attachment A outlines special procedures for labor certification applications submitted by employers for occupations in sheepherding and goatherding under the H-2A Program. Attachment B outlines standards for mobile housing applicable to occupations in sheepherding and goatherding under the H-2A Program. Unless otherwise specified in Attachments A and B, applications submitted for these occupations must comply with the requirements for processing H-2A applications contained at 20 CFR Part 655, Subpart B. Similarly, unless otherwise specified, job orders submitted for these occupations must comply with the requirements of 20 CFR Parts 655, Subpart B, 653 Subparts B and F, and 654.
5. **Action Requested.** The Chicago National Processing Center (Chicago NPC) Program Director and the State Workforce Agency (SWA) Administrators are directed to immediately provide copies of these special procedures to all staff involved with processing H-2A labor certification applications for sheepherders and/or goatherders. The revised special procedures will apply to all employer applications with a start date of need on or after October 1, 2011.
6. **Inquiries.** Questions from SWA staff should be directed to the Chicago NPC. Questions from the Chicago NPC staff should be directed to the Office of Foreign Labor Certification (OFLC) National Office.
7. **Attachments.**

Attachment A - Special Procedures: Labor Certification Process for Applications for Sheepherding and Goatherding Occupations under the H-2A Program

Attachment B - Standards for Mobile Housing Applicable to Sheepherders and Goatherders

ATTACHMENT A

Special Procedures: Labor Certification Process for Applications for Sheepherding and Goatherding Occupations under the H-2A Program

This document outlines special procedures for applications submitted by employers for sheepherding and/or goatherding occupations under the H-2A Program. Unless otherwise specified in this attachment, applications submitted for these occupations must comply with the requirements for processing H-2A applications outlined in 20 CFR Part 655, Subpart B. Similarly, unless otherwise specified, job orders submitted for these occupations must comply with the requirements of 20 CFR Part 655, Subpart B, 20 CFR Part 653, Subparts B and F, and 20 CFR Part 654.

I. PREFILING PROCEDURES

- A. Offered Wage Rate (20 CFR 655.120(a)). The Department is continuing a special variance to the offered wage rate requirements contained at 20 CFR 655.120(a). Because occupations involving sheepherding and/or goatherding are characterized by other than a reasonably regular workday or workweek, an employer must agree to offer, advertise in the course of its recruitment, and pay the monthly, weekly, or semi-monthly prevailing wage established by the OFLC Administrator for each state listed in an approved itinerary. As a condition of receiving an H-2A labor certification, an employer must comply with all applicable Federal, state and local employment-related laws and regulations, including the mandatory state minimum wage rates for the occupation.

In establishing the prevailing wage rate for sheepherding and/or goatherding, the Department uses findings from prevailing wage surveys conducted by SWAs in accordance with the procedures in the ETA Handbook No. 385, and consistent with the wage setting procedures historically applied to sheepherder occupations in the Western states. SWAs are required to transmit wage rate findings covering sheepherding and/or goatherding to the OFLC between May 1st and June 1st of each calendar year. Following a review of the SWA wage rate findings, the OFLC will publish the new agricultural prevailing wage rates in a Federal Register notice with an immediate effective date.

In circumstances where a SWA is unable to produce a wage rate finding for an occupation, due to an inadequate sample size or another valid reason, the wage setting procedures allow the OFLC to issue a prevailing wage rate for that state based on the wage rate findings submitted by an adjoining or proximate SWA for the same or similar agricultural activities to ensure that the wages of similarly employed workers are not adversely affected.

If the OFLC cannot establish a wage rate by using comparable survey data from an adjoining or proximate SWA, the OFLC will give consideration to aggregating survey data for sheepherding and/or goatherding activities across states to create regional prevailing wage rates. When regional prevailing wages are considered, the OFLC may use the U.S. Department of Agriculture's (USDA) production or farm resource regions or other groupings of states used to conduct its Farm Labor Survey.

B. Job Orders and SWA Review (20 CFR 655.121).

1. Basic Process. An employer engaged in sheepherding and/or goatherding activities is allowed to submit a single Agricultural and Food Processing Clearance Order, ETA Form 790 (job order), Office of Management and Budget (OMB) control number 1205-0134, and all appropriate attachments covering a planned itinerary of work in multiple states. If the job opportunity is located in more than one state, either within the same area of intended employment or multiple areas of intended employment, the employer must submit the job order and all attachments (including a detailed itinerary) to the SWA having jurisdiction over the anticipated worksite(s) where the work is expected to begin. The employer must submit the job order no more than 75 calendar days and no less than 60 calendar days before the employer's first date of need.

Unless otherwise specified in these special procedures, the job order submitted to the SWA must satisfy the requirements for agricultural clearance orders outlined in 20 CFR Part 653, subpart F and the requirements set forth in 20 CFR 655.122. The SWA will review the job order for regulatory compliance and will work with the employer to address any noted deficiencies. Upon clearance of the job order, the SWA must promptly place the job order in intrastate clearance and commence recruitment of U.S. workers.

The job order shall remain active until 50 percent of the work contract period has elapsed for all SWAs in possession of the employer's job order (including those receiving it in interstate clearance under 20 CFR 655.150), unless otherwise advised by the Chicago NPC.

2. Master Job Orders Filed by Associations. The Department is granting a waiver of the required time period and location(s) of filing job orders prepared by associations acting as a joint employer with its members. Where the job order is being prepared in connection with a future master application, the joint employer association will submit a single "master" job order directly to the Chicago NPC once each calendar year in accordance with a schedule approved by the Chicago NPC. Because of the unique nature of sheepherding and/or goatherding work, and the historic shortage of domestic workers, an association is permitted to file a master job order on behalf of a number of its employer-members in more than two contiguous states as long as (a) the job order remains active on a year-round basis, (b) the job order contains the names, addresses, telephone numbers, and number of openings of each employer and identifying, with as much geographic specificity as possible and for each employer, all of the physical locations, directions, and estimated start and end dates of need where work will be performed, and (c) the association agrees to place with any of its employer-members any qualified U.S. worker who applies for employment.

The Chicago NPC will review the job order for compliance with all regulatory requirements and work with the association to address any deficiencies in a manner that is consistent with 20 CFR 655.140 and 141. Once the job order is determined to meet all regulatory requirements, the Chicago NPC will issue a Notice of Acceptance consistent with 20 CFR 655.143, place a copy of the master job order on the

Department's national electronic job registry, and notify the association and all appropriate SWAs with jurisdiction over the anticipated worksites.

- C. Contents of Job Offers (20 CFR 655.122). Unless otherwise specified in this section, the content of job orders submitted to the SWAs and the Chicago NPC for shepherding and/or goatherding occupations must comply with all of the requirements of 20 CFR Part 655, Subpart B, 653 Subparts B and F, and 20 CFR Part 654.

1. Job duties, qualifications, and requirements.

Job Duties. Based on current industry practice, the SWA may rely on the following standard description of the duties to be performed by shepherders and/or goatherders:

Attends sheep and/or goat flock grazing on the range or pasture. Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. Drenches sheep and/or goats. May examine animals for signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking, and shearing. May perform other farm or ranch chores related to the production and husbandry of sheep and/or goats on an incidental basis.

Any additional job duties must be normal and accepted for the occupation, and the SWA and Chicago NPC have the authority to request supporting documentation substantiating the appropriateness of the duties prior to accepting the job order. Additionally, the SWA or Chicago NPC may request modifications to the job duties if additional information, such as climatic conditions and/or the size of flocks (e.g., open range bands of sheep are often 1,000 heads or more), necessitates the use of pack and saddle horses to reach the range in order to fully apprise U.S. workers of the nature of the work to be performed.

Experience. Due to the unique nature of the work to be performed, the job offer may specify that applicants possess up to 6 months of experience in shepherding or similar occupations involving the range tending or production of livestock covering multiple seasons and may require reference(s) to verify experience in performing these activities. Applicants must provide the name, address, and telephone number of any previous employer being used as a reference. The appropriateness of any other experience requirements must be substantiated by the employer and approved by the Chicago NPC.

Hours. The description of anticipated hours of work must show "on call for up to 24 hours per day, 7 days per week" in the job order. If an application filed for a shepherd or goatherder does not include the requirements of being on call 24 hours per day, 7 days per week, the Chicago NPC may not process the employer's application under the special procedures enumerated in this TEGL, and must instead require compliance with all the requirements of the H-2A regulations outlined in 20 CFR 655, Subpart B.

2. Housing. The employer must state in its job order that sufficient housing will be provided at no cost to H-2A workers and any workers in corresponding employment who are not reasonably able to return to their residence within the same day. Except for long-established standards for mobile housing as set out in Attachment B, all employer-provided housing must comply with requirements set out in 20 CFR 655.122(d) for the entire period of occupancy. An employer whose itinerary requires mobile housing may provide mobile housing to its workers.
3. Workers' compensation. The employer must provide workers' compensation insurance coverage as described in 20 CFR 655.122(e) in all states where sheepherding and/or goatherding work will be performed. Prior to the issuance of the Temporary Labor Certification, the employer must provide the Certifying Officer (CO) with proof of workers' compensation coverage, including the name of the insurance carrier, the insurance policy number, and proof of insurance for the dates of need, or if appropriate, proof of state law coverage for each state where the sheepherding and/or goatherding work will be performed. In the event that the current coverage will expire before the end of the certified work contract period or the insurance statement does not include all of the information required under the regulations at 20 CFR 655.122(e), the employer will be required to supplement its proof of workers' compensation for that state before a final determination is due. Where the employer's coverage will expire before the end of the certified work contract period, the employer may submit as proof of renewed coverage a signed and dated statement or letter showing proof of intent to renew and maintain coverage for the dates of need. The employer must maintain evidence that its workers' compensation was renewed, in the event the Department requests it.
4. Employer-provided items. Due to the remote and unique nature of the work to be performed, the employer must also specify in the job order and provide at no cost to workers an effective means of communicating with persons capable of responding to the worker's needs in case of an emergency. These means are necessary to perform the work and can include, but are not limited to, satellite phones, cell phones, wireless devices, radio transmitters, or other types of electronic communication systems.
5. Meals. Based on long standing practice in the industry, the employer must provide its U.S. and H-2A workers free of charge either three prepared meals a day, when workers are in camp, or free and convenient cooking facilities and provision of food for the workers to prepare their own meals while in camp or on the range.
6. Transportation; daily subsistence. Based on long standing practice in the industry, the employer must advance inbound transportation and subsistence costs to both U.S. and H-2A workers being recruited and extend the same benefit to workers in corresponding employment, consistent with 20 CFR 655.122(h).
7. Earnings records and statements. The employer must keep accurate and adequate records with respect to the workers' earnings and furnish to the worker on or before each payday a statement of earnings. Because the unique circumstances of employing sheepherders and/or goatherders (i.e., on call 24/7 in remote locations) prevent the monitoring and recording of hours actually worked each day as well as the time the worker begins and ends each workday, the employer is exempt from

reporting on these two specific requirements at 20 CFR 655.122(j) and (k). However, all other regulatory requirements related to earnings records and statements apply.

8. Frequency of pay. The employer must state in the job offer the frequency with which the worker will be paid, which must be at least twice monthly or according to the prevailing practice in the area of intended employment, whichever is more frequent. Due to the unique circumstances of employing shearers and/or goat herders, the employer is authorized to pay the worker based on a monthly payment arrangement as long as the worker mutually agrees and the arrangement is reflected in the work contract. Employers must pay wages when due.
9. Period of Employment and Work Contract. The total period of employment (Item No. 9 on ETA Form 790) contained in a job offer must be for no more than one year.

Employers whose original certified period of employment is less than the maximum permissible duration, may negotiate a longer-term contract with an H-2A or a U.S. worker after workers arrive at the job site consistent with 20 CFR 655.170. An extension of the work contract period that is negotiated between the H-2A employer and a worker which would extend the work contract period beyond the 12 months permitted by the Department's H-2A regulations, requires that the employer obtain a new labor certification from the Department.

Short term extensions which do not exceed two weeks may be submitted directly to the Department of Homeland Security for approval. However, the employer must first submit for approval any change in the period of employment to the Chicago NPC, consistent with 20 CFR 655.170, if the change would result in an extension of the work contract period in excess of two weeks.

When a longer term contract is negotiated with a worker, the employer is not relieved of the responsibility for reimbursement to the worker for travel and subsistence expenses incurred in getting to the job site which were advanced by the employer and subsequently withheld from the worker's pay until 50 percent of the original contract period elapsed. These payments must be made at the 50 percent completion point of the original certified period of employment. The employer is also responsible for transportation and subsistence expenses from the place of employment if the worker successfully fulfills his/her obligations under the original certified terms of employment or is terminated without cause and has no subsequent H-2A employment. The employer must provide or pay for the worker's return transportation and subsistence whenever the employment relationship is severed after the completion of the original certified work contract period or where the worker is terminated without cause. Similarly, an employer is not relieved of its obligation to pay for return transportation and subsistence if an H-2A worker is displaced as a result of the employer's compliance with the 50 percent rule. Successful completion of the original certified work contract period or job order entitles the worker to return transportation and subsistence regardless of performance under any short or long-term extension of the contract.

II. APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION FILING PROCEDURES

A. Application Filing Requirements (20 CFR 655.130). An individual employer that desires to apply for temporary employment certification for one or more nonimmigrant foreign workers must file the following documentation with the Chicago NPC no less than 45 calendar days before the employer's date of need:

- ☐ ETA Form 9142 (OMB control number 1205-0466), Application for Temporary Employment Certification, and Appendix A.2;
- ☐ Copy of the ETA Form 790 and all attachments previously submitted to the SWA;
- ☐ A planned itinerary listing the names and contact information of all farmers/ranchers and identifying, with as much geographic specificity as possible and for each farmer/rancher, all of the physical locations and estimated start and end dates of need where work will be performed; and
- ☐ All other required documentation supporting the application.

B. Master Applications Filed by Associations. An association filing as a joint employer may submit a master application on behalf of a number of its employer-members in more than two contiguous States covering multiple start dates of employment as long as the application identifies the names, addresses, telephone numbers, directions to all work locations/itinerary, estimated dates of need, and the number of openings for each employer-member that will employ workers. The association may prepare, sign, and submit the Appendix A.2 on behalf of its members.

An association with a master job order on file with the Chicago NPC is not required to re-submit the ETA Form 790 and all attachments unless the association is requesting modifications. The Chicago NPC will verify that the master job order associated with a master application is available on the national electronic job registry and covers all the employer-members duly named on the ETA Form 9142. Any changes to the master job order and/or application must be reviewed and approved by the Chicago NPC. Any approved modifications to the master job order will be placed on the Department's national electronic job registry and notification provided to the association and all appropriate SWAs with jurisdiction over the anticipated worksites.

For both individual employer applications and master applications, the filing procedures at 20 CFR 655.130 – 655.135 apply to "initial" applications (i.e., where the employer is requesting a labor certification to hire a nonimmigrant foreign worker to fill a vacant position) as well as to "renewal" applications (i.e., where the employer is requesting certification for a position which is already held by a nonimmigrant foreign worker completing the first or second year of a planned 3-year work period with the employer).

III. POST-ACCEPTANCE REQUIREMENTS

A. Interstate clearance of job order. The Chicago NPC Certifying Officer will place a copy of the master job order on the Department's national electronic job registry, and notify the association and all appropriate SWAs with jurisdiction over the anticipated worksites to make available a copy of the master job order on their active files and initiate

recruitment of U.S. workers. This procedure applies to applications filed by an individual employer as well as an association and satisfies the agricultural clearance order requirements at 20 CFR 653, Subpart F.

- B. Newspaper advertisements. Because of the unique nature of sheepherding and/or goatherding work, and the consistent lack of qualified applicants responding to newspaper advertisements, all applications filed by an individual employer and/or an association are exempt from the regulatory requirements at 20 CFR 655.151 to place advertisements in a newspaper of general circulation.
- C. Referrals of U.S. workers. In accordance with 20 CFR 655.155, SWAs may only refer for employment individuals who have been apprised of all the material terms and conditions of employment and have indicated, by accepting referral to the job opportunity, that he or she is qualified, able, willing, and available for employment. For master job orders, the association may accept referrals of U.S. workers, conduct interviews, and make hiring commitments on behalf of its employer-members. In such circumstances, the master job order must clearly explain how applicants will be considered for hire through the association, including the method(s) for contact (e.g., telephone, in person), hours and/or location(s) for conducting interviews, an indication that collect calls will be accepted, and whether referred applicants should report to the nearest local office of the SWA when they arrive in the area of intended employment. Employers who wish to conduct interviews must do so at little or no cost to the worker, in accordance with 20 CFR 655.152(j).

Because of the unique nature of master job orders, the association will need to determine if there is a job opening in the geographic area of the applicant's choice. The association will make every effort to place a qualified applicant with an employer-member in the geographic area of the applicant's choice within 3 working days of the telephone interview. If the applicant is determined to be qualified and the geographic assignment choice can be accommodated, the association, after receiving authorization or confirmation from the specific employer, will make a hiring commitment on behalf of the employer-member who has the job opening to which the applicant will be placed.

The association may also make available to applicants information on job openings with non-association employers, particularly in situations where the association is not able to readily accommodate the applicant's geographic choice of employment. However, receiving such a referral will not preclude the applicant from choosing a different geographic area covering an employer-member or from deferring a decision to accept a job offer until a job opening in the geographic area of choice becomes available with an employer-member. After the matter of geographic location/assignment is resolved, the association will provide notification to the SWA when the applicant has been hired and facilitate the arrangements necessary to ensure that transportation and subsistence are provided in advance to the worker by the association. The association will retain all documentation related to referrals of U.S. workers, interviews and the results of such actions for a period of 3 years and will make all materials related to the recruitment and consideration of U.S. applicants available to the Chicago NPC pursuant to a request for audit as required by 20 CFR 655.180(b).

IV. POST-CERTIFICATION: TRANSFER OF WORKERS

A. Authority

Pursuant to 8 U.S.C. 1188(d)(2), the Department's certification granted to the association may be used for the certified job opportunities of any of its members and such workers may be transferred among its members to perform the services for which the certification was granted. Although a worker may be transferred from one member to another member, the association may not transfer workers to any non-member employer or employer-members not disclosed on the master job order.

The employer must disclose in the job offer that workers may be transferred to any of its certified members and guarantee that workers will be notified at least 7 working days in advance of such transfer. When a worker objects to a transfer, the association will consider the worker's concerns and preferences. However, ultimate refusal on the part of a worker to a transfer may subject the worker to dismissal based on a lawful, job-related reason.

B. Notification to the DOL and SWA

To ensure the employer to whom a worker is being transferred has sufficient housing meeting the applicable standards, the association shall provide written notification to the SWA with jurisdiction over the area of intended employment and the Chicago NPC no less than 7 working days prior to the transfer. Such notification shall describe the details of the transfer, including the number and names of workers and employers affected and housing information. This notification will provide the SWA with time to make a determination regarding the suitability of the housing and, where such a transfer affects the available job openings of the association's employer member(s), allow the SWA and Chicago NPC to make appropriate modifications to the active master job order to reflect any changes in the employer's situation.

If the SWA determines that suitable housing is not available, the SWA shall provide written notification to the association and the Chicago NPC that the planned transfer shall be put in abeyance until the housing is determined by the SWA to be sufficient and meets the applicable standards, or the association agrees to transfer the worker to another employer where the SWA has issued a determination that housing is suitable.

C. Contractual Obligations

The employer who employs the newly transferred worker assumes the existing obligations of the work contract entered into with the previous employer including any multi-year contract negotiated with the worker. The association is responsible for maintaining and making available for inspection a copy of all work contracts for its employer-members. Where the worker is moved to another state with a different offered wage rate, the employer will be required to pay the worker the established prevailing wage for that state.

ATTACHMENT B

Standards for Mobile Housing Applicable to Sheepherders and Goatherders

I. PROCEDURES

Occupations involving sheepherding/goatherding generally require workers to live in remote housing of a mobile nature, rather than “a fixed-site farm, ranch or similar establishment.” This type of housing is typically referred to as mobile housing. For purposes of these special procedures, mobile housing is any housing that is capable of being moved from one area on the open range to another. The employer must provide housing at no cost to the H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence within the same day.

Where housing for work performed on the range is provided, the regulations at 20 CFR 655.122(d)(2) require that such housing meet standards of the DOL Occupational Safety and Health Administration (OSHA). In the absence of such standards, range housing must meet guidelines issued by OFLC. Due to the fact that OSHA standards currently do not cover mobile housing, Section II of this attachment establishes the standards for determining the adequacy of employer-provided mobile housing for use on the range.

Both mobile housing and fixed-site farm or ranch housing may be self-certified by an employer. Employers must submit a signed statement to the SWA and the Chicago NPC with the application for labor certification assuring that the housing is available, sufficient to accommodate the number of workers being requested, and meets all applicable standards. However, any other type of housing used by an employer to house the workers engaged in sheepherding/goatherding activity must meet the standards applicable to such housing under 20 CFR 655.122(d).

SWAs must develop and implement a schedule which ensures that each employer’s self-certified housing is inspected no less frequently than at least once every 3 years. These inspections may be performed either before or after a request is submitted for nonimmigrant workers on the open range. Before referring a worker who is entitled to such housing, the SWA office must ensure that the housing is available and has been inspected in accordance with the inspection schedule. If the SWA determines that an employer’s housing cannot be inspected in accordance with the inspection schedule or, when it is inspected, does not meet all the applicable standards, the Chicago NPC may deny the H-2A application in full or in part or require additional inspections in order to satisfy the regulatory requirement.

II. MOBILE HOUSING STANDARDS

An employer may use a mobile unit, camper, or other similar mobile vehicle for housing workers that meets the following standards:

A. Housing Site

Mobile housing sites shall be well drained and free from depressions in which water may stagnate.

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 6, PART 2

ELLEN JEAN WINOGRAD, ESQ.

Nevada State Bar No. 815

JOSE TAFOYA, ESQ.

Nevada State Bar No. 16011

WOODBURN AND WEDGE

6100 Neil Road, Suite 500

Reno, Nevada 89511

Tel: 775-688-3000

Fax: 775-688-3088

ewinograd@woodburnandwedge.com

jtafoya@woodburnandwedge.com

ANTHONY HALL, ESQ.

Nevada State Bar No. 5977

JONATHAN McGUIRE, ESQ.

Nevada State Bar No. 15280

SIMONS HALL JOHNSTON, P.C.

690 Sierra Rose Drive

Reno, Nevada 89511

(775) 785-0088

ahall@shjnevada.com

jmcguire@shjnevada.com

ATTORNEYS FOR RESPONDENT
WESTERN RANGE ASSOCIATION

B. Water Supply

1. An adequate and convenient supply of water that meets standards of the state health authority shall be provided. The amount of water provided must be enough for normal drinking, cooking, and bathing needs of each worker; and
2. Individual drinking cups shall be provided.

C. Excreta and Liquid Waste Disposal

1. Facilities shall be provided and maintained for effective disposal of excreta and liquid waste in accordance with requirements of the state health authority or involved Federal agency; and
2. If pits are used for disposal by burying of excreta and liquid waste, they shall be kept fly-tight when not filled in completely after each use. The maintenance of disposal pits must be in accordance with state and local health and sanitation requirements.

D. Housing Structure

1. Housing shall be structurally sound, in good repair, in sanitary condition and shall provide protection to occupants against the elements;
2. Housing, other than tents, shall have flooring constructed of rigid materials easy to clean and so located as to prevent ground and surface water from entering;
3. Each housing unit shall have at least one window which can be opened or skylight opening directly to the outdoors; and
4. Tents may be used where terrain and/or land regulations do not permit use of other more substantial mobile housing which provides facilities and protection closer in conformance with the Department's intent.

E. Heating

1. Where the climate in which the housing will be used is such that the safety and health of a worker requires heated living quarters, all such quarters shall have properly installed operable heating equipment which supplies adequate heat. In considering whether the heating equipment is acceptable, the Chicago NPC shall first determine if the housing will be located in a National Forest Wilderness Section as specified in the Wilderness Act (16 U.S.C. §§ 1131-1136). Such a location has a bearing on the type of equipment practicable, and whether any heavy equipment can be used. For example, the Wilderness Act (16 U.S.C. § 1133(c)) restricts certain motorized or mechanical transport on certain roads in wilderness areas. The U.S. Forest Service has regulations for this at 36 CFR Part 293. Aside from the above, other factors to consider in evaluating heating equipment are the severity of the weather and the types of protective clothing and bedding made available to the worker. If the climate in which the housing will be used is mild and not reasonably expected to drop below 50 degrees Fahrenheit continuously for 24 hours, no separate heating equipment is required if proper protective clothing and bedding are made available;

2. Any stoves or other sources of heat using combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. Portable electrical heaters may be used, and if approved by Underwriters' Laboratory, kerosene heaters may be used according to manufacturer's instructions. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, insulated metal sheet, or other fireproof material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove;
3. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or stove pipe shall be made of fireproof material. A vented metal collar shall be installed around a stovepipe or vent passing through a wall, ceiling, floor or roof; and
4. When a heating system has automatic controls, the controls shall be of the type which cuts off the fuel supply when the flame fails or is interrupted or whenever a predetermined safe temperature or pressure is exceeded.

F. Lighting

1. In areas where it is not feasible to provide electrical service to mobile housing, including tents, lanterns shall be provided (kerosene wick lights meet the definition of lantern); and
2. Lanterns, where used, shall be provided in a minimum ratio of one per occupant of each unit, including tents.

G. Bathing, Laundry and Hand Washing

Movable bathing, laundry and hand washing facilities shall be provided when it is not feasible to provide hot and cold water under pressure.

H. Food Storage

When mechanical refrigeration of food is not feasible, the worker must be provided with another means of keeping food fresh and preventing spoilage, such as a butane or propane gas refrigerator. Other proven methods of safeguarding fresh foods, such as salting, are acceptable.

I. Cooking and Eating Facilities

1. When workers or their families are permitted or required to cook in their individual unit, a space shall be provided with adequate lighting and ventilation; and
2. Wall surfaces next to all food preparation and cooking areas shall be of nonabsorbent, easy to clean material. Wall surfaces next to cooking areas shall be of fire-resistant material.

J. Garbage and Other Refuse

1. Durable, fly-tight, clean containers shall be provided to each housing unit, including tents, for storing garbage and other refuse; and
2. Provision shall be made for collecting or burying refuse, which includes garbage, at least twice a week or more often if necessary. Refuse disposal shall conform to Federal, state, or local law, whichever applies.

K. Insect and Rodent Control

Appropriate materials, including sprays, must be provided to aid housing occupants in combating insects, rodents and other vermin.

L. Sleeping Facilities

A separate sleeping unit shall be provided for each person, except in a family arrangement. Such a unit shall include a comfortable bed, cot, or bunk with a clean mattress. When filing an application for certification and only where it is demonstrated to the Certifying Officer that is impractical to set up a second sleeping unit, the employer may request a variance from the separate sleeping unit requirement to allow for a second worker to temporarily join the shepherding/goatherding operation. The second worker may be temporarily housed in the same sleeping unit for no more than three consecutive days and the employer must supply a sleeping bag or bed roll free of charge.

M. Fire, Safety and First Aid

1. All units in which people sleep or eat shall be constructed and maintained according to applicable state or local fire and safety law;
2. No flammable or volatile liquid or materials shall be stored in or next to rooms used for living purposes, except for those needed for current household use;
3. Mobile housing units for range use must have a second means of escape. One of the two required means of escape must be a window which can be easily opened, a hatch, or other provision. It must be demonstrated that the custom combine worker would be able to crawl through the second exit without difficulty;
4. Tents are not required to have a second means of escape, except when large tents with walls of rigid material are used. A heater may be used in a tent if the heater is approved by a testing service, such as Underwriters' Laboratory, and if the tent is fireproof; and
5. Adequate fire extinguishers in good working condition and first aid kits shall be provided in the mobile housing.

EXHIBIT 40

OMB Approval: 1205-0466
Expiration Date: 11/30/2011

Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor



Please read and review the filing instructions carefully before completing the ETA Form 9142. A copy of the instructions can be found at <http://www.foreignlaborcert.doleta.gov/>. In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If submitting this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application (Write classification symbol): * H-2A

B. Temporary Need Information

1. Job Title *		SHEEPHERDER							
2. SOC (ONET/OES) code *		3. SOC (ONET/OES) occupation title *							
45.2093		FARMWORKER, FARM AND RANCH ANIMALS							
4. Is this a full-time position? *		Period of Intended Employment							
☒ Yes ☐ No									
		5. Begin Date * 08/01/2011 (mm/dd/yyyy)	6. End Date * 07/31/2012 (mm/dd/yyyy)						
7. Worker positions needed/basis for the visa classification supported by this application									
142 Total Worker Positions Being Requested for Certification * Basis for the visa classification supported by this application (indicate the total workers in each applicable category based on the total workers identified above) <table border="0"> <tr> <td> 0 a. New employment *</td> <td> 0 d. New concurrent employment *</td> </tr> <tr> <td> 0 b. Continuation of previously approved employment * without change with the same employer</td> <td> 0 e. Change in employer *</td> </tr> <tr> <td> 0 c. Change in previously approved employment *</td> <td> 0 f. Amended petition *</td> </tr> </table>				0 a. New employment *	0 d. New concurrent employment *	0 b. Continuation of previously approved employment * without change with the same employer	0 e. Change in employer *	0 c. Change in previously approved employment *	0 f. Amended petition *
0 a. New employment *	0 d. New concurrent employment *								
0 b. Continuation of previously approved employment * without change with the same employer	0 e. Change in employer *								
0 c. Change in previously approved employment *	0 f. Amended petition *								
8. Nature of Temporary Need: (Choose only one of the standards) *									
☒ Seasonal ☐ Peakload ☐ One-Time Occurrence ☐ Intermittent or Other Temporary Need									
9. Statement of Temporary Need *									
OTHER: WESTERN RANGE ASSOCIATION EMPLOYEES ARE NEEDED ON A YEAR ROUND BASIS									



Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor

C. Employer Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application.

1. Legal business name * WESTERN RANGE ASSOCIATION		
2. Trade name/Doing Business As (DBA), if applicable		
3. Address 1 * 1245 E. BRICKYARD ROAD, SUITE 190		
4. Address 2		
5. City * SALT LAKE CITY	6. State * UTAH	7. Postal code * 84106
8. Country * USA	9. Province	
10. Telephone number * 801-486-2004	11. Extension	
12. Federal Employer Identification Number (FEIN from IRS) * [REDACTED]	13. NAICS code (must be at least 4-digits) *	
14. Number of non-family full-time equivalent employees 9	15. Annual gross revenue 2,278,500.00	16. Year established 1953
17. Type of employer application (choose only one box below) *		
☐ Individual Employer		
☐ H-2A Labor Contractor or Job Contractor		
☐ Association – Sole Employer (H-2A only)		
☒ Association – Joint Employer (H-2A only)		
☐ Association – Filing as Agent (H-2A only)		

D. Employer Point of Contact Information

Important Note: The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.

1. Contact's last (family) name * MELENDEZ	2. First (given) name * LEONORA	3. Middle name(s) * J
4. Contact's job title * LEGAL DOCUMENTS SPECIALIST		
5. Address 1 * 1245 E. BRICKYARD ROAD, SUITE 190		
6. Address 2		
7. City * SALT LAKE CITY	8. State * UTAH	9. Postal code * 84106
10. Country * USA	11. Province	
12. Telephone number * 801-486-2004	13. Extension 101	14. E-Mail address 15. legal@westernrange.net

Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor

E. Attorney or Agent Information (If applicable)

1. Is/are the employer(s) represented by an attorney or agent in the filing of this application (including associations acting as agent under the H-2A program)? If "Yes", complete Section E. *			☐ Yes	☐ No
2. Attorney or Agent's last (family) name §	3. First (given) name §	4. Middle name(s) §		
5. Address 1 §				
6. Address 2				
7. City §		8. State §	9. Postal code §	
10. Country §		11. Province		
12. Telephone number §	13. Extension	14. E-Mail address		
15. Law firm/Business name §		16. Law firm/Business FEIN §		
17. State Bar number (only if attorney) §		18. State of highest court where attorney is in good standing (only if attorney) §		
19. Name of the highest court where attorney is in good standing (only if attorney) §				

F. Job Offer Information

a. Job Description

1. Job Title * SHEEPHERDER	
2. Number of hours of work per week ON CALL 24/7 Basic *: _____ Overtime: _____	3. Hourly Work Schedule * ON CALL 24/7 A.M. (h:mm): _____ : _____ P.M. (h:mm): _____ : _____
4. Does this position supervise the work of other employees? * Yes ☐ No ☒	4a. If yes, number of employees worker will supervise (if applicable) § _____
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description. *	
"Attends sheep and/or goat flock grazing on range or pasture: Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. Drenches sheep and/or goats. May examine animals from signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking, and shearing. May perform other farm or ranch chores related to the production of husbandry of sheep and/or goat on an incidental basis." Must have experience with 800 - 1000 head flocks. One reference may be required.	



Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor

F. Job Offer Information (continued)

b. Minimum Job Requirements

1. Education: minimum U.S. diploma/degree required *	
☒ None ☐ High School/GED ☐ Associate's ☐ Bachelor's ☐ Master's ☐ Doctorate (PhD) ☐ Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required §	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field)
2. Does the employer require a second U.S. diploma/degree? * ☐ Yes ☒ No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §	
3. Is training for the job opportunity required? * ☒ Yes ☐ No	
3a. If "Yes" in question 3, specify the number of months of training required § UP TO SIX MONTHS	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type) SHEEPHERDER
4. Is employment experience required? * ☒ Yes ☐ No	
4a. If "Yes" in question 4, specify the number of months of experience required § 6 MONTHS	4b. Indicate the occupation required § SHEEPHERDER
5. Special Requirements - List specific skills, licenses/certifications, and requirements of the job opportunity. *	
MUST BE QUALIFIED SHEEPHERDER AND MUST BE IN GOOD HEALTH	

c. Place of Employment Information

1. Worksite address 1 * MASTER JOB ORDER FOR NEVADA	
2. Address 2 EMPLOYERS NAME AND ADDRESSES PER ATTACHED	
3. City *	4. County *
5. State/District/Territory * NEVADA	6. Postal code *
7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? * ☒ Yes ☐ No	
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. §	
SHEEPHERDING IS A MIGRATORY JOB, WORKERS MOVE EVERY SEASON TO DIFFERENT WORK SITES.	

OMB Approval: 1205-0466
Expiration Date: 11/30/2011

Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor



G. Rate of Pay

1. Basic Rate of Pay Offered *		1a. Overtime Rate of Pay (if applicable) §	
From: \$ <u>800.00</u> Monthly To (Optional): \$ _____ - _____		From: \$ _____ - _____ To (Optional): \$ _____ - _____	
2. Per: (Choose only one) * ☐ Hour ☐ Week ☒ Bi-Weekly ☐ Month ☐ Year ☐ Piece Rate			
2a. If Piece Rate is indicated in question 2, specify the wage offer requirements: §			
3. Additional Wage Information (e.g., multiple worksite applications, itinerant work, or other special procedures). If necessary, add attachment to <u>continue and complete</u> description. §			
PLUS FREE ROOM AND BOARD AND TWO WEEKS PAID VACATION PER YEAR			

H. Recruitment Information

1. Name of State Workforce Agency (SWA) serving the area of intended employment *		
REFER TO ITEM #6		
2. SWA job order identification number *	2a. Start date of SWA job order *	2b. End date of SWA job order * (In H-2A this date is 50% of contract period)
3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? *		☐ Yes ☐ No
Name of Newspaper/Publication (in area of intended employment for H-2B only) *		Dates of Print Advertisement §
4.	From:	To:
5.	From:	To:
6. Additional Recruitment Activities. Use the space below to identify the type(s) or source(s) of recruitment, geographic location(s) of recruitment, <u>and</u> the date(s) on which recruitment was conducted. If necessary, add attachment to <u>continue and complete</u> description. *		
Open Job order and continuous efforts for domestic herders in applicable regions through local, state and federal employment services by the employer and Western Range Association. See Training and Employment Guidance Letter No. 32-10		

OMB Approval: 1205-0466
Expiration Date: 11/30/2011

Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor



I. Declaration of Employer and Attorney/Agent

In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach Appendix A.2 or Appendix B.1 will be considered incomplete and not accepted for processing by the ETA application processing center.

1. For H-2A Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix A.2. §	☒ Yes ☐ No ☐ N/A
2. For H-2B Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix B.1. §	☐ Yes ☐ No ☐ N/A

J. Preparer

Complete this section if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name §	2. First (given) name §	3. Middle initial §
4. Job Title §		
5. Firm/Business name §		
6. E-Mail address §		

K. U.S. Government Agency Use (ONLY)

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from _____ to _____

Department of Labor, Office of Foreign Labor Certification

Determination Date (date signed)

Case number

Case Status

L. OMB Paperwork Reduction Act (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101 (a)(15)(H)(ii)). Public reporting burden for this collection of information is estimated to average 1 hour per response for H-2A and 2 hours 45 minutes for H-2B, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW * Washington, DC * 20210. Do NOT send the completed application to this address.

OMB Approval: 1205-0466
Expiration Date: 11/30/2011

Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor



Please read and review the filing instructions carefully before completing the ETA Form 9142. A copy of the instructions can be found at <http://www.foreignlaborcert.doleta.gov/>. In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If submitting this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application (Write classification symbol): * H-2A

B. Temporary Need Information

1. Job Title *		SHEEPHERDER	
2. SOC (ONET/OES) code *		3. SOC (ONET/OES) occupation title *	
45.2093		FARMWORKER, FARM AND RANCH ANIMALS	
4. Is this a full-time position? *		Period of Intended Employment	
☒ Yes ☐ No			
5. Begin Date * 08/01/2011 (mm/dd/yyyy)		6. End Date * 07/31/2012 (mm/dd/yyyy)	
7. Worker positions needed/basis for the visa classification supported by this application			
142 Total Worker Positions Being Requested for Certification *			
Basis for the visa classification supported by this application (indicate the total workers in each applicable category based on the total workers identified above)			
0 a. New employment *		0 d. New concurrent employment *	
0 b. Continuation of previously approved employment * without change with the same employer		0 e. Change in employer *	
0 c. Change in previously approved employment *		0 f. Amended petition *	
8. Nature of Temporary Need: (Choose only one of the standards) *			
☒ Seasonal ☐ Peakload ☐ One-Time Occurrence ☐ Intermittent or Other Temporary Need			
9. Statement of Temporary Need *			
OTHER: WESTERN RANGE ASSOCIATION EMPLOYEES ARE NEEDED ON A YEAR ROUND BASIS			



Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor

C. Employer Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application.

1. Legal business name *		
WESTERN RANGE ASSOCIATION		
2. Trade name/Doing Business As (DBA), if applicable		
3. Address 1 *		
1245 E. BRICKYARD ROAD, SUITE 190		
4. Address 2		
5. City *	6. State *	7. Postal code *
SALT LAKE CITY	UTAH	84106
8. Country *	9. Province	
USA		
10. Telephone number *	11. Extension	
801-486-2004		
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	
14. Number of non-family full-time equivalent employees	15. Annual gross revenue	16. Year established
9	2,278,500.00	1953
17. Type of employer application (choose only one box below) *		
☐ Individual Employer		
☐ H-2A Labor Contractor or Job Contractor		
☐ Association – Sole Employer (H-2A only)		
☒ Association – Joint Employer (H-2A only)		
☐ Association – Filing as Agent (H-2A only)		

D. Employer Point of Contact Information

Important Note: The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.

1. Contact's last (family) name *	2. First (given) name *	3. Middle name(s) *
MELLENDEZ	LEONORA	J
4. Contact's job title *		
LEGAL DOCUMENTS SPECIALIST		
5. Address 1 *		
1245 E. BRICKYARD ROAD, SUITE 190		
6. Address 2		
7. City *	8. State *	9. Postal code *
SALT LAKE CITY	UTAH	84106
10. Country *	11. Province	
USA		
12. Telephone number *	13. Extension	14. E-Mail address
801-486-2004	101	15. legal@westernrange.net

Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor**E. Attorney or Agent Information (If applicable)**

1. Is/are the employer(s) represented by an attorney or agent in the filing of this application (including associations acting as agent under the H-2A program)? If "Yes", complete Section E. *			☐ Yes	☐ No
2. Attorney or Agent's last (family) name §	3. First (given) name §	4. Middle name(s) §		
5. Address 1 §				
6. Address 2				
7. City §		8. State §	9. Postal code §	
10. Country §		11. Province		
12. Telephone number §	13. Extension	14. E-Mail address		
15. Law firm/Business name §			16. Law firm/Business FEIN §	
17. State Bar number (only if attorney) §		18. State of highest court where attorney is in good standing (only if attorney) §		
19. Name of the highest court where attorney is in good standing (only if attorney) §				

F. Job Offer Information**a. Job Description**

1. Job Title * SHEEPHERDER	
2. Number of hours of work per week ON CALL 24/7 Basic *: _____ Overtime: _____	3. Hourly Work Schedule * ON CALL 24/7 A.M. (h:mm): _____ : _____ P.M. (h:mm): _____ : _____
4. Does this position supervise the work of other employees? * Yes ☐ No ☒	4a. If yes, number of employees worker will supervise (if applicable) § _____
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description. *	
"Attends sheep and/or goat flock grazing on range or pasture: Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. Drenches sheep and/or goats. May examine animals from signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking, and shearing. May perform other farm or ranch chores related to the production of husbandry of sheep and/or goat on an incidental basis." Must have experience with 800 - 1000 head flocks. One reference may be required.	



Application for Temporary Employment Certification
ETA Form 9142
U.S. Department of Labor

F. Job Offer Information (continued)

b. Minimum Job Requirements

1. Education: minimum U.S. diploma/degree required *	
☒ None ☐ High School/GED ☐ Associate's ☐ Bachelor's ☐ Master's ☐ Doctorate (PhD) ☐ Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required §	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field)
2. Does the employer require a second U.S. diploma/degree? * ☐ Yes ☒ No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §	
3. Is training for the job opportunity required? * ☒ Yes ☐ No	
3a. If "Yes" in question 3, specify the number of months of training required § UP TO SIX MONTHS	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type) SHEEPHERDER
4. Is employment experience required? * ☒ Yes ☐ No	
4a. If "Yes" in question 4, specify the number of months of experience required § 6 MONTHS	4b. Indicate the occupation required § SHEEPHERDER
5. Special Requirements - List specific skills, licenses/certifications, and requirements of the job opportunity. *	
MUST BE QUALIFIED SHEEPHERDER AND MUST BE IN GOOD HEALTH	

c. Place of Employment Information

1. Worksite address 1 * MASTER JOB ORDER FOR NEVADA	
2. Address 2 EMPLOYERS NAME AND ADDRESSES PER ATTACHED	
3. City *	4. County *
5. State/District/Territory * NEVADA	6. Postal code *
7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? * ☒ Yes ☐ No	
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. § SHEEPHERDING IS A MIGRATORY JOB, WORKERS MOVE EVERY SEASON TO DIFFERENT WORK SITES.	

OMB Approval: 1205-0466
 Expiration Date: 11/30/2011

Application for Temporary Employment Certification
 ETA Form 9142
 U.S. Department of Labor



G. Rate of Pay

1. Basic Rate of Pay Offered *		1a. Overtime Rate of Pay (if applicable) §	
From: \$ <u>800.00</u> Monthly To (Optional): \$ _____ - _____		From: \$ _____ - _____ To (Optional): \$ _____ - _____	
2. Per: (Choose only one) * ☐ Hour ☐ Week ☒ Bi-Weekly ☐ Month ☐ Year ☐ Piece Rate			
2a. If Piece Rate is indicated in question 2, specify the wage offer requirements: §			
3. Additional Wage Information (e.g., multiple worksite applications, itinerant work, or other special procedures). If necessary, add attachment to <u>continue and complete</u> description. § PLUS FREE ROOM AND BOARD AND TWO WEEKS PAID VACATION PER YEAR			

H. Recruitment Information

1. Name of State Workforce Agency (SWA) serving the area of intended employment *		
REFER TO ITEM #6		
2. SWA job order identification number *	2a. Start date of SWA job order *	2b. End date of SWA job order * (In H-2A this date is 50% of contract period)
3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? *		☐ Yes ☐ No
Name of Newspaper/Publication (in area of intended employment for H-2B only) *		Dates of Print Advertisement §
4.		From: _____ To: _____
5.		From: _____ To: _____
6. Additional Recruitment Activities. Use the space below to identify the type(s) or source(s) of recruitment, geographic location(s) of recruitment, <u>and</u> the date(s) on which recruitment was conducted. If necessary, add attachment to <u>continue and complete</u> description. *		
Open Job order and continuous efforts for domestic herders in applicable regions through local, state and federal employment services by the employer and Western Range Association. See Training and Employment Guidance Letter No. 32-10		

OMB Approval: 1205-0466
 Expiration Date: 11/30/2011



Application for Temporary Employment Certification
 ETA Form 9142
 U.S. Department of Labor

I. Declaration of Employer and Attorney/Agent

In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach Appendix A.2 or Appendix B.1 will be considered incomplete and not accepted for processing by the ETA application processing center.

1. For H-2A Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix A.2. §	☒ Yes ☐ No ☐ N/A
2. For H-2B Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix B.1. §	☐ Yes ☐ No ☐ N/A

J. Preparer

Complete this section if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name §	2. First (given) name §	3. Middle initial §
4. Job Title §		
5. Firm/Business name §		
6. E-Mail address §		

K. U.S. Government Agency Use (ONLY)

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from _____ to _____

Department of Labor, Office of Foreign Labor Certification

Determination Date (date signed)

Case number

Case Status

L. OMB Paperwork Reduction Act (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101 (a)(15)(H)(ii)). Public reporting burden for this collection of information is estimated to average 1 hour per response for H-2A and 2 hours 45 minutes for H-2B, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW * Washington, DC * 20210. Do NOT send the completed application to this address.

Application for Temporary Employment Certification

ETA Form 9142 – APPENDIX A.2
U.S. Department of Labor



For Use in Filing Applications Under the H-2A Agricultural Program ONLY

A. Attorney or Agent Declaration

I hereby certify that I am an employee of, or hired by, the employer listed in Section C of the ETA Form 9142, and that I have been designated by that employer to act on its behalf in connection with this application. If I am an agent and not an employee of the employer, then I have attached a Letter of Representation from the employer. I also certify that to the best of my knowledge the information contained herein is true and correct. I understand that to knowingly furnish false information in the preparation of this form and any supplement hereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in a Federal penitentiary or both (18 U.S.C. 1001).

1. Attorney or Agent's last (family) name	2. First (given) name	3. Middle Initial
4. Firm/Business name		
5. E-Mail address		
6. Signature		7. Date signed

B. Employer Declaration

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment:

1. The job opportunity is a full-time temporary position, the qualifications for which do not substantially deviate from the normal and accepted qualifications required by non-H-2A employers in the same or comparable occupations and crops.
2. The worksite for which the employer is requesting H-2A certification does not currently have workers on strike or being locked out in the course of a labor dispute.
3. The job opportunity is and will continue to be open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship, and the employer has conducted and will continue to conduct the required recruitment, in accordance with regulations, and has been unsuccessful in locating sufficient numbers of qualified U.S. applicants for the job opportunity for which certification is sought. Any U.S. workers who applied or apply for the job were or will be rejected only for lawful, job-related reasons, and the employer must retain records of all rejections as required by 20 CFR 655.167.
4. The job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B.
5. The employer understands that it must offer, recruit at, and pay a wage that is the highest of the adverse effect wage rate in effect at the time the job order is placed, the prevailing hourly or piece rate, the agreed-upon collective bargaining rate (CBA), or the Federal or State minimum wage, and, furthermore, that if a new Adverse Effect Wage Rate is published, or the employer is notified of a new prevailing wage rate during the contract period, and that new rate is higher than the wage determined by the NPC (except the CBA) during the application process the employer will increase the pay of all employees in the same job occupation to the higher rate.
6. There are no U.S. workers available in the area(s) capable of performing the temporary services or labor in the job opportunity, and the employer will conduct positive recruitment as specified by the NPC and continue to cooperate with the SWA by accepting referrals of all eligible U.S. workers who apply (or on whose behalf an application is made) for the job opportunity until completion of 50 percent of the contract period calculated from the first date of need indicated in Section B.5 of ETA Form 9142.
7. All fees associated with processing the temporary labor certification will be paid in a timely manner.

Application for Temporary Employment Certification

ETA Form 9142 – APPENDIX A.2
U.S. Department of Labor



8. During the period of employment that is the subject of the labor certification application, the employer:
- (i) Will comply with applicable Federal, State and local employment-related laws and regulations, including health and safety laws;
 - (ii) Will provide for or secure housing for workers who are not reasonably able to return to their permanent residence at the end of the work day that complies with the applicable local, State, or Federal standards and guidelines for housing without charge to the worker;
 - (iii) Where required, has timely requested a preoccupancy inspection of the housing and received certification;
 - (iv) Will provide insurance, without charge to the worker, under a State workers' compensation law or otherwise, that meets the requirements of 20 CFR 655.122(e).
 - (v) Will provide transportation in compliance with all applicable Federal, State or local laws and regulations between the worker's living quarters (i.e., housing provided by the employer under 20 CFR 655.122(h)) and the employer's worksite without cost to the worker.
9. The employer has not laid off and will not lay off any similarly employed U.S. worker in the occupation that is the subject of the Application for Temporary Employment Certification in the area of intended employment except for lawful, job related reasons within 60 days of the date of need, or if the employer has laid off such workers, it has offered the job opportunity that is the subject of the application to those laid-off U.S. worker(s) and the U.S. worker(s) refused the job opportunity, was rejected for the job opportunity for lawful, job-related reasons, or was hired.
10. The employer and its agents have not sought or received payment of any kind from the H-2A worker for any activity related to obtaining labor certification, including payment of the employer's attorneys' fees, application fees, or recruitment costs. For purposes of this paragraph, payment includes, but is not limited to, monetary payments, wage concessions (including deductions from wages, salary, or benefits), kickbacks, bribes, tributes, in kind payments, and free labor.
11. The employer has and will contractually forbid any foreign labor contractor or recruiter whom the employer engages in international recruitment of H-2A workers to seek or receive payments from prospective employees...
12. The employer has not and will not intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, and has not and will not cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, any person who has with just cause:
- (i) Filed a complaint under or related to Sec. 218 of the INA (8 U.S.C. 1188), or any Department regulation promulgated under Sec. 218 of the INA;
 - (ii) Instituted or caused to be instituted any proceeding under or related to Sec. 218 of the INA, or any Department regulation promulgated under Sec. 218 of the INA;
 - (iii) Testified or is about to testify in any proceeding under or related to Sec. 218 of the INA or any Department regulation promulgated under Sec. 218 of the INA;
 - (iv) Consulted with an employee of a legal assistance program or an attorney on matters related to Sec. 218 of the INA or any Department regulation promulgated under Sec. 218 of the INA; or
 - (v) Exercised or asserted on behalf of himself/herself or others any right or protection afforded by Sec. 218 of the INA, or any Department regulation promulgated under Sec. 218 of the INA.
13. The employer has not and will not discharge any person because of that person's taking any action listed in paragraph 12(i) through (v) listed above.
14. The employer will inform H-2A workers of the requirement that they leave the U.S. at the end of the period certified by the Department or separation from the employer, whichever is earlier, as required under 20 CFR 655.135(i), unless the H-2A worker is being sponsored by another subsequent employer.
15. The employer has posted the Notice of Workers' Rights as required by 20 CFR 655.135(l) in a conspicuous place frequented by all employees.
16. If the application is being filed as an H-2A Labor Contractor the following additional attestations and obligations apply under 20 CFR 655.132:
- (i) The H-2A Labor Contractor has provided a copy of the MSPA Farm Labor Contractor (FLC) certificate of registration if required under MSPA, 1801 U.S.C. et seq., to have such a certificate identifying the specific farm labor contracting activities it is authorized to perform;
 - (ii) The H-2A Labor Contractor has provided with this application a list of the names and locations of each fixed-site agricultural business to which the H-2A Labor Contractor expects to provide H-2A workers, the expected beginning and ending dates when the H-2A Labor Contractor will be providing the workers to each fixed site, a description of the crops and activities the workers are expected to perform at such fixed site, and copies of the fully-executed work contracts with each fixed-site agricultural business so identified;
 - (iii) The H-2A Labor Contractor is able to provide proof of its ability to discharge financial obligations under the H-2A program and has secured a surety bond as required by 29 CFR 501.9, the original of which is attached and shows the name, address, phone number, and contact person for the surety, and provides the amount of the bond (as calculated pursuant to 29 CFR 501.9);

Application for Temporary Employment Certification

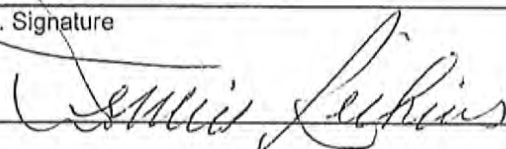
ETA Form 9142 – APPENDIX A.2
U.S. Department of Labor



- (iv) The H-2A Labor Contractor has engaged in and will engage in recruitment efforts in each area of intended employment in which it has listed a fixed-site agricultural business as required in 20 CFR 655.121, 655.150-155; and
- (v) Where the fixed-site agricultural business(s) will provide housing or transportation to the workers, proof that:
- All housing used by workers and owned, operated, or secured by the fixed-site agricultural business complies with the applicable housing standards in 20 CFR 655.122(d);
 - All transportation between the worksite and the workers' living quarters that is provided by the fixed-site agricultural business complies with all applicable Federal, State, or local laws and regulations and that it will provide, at a minimum, the same vehicle safety standards, driver licensure, and vehicle insurance as required under 29 U.S.C. 1841 and 29 CFR part 500, except where workers' compensation is used to cover such transportation as described in § 655.122(e); and
 - Certificates of occupancy from the SWA for all employer owned housing and copies of all drivers' licenses, vehicle registration, and insurance policies for all drivers and vehicles used to transport H-2A workers.

I hereby acknowledge that the agent or attorney identified in section E (if any) of the ETA Form 9142 and section A above is authorized to represent me for the purpose of labor certification and, by virtue of my signature in Block 5 below, I take full responsibility for the accuracy of any representations made by my agent or attorney.

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly furnish false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in the Federal penitentiary or both (18 U.S.C. 1001).*

1. Last (family) name RICHINS	2. First (given) name DENNIS	3. Middle initial
4. Title EXECUTIVE DIRECTOR		
5. Signature 		6. Date signed 07/22/2011

OMB Paperwork Reduction Act

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101(a)(15)(H)(ii)). Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW * Washington, DC * 20210. Do NOT send the completed application to this address.

U.S. Department of Labor **Employment and Training
Administration**
Office of Foreign Labor Certification
Chicago National Processing Center
11 West Quincy Court
Chicago, IL 60604



CERTIFICATION LETTER

October 5, 2018

MONICA YOUREE
161 FIFTH AVENUE SOUTH
TWIN FALLS, ID 83301

Case Number: H-300-18247-174940

RE: WESTERN RANGE ASSOCIATION

Dear Sir/Madam:

Your application seeking temporary labor certification under the H-2A temporary agricultural program has been **certified**. On September 10, 2018, this office accepted for consideration an application from you requesting H-2A temporary labor certification for six Farmworkers, Farm, Ranch, and Aquacultural Animals job opportunities. In accordance with Departmental regulations at 20 Code of Federal Regulations (CFR) § 655, Subpart B, it has been determined that a sufficient number of able, willing and qualified U.S. workers have not been identified as being available at the time and place needed to fill all of the job opportunities for which certification has been requested and that employment of the H-2A workers will not adversely affect the wages and working conditions of workers in the United States similarly employed.

Therefore, the Department grants certification for six Farmworkers, Farm, Ranch, and Aquacultural Animals job opportunities. You must comply with all assurances, guarantees and other requirements contained in Departmental regulations at 20 CFR § 655, Subpart B and 20 CFR § 653, Subpart F.

Upon receipt of this notification, you will need to submit to the U.S. Citizenship and Immigration Service (USCIS) California Service Center the I-129 Form that is required in conjunction with an H-2A application. The USCIS petition can be obtained at <http://www.uscis.gov>.

IMPORTANT NOTE: The employer must sign and date the ETA Form 9142 prior to submission to USCIS California Service Center.

Enclosed is a bill for fees assessed for the H-2A certification. Non-payment or untimely payment may be considered a substantial violation subject to the procedures in Departmental regulations at 20 CFR § 655.182.

Sincerely,

OFLC Certifying Officer

Enclosures: Invoice for Certification; ETA Form 9142

CC:

JOHN ESPIL SHEEP COMPANY

NEVADA DEPT OF EMPL TRNG & REHAB

Public Burden Statement: OMB control number 1205-0466, expiration date 05/31/2019. This reporting instruction has been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour to complete the form, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification, U.S. Department of Labor, Box 12-200, 200 Constitution Ave., NW, Washington, DC 20210. Please do not send the completed application to this address.

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor

Please read and review the filing instructions carefully before completing the Form ETA-9142A. A copy of the instructions can be found at <http://www.foreignlaborcert.dola.gov/>. In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If submitting this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application (Write classification symbol): *

H-2A

B. Temporary Need Information

1. Job Title * Sheepherder

2. SOC (ONET/OES) code *
45-20933. SOC (ONET/OES) occupation title *
Farmworkers, Farm, Ranch, and Aquacultural Animals

4. Is this a full-time position? *



Yes



No

Period of Intended Employment

5. Begin Date * 11/08/2018
(mm/dd/yyyy)6. End Date * 11/06/2019
(mm/dd/yyyy)

7. Worker positions needed/basis for the visa classification supported by this application

Total Worker Positions Being Requested for Certification *

Basis for the visa classification supported by this application

(Indicate the total workers in each applicable category based on the total workers identified above)

a. New employment *

d. New concurrent employment *

b. Continuation of previously approved employment *
without change with the same employer

e. Change in employer *

c. Change in previously approved employment *

f. Amended petition *

8. Nature of Temporary Need: (Choose only one of the standards) *



Seasonal



Peakload



One-Time Occurrence



Intermittent or Other Temporary Need

9. Statement of Temporary Need *

Western Range Association employees are seasonal and needed for 364 days with varying start dates.

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor

C. Employer Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application.

1. Legal business name *		
WESTERN RANGE ASSOCIATION		
2. Trade name/Doing Business As (DBA), if applicable		
N/A		
3. Address 1 *		
161 FIFTH AVENUE SOUTH		
4. Address 2		
SUITE 100		
5. City *	6. State *	7. Postal code *
TWIN FALLS	ID	83301
8. Country *	9. Province	
UNITED STATES OF AMERICA	N/A	
10. Telephone number *	11. Extension	
208-595-2226	N/A	
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	
	112410	
14. Number of non-family full-time equivalent employees	15. Annual gross revenue	16. Year established
0	N/A	1953
17. Type of employer application (choose only one box below) *		
☐ Individual Employer ☐ Association – Sole Employer (H-2A only)		
☐ H-2A Labor Contractor or Job Contractor ☒ Association – Joint Employer (H-2A only)		
☐ Association – Filing as Agent (H-2A only)		

D. Employer Point of Contact Information

Important Note: The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.

1. Contact's last (family) name *	2. First (given) name *	3. Middle name(s) *
YOUREE	MONICA	N/A
4. Contact's job title *		
EXECUTIVE DIRECTOR		
5. Address 1 *		
161 FIFTH AVENUE SOUTH		
6. Address 2		
N/A		
7. City *	8. State *	9. Postal code *
TWIN FALLS	ID	83301
10. Country *	11. Province	
UNITED STATES OF AMERICA	N/A	
12. Telephone number *	13. Extension	14. E-Mail address
208-595-2226	N/A	LEGAL@WESTERNRANGE.NET

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor

E. Attorney or Agent Information (If applicable)

1. Is/are the employer(s) represented by an attorney or agent in the filing of this application (including associations acting as agent under the H-2A program)? If "Yes", complete Section E. *			☐ Yes	☒ No
2. Attorney or Agent's last (family) name § N/A	3. First (given) name § N/A	4. Middle name(s) § N/A		
5. Address 1 § N/A				
6. Address 2 N/A				
7. City § N/A	8. State § N/A	9. Postal code § N/A		
10. Country § N/A	11. Province N/A			
12. Telephone number § N/A	13. Extension N/A	14. E-Mail address N/A		
15. Law firm/Business name § N/A		16. Law firm/Business FEIN § N/A		
17. State Bar number (only if attorney) § N/A		18. State of highest court where attorney is in good standing (only if attorney) § N/A		
19. Name of the highest court where attorney is in good standing (only if attorney) § N/A				

F. Job Offer Information

a. Job Description

1. Job Title * Shepherd	
2. Number of hours of work per week Basic *: <u>40.00</u> Overtime: <u>0</u>	3. Hourly Work Schedule * A.M. (h:mm): <u>N/A</u> : <u>N/A</u> P.M. (h:mm): <u>12</u> : <u>00</u>
4. Does this position supervise the work of other employees? * ☐ Yes ☒ No	4a. If yes, number of employees worker will supervise (if applicable) § <u>0</u>
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description, *	
Attends sheep and/or goat flock grazing on range or pasture: Herds flock and rounds up strays using trained dogs. Beds down flock near evening campsite. Guards flock from predatory animals and from eating poisonous plants. Drenches sheep and/or goats. May examine animals for signs of illness and administer vaccines, medications and insecticides according to instructions. May assist in lambing, docking, and shearing. The work activities involve the herding or production of livestock (which includes work that is closely and directly related to herding and/or the production of livestock). Must have 3 months experience with 800 1000 head flocks. One reference required. More than 50% of work will be performed on the range. Worker must be qualified shepherd. ***Hours worked footnote: On call for up to 24 hours 7 days a week***	

OMB Approval: 1205-0486
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor

F. Job Offer Information (continued)

b. Minimum Job Requirements

1. Education: minimum U.S. diploma/degree required *	
☒ None ☐ High School/GED ☐ Associate's ☐ Bachelor's ☐ Master's ☐ Doctorate (PhD) ☐ Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required § n/a	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field) n/a
2. Does the employer require a second U.S. diploma/degree? *	
☐ Yes ☒ No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required § N/A	
3. Is training for the job opportunity required? *	
☐ Yes ☒ No	
3a. If "Yes" in question 3, specify the number of months of training required § 0	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type) N/A
4. Is employment experience required? *	
☒ Yes ☐ No	
4a. If "Yes" in question 4, specify the number of months of experience required § 3	4b. Indicate the occupation required § Shepherd
5. Special Requirements - List specific skills, licenses/certifications, and requirements of the job opportunity. *	
SEE ADDENDUM	
Must be qualified Shepherd. One reference required to verify experience. Lifting requirement 50 lbs. Western Range Association and its rancher members promote a	

c. Place of Employment Information

1. Worksite address 1 *	
400 MEADOW ROAD	
2. Address 2 N/A	
3. City *	4. County *
LOVELOCK	PERSHING
5. State/District/Territory *	6. Postal code *
NV	89419
7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? *	
☒ Yes ☐ No	
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. §	
State Area Based On Area	
1. Nevada County/Township PERSHING - NORTH NEVADA NONMETROPOLITAN AREA	
2. Nevada County/Township WASHOE - RENO, NV MSA	

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor

G. Rate of Pay

1. Basic Rate of Pay Offered *		1a. Overtime Rate of Pay (if applicable) \$	
From: \$ 1584 . 22 To (Optional): \$ 1584 . 22		From: \$ 0 . 00 To (Optional): \$ 0 . 00	
2. Per: (Choose only one) * ☐ Hour ☐ Week ☐ Bi-Weekly ☒ Month ☐ Year ☐ Piece Rate			
2a. If Piece Rate is indicated in question 2, specify the wage offer requirements: \$ N/A			
3. Additional Wage Information (e.g., multiple worksite applications, itinerant work, or other special procedures). If necessary, add attachment to <u>continue and complete</u> description. \$ SEE ADDENDUM Correct wages \$1584.22 no cents allowed above. Employer shall provide housing and board in			

H. Recruitment Information

1. Name of State Workforce Agency (SWA) serving the area of intended employment *		
NV SWA		
2. SWA job order identification number *	2a. Start date of SWA job order *	2b. End date of SWA job order * (In H-2A this date is 50% of contract period)
452684	09/14/2018	05/08/2019
3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? *		☐ Yes ☒ No
Name of Newspaper/Publication (in area of intended employment for H-2B only) *		Dates of Print Advertisement \$
4. n/a	From: N/A	To: N/A
5. n/a	From: N/A	To: N/A
6. Additional Recruitment Activities for H-2B program. Use the space below to identify the type(s) or source(s) of recruitment, geographic location(s) of recruitment, <u>and</u> the date(s) on which recruitment was conducted. If necessary, add attachment to <u>continue and complete</u> description. *		
n/a		

OMB Approval: 1205-0466
Expiration Date: 05/31/2019H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor**I. Declaration of Employer and Attorney/Agent**

In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach Appendix A or Appendix B will be considered incomplete and not accepted for processing by the ETA application processing center.

1. For H-2A Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix A. §	☒ Yes ☐ No ☐ N/A
2. For H-2B Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix B. §	☐ Yes ☐ No ☐ N/A

J. Preparer

Complete this section if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name § n/a	2. First (given) name § n/a	3. Middle initial § n/
4. Job Title § n/a		
5. Firm/Business name § n/a		
6. E-Mail address § n/a		

K. U.S. Government Agency Use (ONLY)

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from 11/08/2018 to 11/06/2019.

Certifying Officer

Department of Labor, Office of Foreign Labor Certification

10/05/2018

Determination Date (date signed)

H-300-18247-174940

Case number

CERTIFIED

Case Status

Public Burden Statement (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour to complete the form, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification * U.S. Department of Labor * Box 12-200 * 200 Constitution Ave., NW, * Washington, DC *. Please **do not** send the completed application to this address.

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



ADDENDUM

ADDENDUM SECTION C: Employer Information

1. WESTERN RANGE ASSOCIATION Workers Requested: N/A Starting Date: 11/08/2018 Ending Date: 11/06/2019 Workers Certified: 0 161 FIFTH AVENUE SOUTH SUITE 100
TWIN FALLS, ID 83301 UNITED STATES OF AMERICA 208-595-2226 N/A
Crops: Sheepherder

2. JOHN ESPIL SHEEP COMPANY Workers Requested: 6 Starting Date: 11/08/2018 Ending Date: 11/06/2019 Workers Certified: 6 JOHN ESPIL 400 MEADOW ROAD N/A
LOVELOCK, NV 89419 UNITED STATES OF AMERICA 775-626-7554 N/A
Crops: No Crops Entered.

Form ETA-9142A

FOR DEPARTMENT OF LABOR USE ONLY

Page 7 of 9

Case Number: H-300-18247-174940

Case Status: CERTIFIED

Validity Period: 11/08/2018 to 11/06/2019

WRA009981

RA 01126

OMB Approval: 1205-0466
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



ADDENDUM

ADDENDUM SECTION F.b.5: Special Requirements

drug-free workplace. Misuse/abuse of alcohol, illegal drugs, or misuse of prescription medication is cause for termination. At the employer's expense, all applicants may be required to complete pre-employment alcohol and drug testing. Failure to consent to request testing, will result in disqualification of the applicant.

Form ETA-9142A

FOR DEPARTMENT OF LABOR USE ONLY

Page 8 of 9

Case Number: H-300-18247-174940

Case Status: CERTIFIED

Validity Period: 11/08/2018 to 11/08/2019

WRA009982

RA 01127

OMB Approval: 1205-0486
Expiration Date: 05/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A
U.S. Department of Labor



ADDENDUM

ADDENDUM SECTION G.3: Additional Wage Information

accordance with the rules and regulations of the federal government of the United States of America.

Performance based bonuses may be available
Payroll advances may be available

Form ETA-9142A

FOR DEPARTMENT OF LABOR USE ONLY

Page 9 of 9

Case Number: H-300-18247-174940

Case Status: CERTIFIED

Validity Period 11/08/2018 to 11/05/2019

WRA009983

RA 01128

OMB Approval: 1205-0466
Expiration Date: 5/31/2019

H-2A Application for Temporary Employment Certification
Form ETA-9142A – APPENDIX A
U.S. Department of Labor



For Use in Filing Applications Under the H-2A Agricultural Program ONLY

A. Attorney or Agent Declaration

I hereby certify that I am an employee of, or hired by, the employer listed in Section C of the Form ETA-9142A, and that I have been designated by that employer to act on its behalf in connection with this application. If I am an agent and not an employee of the employer, then I have attached a Letter of Representation from the employer. I also certify that to the best of my knowledge the information contained herein is true and correct. I understand that to knowingly furnish false information in the preparation of this form and any supplement hereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in a Federal penitentiary or both (18 U.S.C. 1001).

1. Attorney or Agent's last (family) name	2. First (given) name	3. Middle initial
4. Firm/Business name		
5. E-Mail address		
6. Signature		7. Date signed

B. Employer Declaration

By virtue of my signature below, I **HEREBY CERTIFY** the following conditions of employment:

1. The job opportunity is a full-time temporary position, the qualifications for which do not substantially deviate from the normal and accepted qualifications required by non-H-2A employers in the same or comparable occupations and crops.
2. The specific job opportunity for which the employer is requesting H-2A certification is not vacant because the former occupant(s) is (are) on strike or locked out in the course of a labor dispute involving a work stoppage.
3. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship, and the employer has conducted and will continue to conduct the required recruitment, in accordance with regulations, and has been unsuccessful in locating sufficient numbers of qualified U.S. applicants for the job opportunity for which certification is sought. Any U.S. workers who applied or apply for the job were or will be rejected only for lawful, job-related reasons, and the employer must retain records of all rejections as required by 20 CFR 655.167.
4. The job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B.
5. The employer understands that it must offer, recruit at, and pay a wage that is at least the highest of the adverse effect wage rate in effect at the time the job order is placed, the prevailing hourly or piece rate, the agreed-upon collective bargaining rate (CBA), or the Federal or State minimum wage, and, furthermore, that if a new Adverse Effect Wage Rate is published, or the employer is notified of a new prevailing wage rate during the contract period, and that new rate is higher than the wage determined by the NPC (except the CBA) during the application process the employer will increase the pay of all employees in the same job occupation to the higher rate. For employers subject to the requirements at 20 CFR 655.200-235, the employer understands that it must offer, recruit at, and pay a wage that is at least the highest of the adverse effect wage rate, the agreed-upon CBA, or the applicable minimum wage rate set by Federal or State law or judicial action, for each month, or portion thereof, during the job order period.
6. There are no U.S. workers available in the area(s) capable of performing the temporary services or labor in the job opportunity, and the employer will conduct positive recruitment as specified by the NPC and continue to cooperate with the SWA by accepting referrals of all eligible U.S. workers who apply (or on whose behalf an application is made) for the job opportunity until completion of 50% of the contract period calculated from the first date of need indicated in Section B.5 of Form ETA-9142A.
7. All fees associated with processing the temporary labor certification will be paid in a timely manner.

ETA Form 9142A – Appendix A TO BE COMPLETED BY EMPLOYER FROM A CERTIFIED FORM ETA-9142A Page A.1 of A.3

Case Number: H-300-18247-174940 Case Status: Certified Period of Employment: 11-08-2018 to 11-06-2019

WRA009984

RA 01129

OMB Approval: 1205-0466
Expiration Date: 5/31/2019



H-2A Application for Temporary Employment Certification

Form ETA 9142A – APPENDIX A
U.S. Department of Labor

8. During the period of employment that is the subject of the labor certification application, the employer:
 - (i) Will comply with applicable Federal, State and local employment-related laws and regulations, including employment-related health and safety laws;
 - (ii) Will provide for or secure housing for workers who are not reasonably able to return to their permanent residence at the end of the work day that complies with the applicable local, State, or Federal standards and guidelines for housing without charge to the worker;
 - (iii) Where required, has timely requested a preoccupancy inspection of the housing and received certification;
 - (iv) Will provide insurance, without charge to the worker, under a State workers' compensation law or otherwise, that meets the requirements of 20 CFR 655.122(e);
 - (v) Will provide transportation in compliance with all applicable Federal, State or local laws and regulations between the worker's living quarters (i.e., housing provided by the employer under 20 CFR 655.122(d) and, if applicable, 655.230) and the employer's worksite without cost to the worker.
 - (vi) Will provide all tools, supplies, and equipment required to perform the duties, without charge to the worker.
 - (vii) Will provide meals and potable water, without charge to the worker.
9. The employer has not laid off and will not lay off any similarly employed U.S. worker in the occupation that is the subject of the H-2A Application for Temporary Employment Certification in the area of intended employment except for lawful, job related reasons within 60 days of the date of need, or if the employer has laid off such workers, it has offered the job opportunity that is the subject of the application to those laid-off U.S. worker(s) and the U.S. worker(s) refused the job opportunity, was rejected for the job opportunity for lawful, job-related reasons, or was hired.
10. The employer and its agents have not sought or received payment of any kind from the H-2A worker for any activity related to obtaining labor certification, including payment of the employer's attorneys' fees, application fees, or recruitment costs. For purposes of this paragraph, payment includes, but is not limited to, monetary payments, wage concessions (including deductions from wages, salary, or benefits), kickbacks, bribes, tributes, in kind payments, and free labor.
11. The employer has and will contractually forbid any foreign labor contractor or recruiter whom the employer engages in international recruitment of H-2A workers to seek or receive payments from prospective employees, except as provided for in DHS regulations.
12. The employer has not and will not intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, and has not and will not cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, any person who has with just cause:
 - (i) Filed a complaint under or related to Sec. 218 of the INA (8 U.S.C. 1188), or any Department regulation promulgated under Sec. 218 of the INA;
 - (ii) Instituted or caused to be instituted any proceeding under or related to Sec. 218 of the INA, or any Department regulation promulgated under Sec. 218 of the INA;
 - (iii) Testified or is about to testify in any proceeding under or related to Sec. 218 of the INA or any Department regulation promulgated under Sec. 218 of the INA;
 - (iv) Consulted with an employee of a legal assistance program or an attorney on matters related to Sec. 218 of the INA or any Department regulation promulgated under Sec. 218 of the INA; or
 - (v) Exercised or asserted on behalf of himself/herself or others any right or protection afforded by Sec. 218 of the INA, or any Department regulation promulgated under Sec. 218 of the INA.
13. The employer has not and will not discharge any person because of that person's taking any action listed in paragraph 12(i) through (v) listed above.
14. The employer will inform H-2A workers of the requirement that they leave the U.S. at the end of the period certified by the Department or separation from the employer, whichever is earlier, as required under 20 CFR 655.135(i), unless the H-2A worker is being sponsored by another subsequent employer.
15. The employer has posted the Notice of Workers' Rights as required by 20 CFR 655.135(l) in a conspicuous place frequented by all employees,
16. If the application is being filed as an H-2A Labor Contractor the following additional attestations and obligations apply under 20 CFR 655.132:
 - (i) The H-2A Labor Contractor has provided a copy of the MSPA Farm Labor Contractor (FLC) certificate of registration if required under MSPA, 1801 U.S.C. et seq., to have such a certificate identifying the specific farm labor contracting activities it is authorized to perform;
 - (ii) The H-2A Labor Contractor has provided with this application a list of the names and locations of each fixed-site agricultural business to which the H-2A Labor Contractor expects to provide H-2A workers, the expected beginning and ending dates when the H-2A Labor Contractor will be providing the workers to each fixed site, and a description of the crops and activities the workers are expected to perform at such fixed site;
 - (iii) The H-2A Labor Contractor is able to provide proof of its ability to discharge financial obligations under the H-2A program and has secured a surety bond as required by 29 CFR 501.9, the original of which is attached and shows

ETA Form 9142A – Appendix A TO BE COMPLETED BY EMPLOYER FROM A CERTIFIED FORM ETA-9142A Page A.2 of A.3

Case Number: H-300-18247-174940 Case Status: Certified Period of Employment: 11-08-2018 to 11-06-2019

WRA009985

RA 01130

OMB Approval: 1205-0466
Expiration Date: 5/31/2019



H-2A Application for Temporary Employment Certification

Form ETA 9142A – APPENDIX A
U.S. Department of Labor

the name, address, phone number, and contact person for the surety, and provides the amount of the bond (as calculated pursuant to 29 CFR 501.9);

- (iv) The H-2A Labor Contractor has engaged in and will engage in recruitment efforts in each area of intended employment in which it has listed a fixed-site agricultural business as required in 20 CFR 655.121, 655.150-155 and 655.215; and
- (v) The H-2A Labor Contractor has obtained from each fixed-site agricultural business that will provide housing or transportation to the workers a written statement stating that:
 - a. All housing used by workers and owned, operated, or secured by the fixed-site agricultural business complies with the applicable housing standards in 20 CFR 655.122(d) and, if applicable, 655.235; and
 - b. All transportation between the worksite and the workers' living quarters that is provided by the fixed-site agricultural business complies with all applicable Federal, State, or local laws and regulations and will provide, at a minimum, the same vehicle safety standards, driver licensure, and vehicle insurance as required under 29 U.S.C. 1841 and 29 CFR part 500, except where workers' compensation is used to cover such transportation as described in § 655.122(e); and
 - c. Attach to the statement certificates of occupancy from the SWA for all employer owned housing and copies of all drivers' licenses, vehicle registration, and insurance policies for all drivers and vehicles used to transport H-2A workers.

I hereby acknowledge that the agent or attorney identified in section E (if any) of the Form ETA-9142A and section A above is authorized to represent me for the purpose of labor certification and, by virtue of my signature in Block 5 below, I **take full responsibility** for the accuracy of any representations made by my agent or attorney.

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly furnish false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in the Federal penitentiary or both (18 U.S.C. 1001).*

1. Last (family) name Youree	2. First (given) name Monica	3. Middle initial
4. Title Executive Director, Western Range Association		
5. Signature <i>Monica Youree</i>		6. Date signed <i>10.9.2018</i>

Public Burden Statement

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour to complete the form, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification * U.S. Department of Labor * Box 12-200 * 200 Constitution Ave., NW, * Washington, DC * 20210. **Please do not send the completed application to this address.**

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 6, PART 3

ELLEN JEAN WINOGRAD, ESQ.

Nevada State Bar No. 815

JOSE TAFOYA, ESQ.

Nevada State Bar No. 16011

WOODBURN AND WEDGE

6100 Neil Road, Suite 500

Reno, Nevada 89511

Tel: 775-688-3000

Fax: 775-688-3088

ewinograd@woodburnandwedge.com

jtafoya@woodburnandwedge.com

ANTHONY HALL, ESQ.

Nevada State Bar No. 5977

JONATHAN MCGUIRE, ESQ.

Nevada State Bar No. 15280

SIMONS HALL JOHNSTON, P.C.

690 Sierra Rose Drive

Reno, Nevada 89511

(775) 785-0088

ahall@shjnevada.com

jmcguire@shjnevada.com

ATTORNEYS FOR RESPONDENT
WESTERN RANGE ASSOCIATION

EXHIBIT 41

WAC - 17-007-50792



Petition for a Nonimmigrant Worker

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-129
OMB No. 1615-0009
Expires 10/31/2016

For USCIS Use Only	Receipt	Partial Approval (explain)	Action Block
Class: _____ No. of Workers: _____ Job Code: _____ Validity Dates: _____ From: _____ To: _____	☐ Classification Approved ☐ Consulate/POE/PFI Notified At: _____ ☐ Extension Granted ☐ COS/Extension Granted		

▶ START HERE - Type or print in black ink.

Part 1. Petitioner Information

If you are an individual filing this petition, complete Item Number 1. If you are a company or an organization filing this petition, complete Item Number 2.

1. Legal Name of Individual Petitioner

Family Name (last name)	Given Name (first name)	Middle Name
NA		

2. Company or Organization Name

WESTERN RANGE ASSOCIATION

3. Mailing Address of Individual, Company or Organization

In Care Of Name

L JENSEN

Street Number and Name

161 FIFTH AVE SOUTH

Apt. Ste. Flr. Number

☐ ☒ ☐ 100

City or Town

TWIN FALLS

State

ID

ZIP Code

83301

Province

Postal Code

Country

USA

4. Contact Information

Daytime Telephone Number

208-595-2226

Mobile Telephone Number

435-452-8665

Email Address (if any)

lane.jensen@westernrange.net

5. Other Information

Federal Employer Identification Number (FEIN)

▶

Individual IRS Tax Number

▶

U.S. Social Security Number (if any)

▶

Part 2. Information About This Petition (See instructions for fee information)

1. Requested Nonimmigrant Classification (Write classification symbol): **H2-A**
2. Basis for Classification (select only one box):
- ☐ a. New employment.
- ☒ b. Continuation of previously approved employment without change with the same employer.
- ☐ c. Change in previously approved employment.
- ☐ d. New concurrent employment.
- ☐ e. Change of employer.
- ☐ f. Amended petition.
3. Provide the most recent petition/application receipt number for the beneficiary. If none exists, indicate "None." **WAC - 16 - 020 - 50941**
4. Requested Action (select only one box):
- ☐ a. Notify the office in Part 4. so each beneficiary can obtain a visa or be admitted. (NOTE: A petition is not required for E-1, E-2, E-3, H-1B1 Chile/Singapore, or TN visa beneficiaries.)
- ☐ b. Change the status and extend the stay of each beneficiary because the beneficiary(ies) is/are now in the United States in another status (see instructions for limitations). This is available only when you check "New Employment" in Item Number 2., above.
- ☒ c. Extend the stay of each beneficiary because the beneficiary(ies) now hold(s) this status.
- ☐ d. Amend the stay of each beneficiary because the beneficiary(ies) now hold(s) this status.
- ☐ e. Extend the status of a nonimmigrant classification based on a free trade agreement. (See Trade Agreement Supplement to Form I-129 for TN and H-1B1.)
- ☐ f. Change status to a nonimmigrant classification based on a free trade agreement. (See Trade Agreement Supplement to Form I-129 for TN and H-1B1.)
5. Total number of workers included in this petition. (See instructions relating to when more than one worker can be included.) **1**

Part 3. Beneficiary Information (Information about the beneficiary/beneficiaries you are filing for. Complete the blocks below. Use the Attachment-1 sheet to name each beneficiary included in this petition.)**1. If an Entertainment Group, Provide the Group Name****NA****2. Provide Name of Beneficiary**

Family Name (last name)

Given Name (first name)

Middle Name

AGUILAR SAUCEDO**JORGE****3. Provide all other names the beneficiary has used. Include nicknames, aliases, maiden name, and names from all previous marriages.**

Family Name (last name)

Given Name (first name)

Middle Name

4. Other Information

Date of birth

(mm/dd/yyyy)

Gender

☒ Male☐ Female

U.S. Social Security Number (if any)

Part 3. Beneficiary Information (Information about the beneficiary/beneficiaries you are filing for. Complete the blocks below. Use the Attachment-1 sheet to name each beneficiary included in this petition.) (continued)

Alien Registration Number (A-Number) Country of Birth
 ▶ A- MEXICO

Province of Birth Country of Citizenship or Nationality
 MEXICO

5. If the beneficiary is in the United States, complete the following:

Date of Last Arrival (mm/dd/yyyy) I-94 Arrival-Departure Record Number Passport or Travel Document Number
 12/04/2015 ▶ 81078952230

Date Passport or Travel Document Issued (mm/dd/yyyy) Date Passport or Travel Document Expires (mm/dd/yyyy) Passport or Travel Document Country of Issuance
 11/20/2015 11/20/2018 MEXICO

Current Nonimmigrant Status Date Status Expires or D/S (mm/dd/yyyy)
 H2A - TEMPORARY AGRICULTURAL WORKER 11/09/2016

Student and Exchange Visitor Information System (SEVIS) Number (if any) Employment Authorization Document (EAD) Number (if any)
 NA NA

6. Current Residential U.S. Address (if applicable) (do not list a P.O. Box)

Street Number and Name Apt. Ste. Flr. Number
 SOUTH ON STATE ROUTE 228 ☐ ☐ ☐
 City or Town State ZIP Code
 SPRING CREEK NV 89815-0000

Part 4. Processing Information**1. If a beneficiary or beneficiaries named in Part 3. is/are outside the United States, or a requested extension of stay or change of status cannot be granted, state the U.S. Consulate or inspection facility you want notified if this petition is approved.**

a. Type of Office (select only one box): ☒ Consulate ☐ Pre-flight inspection ☐ Port of Entry

b. Office Address (City)

HERMOSILLO

c. U.S. State or Foreign Country

MEXICO

d. Beneficiary's Foreign Address

Street Number and Name Apt. Ste. Flr. Number
 NA ☐ ☐ ☐

City or Town State

Province Postal Code Country

2. Does each person in this petition have a valid passport? ☒ Yes ☐ No. If no, go to Part 9. and type or print your explanation.

Part 4. Processing Information (continued)

3. Are you filing any other petitions with this one?
☐ Yes. If yes, how many? ▶ ☒ No
4. Are you filing any applications for replacement/initial I-94, Arrival-Departure Records with this petition? Note that if the beneficiary was issued an electronic Form I-94 by CBP when he/she was admitted to the United States at an air or sea port, he/she may be able to obtain the Form I-94 from the CBP Web site at www.cbp.gov/i94 instead of filing an application for a replacement/initial I-94.
☐ Yes. If yes, how many? ▶ ☒ No
5. Are you filing any applications for dependents with this petition?
☐ Yes. If yes, how many? ▶ ☒ No
6. Is any beneficiary in this petition in removal proceedings?
☐ Yes. If yes, proceed to Part 9. and list the beneficiary's(ies) name(s). ☒ No
7. Have you ever filed an immigrant petition for any beneficiary in this petition?
☐ Yes. If yes, how many? ▶ ☒ No
8. Did you indicate you were filing a new petition in Part 2?
☐ Yes. If yes, answer the questions below. ☒ No. If no, proceed to Item Number 9.
- a. Has any beneficiary in this petition ever been given the classification you are now requesting within the last seven years?
☐ Yes. If yes, proceed to Part 9. and type or print your explanation. ☐ No
- b. Has any beneficiary in this petition ever been denied the classification you are now requesting within the last seven years?
☐ Yes. If yes, proceed to Part 9. and type or print your explanation. ☐ No
9. Have you ever previously filed a nonimmigrant petition for this beneficiary?
☐ Yes. If yes, proceed to Part 9. and type or print your explanation. ☒ No
10. If you are filing for an entertainment group, has any beneficiary in this petition not been with the group for at least one year?
☐ Yes. If yes, proceed to Part 9. and type or print your explanation. ☒ No
- 11.a. Has any beneficiary in this petition ever been a J-1 exchange visitor or J-2 dependent of a J-1 exchange visitor?
☐ Yes. If yes, proceed to Item Number 11.b. ☒ No
- 11.b. If you checked yes in Item Number 11.a., provide the dates the beneficiary maintained status as a J-1 exchange visitor or J-2 dependent. Also, provide evidence of this status by attaching a copy of either a DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status, a Form IAP-66, or a copy of the passport that includes the J visa stamp.

Part 5. Basic Information About the Proposed Employment and Employer

Attach the Form I-129 supplement relevant to the classification of the worker(s) you are requesting.

1. Job Title

SHEEPHERDER

2. LCA or ETA Case Number

H-300-16250-699691

Part 5. Basic Information About the Proposed Employment and Employer (continued)

3. Address where the beneficiary(ies) will work if different from address in Part 1.

Street Number and Name

SOUTH ON STATE ROUTE 228

Apt. Ste. Flr. Number

☐ ☐ ☐

City or Town

SPRING CREEK

State

NV

ZIP Code

89815-0000

4. Did you include an itinerary with the petition? ☐ Yes ☒ No
5. Will the beneficiary(ies) work for you off-site at another company or organization's location? ☐ Yes ☒ No
6. Will the beneficiary(ies) work exclusively in the Commonwealth of the Northern Mariana Islands (CNMI)? ☐ Yes ☒ No
7. Is this a full-time position? ☒ Yes ☐ No

8. If the answer to Item Number 7. is no, how many hours per week for the position?

▶ 9. Wages: \$ per (Specify hour, week, month, or year)▶

10. Other Compensation (Explain)

24/7 HOURS PER WEEK. FREE ROOM AND BOARD.

11. Dates of intended employment From: (mm/dd/yyyy) To: (mm/dd/yyyy)

12. Type of Business

13. Year Established

14. Current Number of Employees in the United States

15. Gross Annual Income

16. Net Annual Income

Part 6. Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States

(This section of the form is required only for H-1B, H-1B1 Chile/Singapore, L-1, and O-1A petitions. It is not required for any other classifications. Please review the Form I-129 General Filing Instructions before completing this section.)

Select Item Number 1. or Item Number 2. as appropriate. DO NOT select both boxes.

With respect to the technology or technical data the petitioner will release or otherwise provide access to the beneficiary, the petitioner certifies that it has reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) and has determined that:

1. ☐ A license is not required from either the U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the foreign person; or
2. ☐ A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the beneficiary and the petitioner will prevent access to the controlled technology or technical data by the beneficiary until and unless the petitioner has received the required license or other authorization to release it to the beneficiary.

Part 7. Declaration, Signature, and Contact Information of Petitioner or Authorized Signatory (Read the information on penalties in the instructions before completing this section.)

Copies of any documents submitted are exact photocopies of unaltered, original documents, and I understand that, as the petitioner, I may be required to submit original documents to U.S. Citizenship and Immigration Services (USCIS) at a later date.

I authorize the release of any information from my records, or from the petitioning organization's records that USCIS needs to determine eligibility for the immigration benefit sought. I recognize the authority of USCIS to conduct audits of this petition using publicly available open source information. I also recognize that any supporting evidence submitted in support of this petition may be verified by USCIS through any means determined appropriate by USCIS, including but not limited to, on-site compliance reviews.

If filing this petition on behalf of an organization, I certify that I am authorized to do so by the organization.

I certify, under penalty of perjury, that I have reviewed this petition and that all of the information contained in the petition, including all responses to specific questions, and in the supporting documents, is complete, true, and correct.

1. Name and Title of Authorized Signatory

Family Name (last name)

Medford

Given Name (first name)

Susan

Title

Operations Manager

2. Signature and Date

Signature of Authorized Signatory

Susan Medford

Date of Signature

(mm/dd/yyyy)

10/7/2018

3. Signatory's Contact Information

Daytime Telephone Number

208-595-2226

Email Address (if any)

Susan.medford@westernrange.net

NOTE: If you do not fully complete this form or fail to submit the required documents listed in the instructions, a final decision on your petition may be delayed or the petition may be denied.

Part 8. Declaration, Signature, and Contact Information of Person Preparing Form, If Other Than Petitioner

Provide the following information concerning the preparer:

1. Name of Preparer

Family Name (last name)

NA

Given Name (first name)

NA

2. Preparer's Business or Organization Name (if any)

(If applicable, provide the name of your accredited organization recognized by the Board of Immigration Appeals (BIA).)

NA

Part 8. Declaration, Signature, and Contact Information of Person Preparing Form, If Other Than Petitioner (continued)
3. Preparer's Mailing Address

Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐

City or Town

State

ZIP Code

Province

Postal Code

Country

4. Preparer's Contact Information

Daytime Telephone Number

Fax Number

Email Address (if any)

Preparer's Declaration

By my signature, I certify, swear, or affirm, under penalty of perjury, that I prepared this petition on behalf of, at the request of, and with the express consent of the petitioner or authorized signatory. The petitioner has reviewed this completed petition as prepared by me and informed me that all of the information in the form and in the supporting documents, is complete, true, and correct.

5. Signature and Date

Signature of Preparer

Date of Signature

(mm/dd/yyyy)

**H Classification Supplement to Form I-129**

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-129
OMB No. 1615-0009
Expires 10/31/2016

1. Name of the Petitioner

WESTERN RANGE ASSOCIATION

Name of the beneficiary or if this petition includes multiple beneficiaries, the total number of beneficiaries

2.a. Name of the Beneficiary

JORGE AGUILAR SAUCEDO

OR

2.b. Provide the total number of beneficiaries

3. List each beneficiary's prior periods of stay in H or L classification in the United States for the last six years (beneficiaries requesting H-2A or H-2B classification need only list the last three years). Be sure to only list those periods in which each beneficiary was actually in the United States in an H or L classification. Do not include periods in which the beneficiary was in a dependent status, for example, H-4 or L-2 status.

NOTE: Submit photocopies of Forms I-94, I-797, and/or other USCIS issued documents noting these periods of stay in the H or L classification. (If more space is needed, attach an additional sheet.)

Subject's Name	Period of Stay (mm/dd/yyyy)	
	From	To
JORGE AGUILAR SAUCEDO	12/04/2015	11/09/2016

4. Classification sought (select only one box):

- ☐ a. H-1B Specialty Occupation
- ☐ b. H-1B1 Chile and Singapore
- ☐ c. H-1B2 Exceptional services relating to a cooperative research and development project administered by the U.S. Department of Defense (DOD)
- ☐ d. H-1B3 Fashion model of distinguished merit and ability
- ☒ e. H-2A Agricultural worker
- ☐ f. H-2B Non-agricultural worker
- ☐ g. H-3 Trainee
- ☐ h. H-3 Special education exchange visitor program

5. Are you filing this petition on behalf of a beneficiary subject to the Guam-CNMI cap exemption under Public Law 110-229?

☐ Yes ☒ No

6. Are you requesting a change of employer and was the beneficiary previously subject to the Guam-CNMI cap exemption under Public Law 110-229?

☐ Yes ☒ No

7.a. Does any beneficiary in this petition have ownership interest in the petitioning organization?

☐ Yes. If yes, please explain in Item Number 7.b. ☒ No

7.b. Explanation

Section 1. Complete This Section If Filing for H-1B Classification

1. Describe the proposed duties.

NA

2. Describe the beneficiary's present occupation and summary of prior work experience.

NA

Statement for H-1B Specialty Occupations and H-1B1 Chile and Singapore

By filing this petition, I agree to, and will abide by, the terms of the labor condition application (LCA) for the duration of the beneficiary's authorized period of stay for H-1B employment. I certify that I will maintain a valid employer-employee relationship with the beneficiary at all times. If the beneficiary is assigned to a position in a new location, I will obtain and post an LCA for that site prior to reassignment.

I further understand that I cannot charge the beneficiary the ACWIA fee, and that any other required reimbursement will be considered an offset against wages and benefits paid relative to the LCA.

Signature of Petitioner

Name of Petitioner

Date (mm/dd/yyyy)

Statement for H-1B Specialty Occupations and U.S. Department of Defense (DOD) Projects

As an authorized official of the employer, I certify that the employer will be liable for the reasonable costs of return transportation of the alien abroad if the beneficiary is dismissed from employment by the employer before the end of the period of authorized stay.

Signature of Authorized Official of Employer

Name of Authorized Official of Employer

Date (mm/dd/yyyy)

Statement for H-1B U.S. Department of Defense Projects Only

I certify that the beneficiary will be working on a cooperative research and development project or a co-production project under a reciprocal government-to-government agreement administered by the U.S. Department of Defense.

Signature of DOD Project Manager

Name of DOD Project Manager

Date (mm/dd/yyyy)

Section 2. Complete This Section If Filing for H-2A or H-2B Classification

1. Employment is: (select only one box)

☒ a. Seasonal☐ b. Peak load☐ c. Intermittent☐ d. One-time occurrence

2. Temporary need is: (select only one box)

☐ a. Unpredictable☐ b. Periodic☒ c. Recurrent annually

Section 2. Complete This Section If Filing for H-2A or H-2B Classification (continued)

3. Explain your temporary need for the workers' services (Attach a separate sheet if additional space is needed).

WORKERS ARE BROUGHT INTO THE UNITED STATES UNDER THE H-2A PROGRAM. THE CONTRACT IS FOR 12 MONTHS; DEPENDING ON THE NEED OF EACH EMPLOYER, A 12 MONTH EXTENSION MAY BE REQUIRED.

4. List the countries of citizenship for the H-2A or H-2B workers you plan to hire.

a. PERU	d.
b. CHILE	e.
c. MEXICO	f.

- 5.a. You must provide all of the requested information for
- Item Numbers 5.a. - 6.**
- for each H-2A or H-2B worker you plan to hire who is not from a country that has been designated as a participating country in accordance with 8 CFR 214.2(h)(5)(i)(F)(1) or 214.2(h)(6)(i)(E)(1). See
- www.uscis.gov
- for the list of participating countries. (Attach a separate sheet if additional space is needed.)

Family Name (last name)	Given Name (first name)	Middle Name
NA		

- 5.b. Provide all other name(s) used

Family Name (last name)	Given Name (first name)	Middle Name
NA		

- 5.c. Date of Birth (mm/dd/yyyy) 5.d. Country of Birth

--	--

- 5.e. Country of Citizenship or Nationality

--

- 6.a. Have any of the workers listed in
- Item Number 5.**
- above ever been admitted to the United States previously in H-2A/H-2B status?

☐ Yes. If yes, go to **Part 9.** of Form I-129 and write your explanation. ☒ No

- 6.b. Visa Classification (H-2A or H-2B):

H-2A

NOTE: If any of the H-2A or H-2B workers you are requesting are nationals of a country that is not on the eligible countries list, you must also provide evidence showing: (1) that workers with the required skills are not available from a country currently on the eligible countries list*; (2) whether the beneficiaries have been admitted previously to the United States in H-2A or H-2B status; (3) that there is no potential for abuse, fraud, or other harm to the integrity of the H-2A or H-2B visa programs through the potential admission of the intended workers; and (4) any other factors that may serve the United States interest.

* For H-2A petitions only: You must also show that workers with the required skills are not available from among United States workers.

- 7.a. Did you or do you plan to use a staffing, recruiting, or similar placement service or agent to locate the H-2A/H-2B workers that you intend to hire by filing this petition?

☒ Yes ☐ No

If yes, list the name and address of service or agent used below. Please use **Part 9.** of Form I-129 if you need to include the name and address of more than one service or agent.

- 7.b. Name

ESPERANZA RECRUITING

Section 2. Complete This Section If Filing for H-2A or H-2B Classification (continued)**7.c. Address**

Street Number and Name

CALLE MONTEREY NO. 31 SUITE 5

Apt. Stc. Flr. Number

☐ ☐ ☐

City or Town

HERMOSILLO, SONORA, MEXICO 83260

State

ZIP Code

- 8.a. Did any of the H-2A/H-2B workers that you are requesting pay you, or an agent, a job placement fee or other form of compensation (either direct or indirect) as a condition of the employment, or do they have an agreement to pay you or the service such fees at a later date? The phrase "fees or other compensation" includes, but is not limited to, petition fees, attorney fees, recruitment costs, and any other fees that are a condition of a beneficiary's employment that the employer is prohibited from passing to the H-2A or H-2B worker under law under U.S. Department of Labor rules. This phrase does not include reasonable travel expenses and certain government-mandated fees (such as passport fees) that are not prohibited from being passed to the H-2A or H-2B worker by statute, regulations, or any laws. ☐ Yes ☒ No

- 8.b. If yes, list the types and amounts of fees that the worker(s) paid or will pay.

- 8.c. If the workers paid any fee or compensation, were they reimbursed? ☐ Yes ☒ No
- 8.d. If the workers agreed to pay a fee that they have not yet been paid, has their agreement been terminated before the workers paid the fee? (Submit evidence of termination or reimbursement with this petition.) ☐ Yes ☒ No
9. Have you made reasonable inquiries to determine that to the best of your knowledge the recruiter, facilitator, or similar employment service that you used has not collected, and will not collect, directly or indirectly, any fees or other compensation from the H-2 workers of this petition as a condition of the H-2 workers' employment? ☒ Yes ☐ No

NOTE: If USCIS determines that you knew, or should have known, that the workers requested in connection with this petition paid any fees or other compensation at any time as a condition of employment, your petition may be denied or revoked.

- 10.a. Have you ever had an H-2A or H-2B petition denied or revoked because an employee paid a job placement fee or other similar compensation as a condition of the job offer or employment? ☐ Yes ☒ No

10.a.1 If yes, when?

10.a.2 Receipt Number: ►

- 10.b. Were the workers reimbursed for such fees and compensation? (Submit evidence of reimbursement.) If you answered no because you were unable to locate the workers, include evidence of your efforts to locate the workers. ☐ Yes ☒ No
11. Have any of the workers you are requesting experienced an interrupted stay associated with their entry as an H-2A or H-2B? (See form instructions for more information on interrupted stays.) ☐ Yes ☒ No
- If yes, document the workers' periods of stay in the table on the first page of this supplement. Submit evidence of each entry and each exit, with the petition, as evidence of the interrupted stays.

- 12.a. If you are an H-2A petitioner, are you a participant in the E-Verify program? ☐ Yes ☒ No

- 12.b. If yes, provide the E-Verify Company ID or Client Company ID.



U.S. Customs and Border Protection
Securing America's Borders

Most Recent I-94

Admission (I-94) Record Number: 81078952230

Most Recent Date of Entry: 2015 December 04

Class of Admission: H2A

Admit Until Date: 11/19/2016

Details provided on the I-94 Information form:

Last/Surname: AGUILAR SAUCEDO

First (Given) Name: JORGE

Birth Date: [REDACTED]

Passport Number: [REDACTED]

Country of Issuance: Mexico

[Get Travel History](#)

► Effective April 26, 2013, DHS began automating the admission process. An alien lawfully admitted or paroled into the U.S. is no longer required to be in possession of a preprinted Form I-94. A record of admission printed from the CBP website constitutes a lawful record of admission. See 8 CFR § 1.4(d).

► If an employer, local, state or federal agency requests admission information, present your admission (I-94) number along with any additional required documents requested by that employer or agency.

► Note: For security reasons, we recommend that you close your browser after you have finished retrieving your I-94 number.

OMB No. 1551-0111
Expiration Date: 09-30-2019

[For inquiries or questions regarding your I-94, please click here.](#)

[Accessibility | Privacy Policy](#)

WRA010901

RA 01144



RECEIPT NUMBER WAC-16-020-50941		CASE TYPE I129 PETITION FOR A NONIMMIGRANT WORKER
RECEIPT DATE October 29, 2015	PRIORITY DATE	PETITIONER WESTERN RANGE ASSN
NOTICE DATE November 9, 2015	PAGE 1 of 2	BENEFICIARY THREE UNNAMED WORKERS
WESTERN RANGE ASSN C/O L MELENDEZ OR ESPIL 161 FIFTH AVE S STE 100 TWIN FALLS ID 83301		Notice Type: Approval Notice Class: H2A Valid from 11/10/2015 to 11/09/2016 Consulate: HERMOSILLO

The above petition has been approved, and notification has been sent to the listed consulate. You may also send this notice to the consulate of the worker's country of origin. Please contact the consulate with any questions about visa issuance. **THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.**

Petition approval does not authorize employment or training. When the workers are granted status upon admission to the United States, they can then work for the petitioner, but only as detailed in the petition and for the period authorized. Please contact the IIR with any questions about this withholding.

If circumstances change, the petitioner can file Form I-904 to have us notify another consulate of this approval. If any of the workers are already in the U.S., the petitioner can file a new Form I-129 to seek to change or extend their status based on this petition. Changes in employment or training may also require a new petition. Include a copy of this notice with any other required documentation.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

Number of workers: 3

Name	DOB	COE	Class	Consulate / POE OCC
THREE UNNAMED WORKERS			H2A	HERMOSILLO 100

The Small Business Regulatory Enforcement and Fairness Act established the Office of the National Ombudsman (ONO) at the Small Business Administration. The ONO assists small businesses with issues related to federal regulation. If you are a small business with a concern or complaint about regulatory enforcement, you may contact the ONO at www.ombudsman.sba.gov or phone 202-418-1417 or fax 202-418-3719.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC

CALIFORNIA SERVICE CENTER

P. O. BOX 30111

LAGUNA NIGUEL CA 92607-0111

Customer Service Telephone: (800) 375-5283

Form I797B (Rev. 10/31/05)N



Please tear off portion below and forward it to the alien worker.

The alien may use this portion when applying for a visa at an American consulate abroad, or if no visa is required, when applying for admission to the U.S.

Receipt#: WAC-16-020-50941	Case Type: I129			
Notice Date: November 9, 2015	Petitioner: WESTERN RANGE ASSN			
Petitioner Validity Dates: Valid from 11/10/2015 to 11/09/2016	Number of Workers: 3			
Name	DOB	COE	Class	Consulate / POE OCC
THREE UNNAMED WORKERS			H2A	HERMOSILLO 100

WRA010902

RA 01145

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797B, Notice of Action

RECEIPT NUMBER WAC-16-020-50941		CASETYPE I129 PETITION FOR A NONIMMIGRANT WORKER
RECEIPT DATE October 29, 2015	PRIORITY DATE	PETITIONER WESTERN RANGE ASSN
NOTICE DATE November 9, 2015	PAGE 2 of 2	BENEFICIARY THREE UNNAMED WORKERS
Continued: NOTICE: Although this application/petition has been approved, DHS and the U.S. Department of Homeland Security reserve the right to verify the information submitted in this application, petition and/or supporting documentation to ensure conformity with applicable laws, rules, regulations, and other authorities. Methods used for verifying information may include, but are not limited to, the review of public information and records, contact with correspondents, the Internet, or telephone, and site inspections of businesses and residences. Information learned during the course of verification will be used to determine whether revocation, rescission, and/or other proceedings are appropriate. Applicants, petitioners, and representatives of record will be provided an opportunity to address derogatory information before any formal proceeding is initiated.		

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC

CALIFORNIA SERVICE CENTER

P. O. BOX 30111

LAGUNA HIGUEL CA 92667-0111

Customer Service Telephone: (800) 375-5283

Form I797B (Rev. 10/31/05)N



Please tear off portion below and forward it to the alien worker

The alien may use this portion when applying for a visa at an American consulate abroad, or if no visa is required, when applying for admission to the U.S.

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

VOID

WRA010903

RA 01146

En caso de que el titular de este pasaporte requiera de asistencia o protección del gobierno mexicano, se recomienda que acuda a la representación diplomática o consular mexicana más cercana.

THE 1990-1991 FISCAL YEAR, THE NATIONAL ACADEMY OF SCIENCES HAS ACHIEVED AN HISTORIC MILESTONE IN THE HISTORY OF THE NATIONAL ACADEMY OF SCIENCES.

Nombre: _____
 Dirección: _____
 Entidad Federativa: _____
 C.P. _____ Teléfono: _____

PO BOX 1000, TULSA, OK 74101-0000, ADDRESS
202884 0001 TUL, OK

Dirección: _____
Entidad Federativa: _____
C. P. _____ Teléfono: _____

1501 PERSIMMON LANE, NEW YORK, N.Y. 10019, U.S.A.
 1502 PERSIMMON LANE, NEW YORK, N.Y. 10019, U.S.A.
 1503 PERSIMMON LANE, NEW YORK, N.Y. 10019, U.S.A.

$$f_{\text{max}} = 2.5 \text{ dB} / \text{m} / \text{sec} = 0.0025 \text{ dB} / \text{m} / \text{sec}$$

1997



Estados Unidos Mexicanos

Clave del país de expedición	MEX
Insung mata code	
Code de pays émetteur	

AGUILAR SAUCEDO

46-2008/Green Acres/Pythons

JORGE

Nationalidad/Idade/Sexo/Profissão

MEXICANA

Ficha de nacimiento de Gary de Jersey Gary de Haddam

M ZACATECAS

P n 40 - ZAGLADIC / revue catal / Date de livraison

20 11 2015

Figure 10.102 (7) *Author's signature / Signature de l'auteur* Autorcad / Autorcad Auto

Tom. A. S

Passport No:
Passport No/
Name/Passport



Calculus/Geometry/Algebra/Statistics

Each of our products is designed to help you work better.

20/11/2018

20 11 2018

ALICE/CAU/CHRY/ARW

Thurs

1992

P<MEXAGUILAR<SAUCEDO<<JORGE<<<<<<<<<<<<<<<<<

<<<<<<<<<<<<<08



K9276877
PED-09NOV2016

VNUSAAGUILAR<SAUCEDO<<JORGE<<<<<<<<<<<<<<<<<

Section 2. Complete This Section If Filing for H-2A or H-2B Classification (continued)

The H-2A/H-2B petitioner and each employer consent to allow Government access to the site where the labor is being performed for the purpose of determining compliance with H-2A/H-2B requirements. The petitioner further agrees to notify DHS beginning on a date and in a manner specified in a notice published in the Federal Register within 2 workdays if: an H-2A/H-2B worker fails to report for work within 5 workdays after the employment start date stated on the petition or, applicable to H-2A petitioners only, within 5 workdays of the start date established by the petitioner, whichever is later; the agricultural labor or services for which H-2A/H-2B workers were hired is completed more than 30 days early; or the H-2A/H-2B worker absconds from the worksite or is terminated prior to the completion of agricultural labor or services for which he or she was hired. The petitioner agrees to retain evidence of such notification and make it available for inspection by DHS officers for a 1-year period. "Workday" means the period between the time on any particular day when such employee commences his or her principal activity and the time on that day at which he or she ceases such principal activity or activities.

For H-2A petitioners only: The petitioner agrees to pay \$10 in liquidated damages for each instance where it cannot demonstrate it is in compliance with the notification requirement.

The petitioner must execute Part A. If the petitioner is the employer's agent, the employer must execute Part B. If there are joint employers, they must each execute Part C.

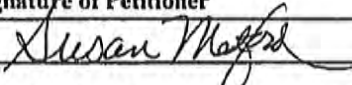
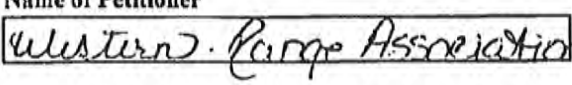
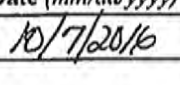
Part A. Petitioner

By filing this petition, I agree to the conditions of H-2A/H-2B employment and agree to the notification requirements. For H-2A petitioners: I also agree to the liquidated damages requirements defined in 8 CFR 214.2(h)(5)(vi)(B)(3).

Signature of Petitioner

Name of Petitioner

Date (mm/dd/yyyy)




Part B. Employer who is not the petitioner

I certify that I have authorized the party filing this petition to act as my agent in this regard. I assume full responsibility for all representations made by this agent on my behalf and agree to the conditions of H-2A/H-2B eligibility.

Signature of Employer

Name of Employer

Date (mm/dd/yyyy)

Part C. Joint Employers

I agree to the conditions of H-2A eligibility.

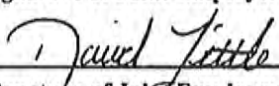
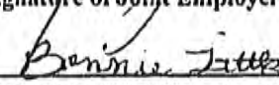
Signature of Joint Employer 	Name of Joint Employer DAVID LITTLE	Date (mm/dd/yyyy) 10/7/2016
Signature of Joint Employer 	Name of Joint Employer BONNIE LITTLE	Date (mm/dd/yyyy) 10/7/2016
Signature of Joint Employer	Name of Joint Employer	Date (mm/dd/yyyy)
Signature of Joint Employer	Name of Joint Employer	Date (mm/dd/yyyy)

EXHIBIT 42

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.	)	
	)	

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

1 entity, Rafter 7 Merinos, which you, Mr. Filbin, are
2 testifying on behalf of.

3 THE WITNESS: Well, yeah, because you
4 said new herders, well, sometimes it's a herder
5 that's returning so do you call him a new herder?

6 MS. REIF: If you've used this new system
7 in order to request that person then, yes. I'm
8 mainly wondering about the new system.

9 Q. Have you requested a herder through this
10 new system?

11 MS. WINOGRAD: Object to the form of the
12 question and the use of the phrase new system.

13 A. Yeah, I'm not sure that I understand your
14 question. We try to follow all the rules.

15 MS. REIF: Of course, yes.

16 Q. Has Western Range ever asked you or
17 anyone else from the ranch to write up a job
18 description for your herders?

19 A. Well, I think there's a, a job
20 description available of what the men do.

21 Q. I understand that.

22 A. Myself, no, but there is one that we
23 agree with.

24 Q. Okay. Great. I want to switch gears a
25 little bit. Do you recall -- well, okay, backing up

1 MS. WINOGRAD: Objection, calls for a
2 legal conclusion, lack of foundation.

3 THE WITNESS: And your question to me
4 is?

5 MS. REIF:

6 Q. My question is is this description
7 consistent with your understanding of how domestic
8 herders are to be referred for the jobs.

9 A. I have no understanding of it.

10 Q. Okay. Has the ranch ever been approached
11 by domestic herders seeking a job?

12 A. By domestic herders?

13 Q. Yes.

14 A. Not to my knowledge.

15 Q. Okay. Has Western Range Association ever
16 approached you or anyone else at the ranch seeking
17 to refer a domestic herder to work at your ranch?

18 A. Not to my knowledge.

19 Q. Okay. We can go down, a little bit down
20 on that same page, Box 16. It says job
21 description. If you could take a moment to read
22 that job description in bold to yourself, and when
23 you're done I was going to ask whether this is an
24 accurate description of the expectations you have
25 for your herders at your ranch.

1 (Witness complies).

2 A. Okay, I've read it.

3 MS. REIF:

4 Q. Okay, and is that description consistent
5 with your expectations for the job performed by your
6 herders?

7 A. More or less.

8 Q. Okay. And what do you mean by more or
9 less?

10 A. Well, this was written quite some time
11 ago if I recall. This is back in '15, about
12 six years ago.

13 Q. Okay. So would you characterize this as
14 an accurate description of the job performed by your
15 herders?

16 MS. WINOGRAD: Objection, asked and
17 answered. He said more or less.

18 A. It's pretty vague, I'll put it that way.

19 MS. REIF: Okay.

20 Q. Is it correct that your herders are
21 supposed to work seven days a week?

22 A. That they what?

23 Q. They work seven days a week.

24 MS. WINOGRAD: Objection to the form of
25 the question. The use of the word work calls for a

1 legal conclusion.

2 MS. REIF: I'm sorry, I may missed your
3 answer.

4 Q. Are your herders expected to work
5 seven days a week?

6 A. Depends on what we're doing. The sheep
7 don't know one day from the other one they're
8 lambing, you know.

9 Q. Right.

10 A. So there's times of the year that they
11 would have to be available. There is other times of
12 the year it's not demanded.

13 Q. But regardless of how demanding you may
14 characterize the work to be, is it still accurate
15 that your herders are required to work seven days a
16 week?

17 A. I work seven days a week, 365.

18 MS. WINOGRAD: Asked and answered.

19 MS. REIF: I'm sorry, I didn't hear you.

20 A. I work seven days a week, 365.

21 MS. REIF: Understood.

22 A. I don't ask them to do anything that I
23 wouldn't do myself.

24 THE COURT REPORTER: Pardon? Pardon?

25 THE WITNESS: I don't ask them to do

1 anything that I wouldn't do myself.

2 MS. REIF:

3 Q. Understood, and so both you and the
4 herders work seven days a week?

5 A. We can. We don't necessarily do it.
6 When necessary we take care of the animals. That's
7 our job.

8 Q. Okay. And when the herders are out on
9 the range with their band of sheep are they expected
10 to stay with their herd seven days a week?

11 A. Stay with their herd what?

12 Q. Seven days a week.

13 A. Yeah, they're out there, yeah.

14 Q. Okay.

15 A. There is no place to go.

16 Q. Okay. If you go down to the fifth page
17 of the pdf, which is Bates No. 8586, right at the
18 top there it says hourly wage, and it says \$800. Is
19 \$800 a month consistent with your recollection of
20 what was paid to your herders in 2014?

21 A. What document is this?

22 Q. It's the same one. We're just on the
23 fifth page of the pdf. It says wage rate at the top
24 and then in bold it says \$800. Do you see that?

25 A. Block 17 is that the one?

1 off. It says, "of alcohol, illegal drugs, or misuse
2 of prescription medication is cause for
3 termination." My question to you is are your
4 herders allowed alcohol?

5 A. No.

6 Q. And is that because alcohol may impair
7 their ability to be available to respond to the
8 needs of the sheep?

9 A. Repeat.

10 Q. Is the reason they are not allowed
11 alcohol because it may impair their ability to be
12 available to respond to the needs of the sheep?

13 A. I don't know if it'd impair them or not.
14 I just don't want them drinking on the job.

15 Q. Okay. Is there a more specific reason
16 why they are not allowed to drink on the job?

17 A. Yeah, because --

18 MS. WINOGRAD: I'm going to object to the
19 form of the question, and it's getting sort of
20 argumentative, but that's okay. This is amusing.

21 MS. REIF: Of course I'm not trying to
22 argue with you. I'm just trying to be specific.

23 Q. What is the reason that they are not
24 allowed alcohol?

25 A. Because I said so, that's why.

1 MS. REIF: Okay. I think we can take a
2 ten-minute break now.

3 (Whereupon, a recess was taken from
4 10:56 a.m. to 11:06 a.m.)

5 MS. REIF:

6 Q. Mr. Filbin, I want to shift gears a
7 little bit and speak about the housing situation for
8 your herders, so I understand from Mr. Powers'
9 declaration that they had sheep camps?

10 A. Yes.

11 Q. I'm sorry?

12 A. Yeah, that's correct.

13 Q. Oh, great, thank you, and could you tell
14 me what is the electricity situation in those sheep
15 camps?

16 A. Well, it depends on where the camp is
17 located, but they have little portable electric
18 generators.

19 Q. Okay. And do they use the generators to
20 charge their phones or electronics?

21 A. Yeah, they use it for everything, lights,
22 electronics.

23 Q. Got it. And then what is the plumbing
24 situation?

25 A. What do you mean the plumbing situation?

1 Q. And do you check in with them on the
2 cellphones?

3 A. Do I check in with them on the cellphone,
4 is that your question?

5 Q. It is, yes.

6 A. Yeah, I do, and they check in --

7 Q. How often do you say you check in?

8 A. Sometimes I talk to them every day,
9 sometimes every other day, just depends on the
10 circumstance.

11 Q. Okay. And if there was some sort of an
12 emergency are the herders expected to call you on
13 the cellphone to alert you of that emergency?

14 A. It would be good if they did.

15 Q. Have you given them any instructions to
16 that effect?

17 A. Yeah, told them whenever they need
18 anything, whenever they need anything, call me and
19 I'll do what I can to help.

20 Q. Great.

21 A. I'm on duty 24 hours a day too, ma'am.

22 Q. Got it. Do you communicate with the
23 herders --

24 MS. WINOGRAD: I'm sorry, I didn't hear
25 the rest of that. I'm sorry, I didn't hear the rest

1 of that answer.

2 Mr. Filbin, I'm sorry.

3 THE WITNESS: I don't know what you
4 heard.

5 MS. WINOGRAD: Well, this is Ellen
6 Winograd. I just didn't hear, you said something
7 about 24 something, and I just didn't --

8 THE WITNESS: Yeah, well, I'm on call
9 24 hours a day, too, and we're available to these
10 men whenever they want. I carry this phone with me
11 all the time. It's right beside my bed at night.

12 MS. REIF: That's great to hear.

13 Q. If the herders wish to go into town would
14 they need to contact you for transportation to go
15 into town?

16 A. It'd be a hell of a long walk if they
17 didn't.

18 Q. So that's a yes then?

19 A. That's what you want, I don't care.

20 Q. Do your -- does that actually happen? Do
21 herders contact you for transportation into town?

22 A. To go to town?

23 Q. Yes.

24 A. Well, usually they -- gee, I can't
25 remember the last time one of 'em asked to go to

1 town, you know.

2 Q. Okay. That answers my question.

3 A. Yeah, I run errands for 'em. I do their
4 banking. I buy their clothes. We bring their
5 groceries. We bring their mail. We bring their
6 phone cards, whatever they need. We try to
7 accommodate them.

8 Q. Got it. And I see from Mr. Powers'
9 declaration that herders are provided food and
10 supplies every week by a camp tender. Just to
11 check, a camp tender is not referring to you,
12 correct? It's someone else?

13 A. No, I am the camp tender.

14 Q. Oh, you are, okay. I'm glad I checked.

15 So when you visit to provide supplies and
16 food every week, how long do you typically stay at
17 the camp site?

18 A. Depends on what time of day and where the
19 herder is located, and if he's in a remote area and,
20 you know, may not be to his camp for a period of
21 time and I may have other things to do, I --
22 sometimes I'm there for a few minutes. Sometimes
23 I'm there for a couple hours. It just depends.

24 Q. Okay. And when you're there do you
25 assist them with their duties at all?

1 allowed to be in because we pasture government
2 ranges. There is boundaries that they need to know
3 about and safety precaution, how to take care of
4 their dog and what we expect them to do. We use
5 both guard dogs and herd dogs, and the guarding
6 dogs, how they're handled so they stay bonded with
7 the sheep and protect them. You know, there is
8 quite a few things that we visit with them about.
9 We explain to them how to get a hold of us in case
10 they have a problem, and, yeah, we visit with the
11 guys and try and help them get oriented and make
12 their job as easy for them as possible.

13 Q. Got it, and so you spoke about
14 boundaries. Are you speaking about the boundaries
15 of, say, a lease of the land with the forest
16 service, or what do you mean by that?

17 A. Yes.

18 Q. Okay, and so is it the herders'
19 responsibility to be aware of those boundaries and
20 make sure that the sheep don't cross them?

21 A. It's my responsibility.

22 Q. Okay. Do the herders assist you with
23 that?

24 A. Absolutely. They do a good job.

25 Q. Great. And do your herders have to do

1 any training of your dogs or are they primarily
2 responsible for feeding them?

3 A. No, they -- it depends on the age of the
4 dog. Some of the herders will start with a baby
5 puppy from the time he's weaned from his mother, and
6 they'll be with them for the duration of their
7 contract here, and when they return they get the
8 same dog. I've had herders in the past, not just
9 this operation, that worked for me for 18 years and,
10 you know, they, the dog is their friend.

11 Q. Oh, absolutely, just like my dog is my
12 friend, right?

13 A. Yes.

14 Q. Do you give them instructions about how
15 quickly they should respond to the needs of the
16 sheep, for example, if there's a predator nearby?

17 MS. WINOGRAD: Objection, lack of
18 foundation.

19 A. Yeah, they, they, they know that they
20 have to do their best to keep the predators out.

21 MS. REIF: Okay.

22 Q. And they have guns, correct?

23 A. Some of them do.

24 Q. Okay. Would you say the majority of them
25 do?

1 A. Yeah.

2 MS. WINOGRAD: Objection to the form of
3 the question. I don't know what majority means.

4 MS. REIF: Majority means 50 percent or
5 more.

6 A. More than half of them do have guns.

7 MS. REIF: Great, thank you.

8 Q. Have you given them specific instructions
9 about shooting predators and, you know, how to go
10 about that?

11 A. Yeah. The instruction is kill them.

12 Q. Okay. And do they often kill predators?

13 A. Not real often. Because we have good
14 guard dogs that we use the rifles or the guns
15 minimal. Sometimes they'll hear coyotes howling in
16 the night, and they'll just step outside their camp
17 and pop off a round to scare 'em away.

18 Q. Okay. And would that be like at any time
19 of the day or night or are there particular times
20 when they would be more likely to shoot a warning
21 shot as you were describing?

22 A. Well, when they're awake and they hear
23 'em, yeah.

24 Q. Okay. Do you pay bounties for predators?

25 A. No, not to the herders, no.

1 what I'm talking about.

2 MS. WINOGRAD: I do too. Thank you.

3 MS. REIF: Oh, goodness, now I've
4 forgotten what the question was.

5 Q. I think my question was when you're doing
6 both consignment lambing and range lambing at the
7 same time, how many herders are assigned to each of
8 those activities?

9 A. Well, it's kind of like asking how long's
10 a piece of string without looking at it. It depends
11 on the herder's ability.

12 Q. Okay. I was noticing in the declaration
13 that you --

14 A. Well, I can put one man with a band of
15 ewes that are dropping on the range and he can
16 handle it fine, and there are other guys where I
17 have to put two or three there because they're maybe
18 still learning the ropes. They haven't had the
19 experience. The terrain is different. The weather
20 is changing on 'em. You know, you just have to --
21 it's a day-to-day decision.

22 Q. Okay. Got it, and so then I understand
23 that lambing can be quite time intensive. Typically
24 do you and the herders begin the workday then
25 lambing around sunrise?

1 A. Yeah, typically we do, yes.

2 Q. Okay. And when do you typically finish?

3 A. Well, sometimes we can take a break
4 during the middle of the day and get a little rest,
5 and finish, we finish when the ewes quit lambing,
6 and usually we don't get a lot of lambs at night
7 because we feed late in the afternoon, and when the
8 ewe is taking in a lot of feed late in the afternoon
9 they do not tend to lamb at night so much. We'll
10 probably get 80 percent or more of the lambs during
11 daylight time, and, like I say, it's a management
12 thing the way we do it, and the way we're set up,
13 our facility to keep track of the identity and
14 everything, it just, it's a lot easier on the men.
15 It really is.

16 Q. Understood, so then if there is a ewe who
17 is giving birth in the middle of the night is one or
18 more of the herders assigned to go and assist with
19 that at night?

20 A. No.

21 Q. No. Okay.

22 If there were a ewe with a particularly
23 difficult birth or something like that, would you
24 then make an exception and someone would assist with
25 that?

1 Q. Okay. After they're weaned there is
2 two herders, so right after lambing it's just one
3 herder per band?

4 A. That's correct.

5 Q. And when they're going out to the range
6 do they truck or trail?

7 A. They walk right across the road, 30 feet.

8 Q. Oh, okay, so that's convenient.

9 A. Yup.

10 Q. And you do not track hours worked,
11 correct?

12 A. No.

13 MS. WINOGRAD: Ah --

14 MS. REIF: Okay. Sorry, what was that,
15 Ellen?

16 MS. WINOGRAD: Well, I was going to make
17 an objection asked and answered, but he gave the
18 same answer so unless you ask it another time I will
19 not make that objection.

20 MS. REIF: Okay.

21 Q. And so we spoke about how during lambing
22 typically your herders expect to start to work
23 around sunrise. Is that true for the rest of the
24 year, that their day tends to start around sunrise?

25 A. Well, it depends on the herder and where

1 you consider that work?

2 A. Well, I would just call it observation.

3 Q. Okay. So what is your personal
4 definition of work that you're using when you used
5 the word are earlier?

6 A. Well, I don't really know how to answer
7 that.

8 Q. Okay. That's okay. I think we
9 understand each other. I just wanted to try to make
10 sure the record was clear.

11 Is it also your herders' responsibility
12 to make sure that sheep do not eat any poisonous
13 plants?

14 A. Yeah, if they can avoid it, yes.

15 Q. And do you give the herders medicines
16 that they can administer to the sheep if they notice
17 that they're ill?

18 A. Yes, we do.

19 Q. Okay. And do the herders, are the
20 herders responsible for setting up any temporary
21 fencing?

22 A. Yes, they are. Occasionally, sometimes
23 if we're in an area where we're having predator
24 problems, we have a portable electric netting fence,
25 and we'll actually make a night pen, and that helps

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 6, PART 4

ELLEN JEAN WINOGRAD, ESQ.

Nevada State Bar No. 815

JOSE TAFOYA, ESQ.

Nevada State Bar No. 16011

WOODBURN AND WEDGE

6100 Neil Road, Suite 500

Reno, Nevada 89511

Tel: 775-688-3000

Fax: 775-688-3088

ewinograd@woodburnandwedge.com

jtafoya@woodburnandwedge.com

ANTHONY HALL, ESQ.

Nevada State Bar No. 5977

JONATHAN McGUIRE, ESQ.

Nevada State Bar No. 15280

SIMONS HALL JOHNSTON, P.C.

690 Sierra Rose Drive

Reno, Nevada 89511

(775) 785-0088

ahall@shjnevada.com

jmcguire@shjnevada.com

ATTORNEYS FOR RESPONDENT
WESTERN RANGE ASSOCIATION

1 you consider that work?

2 A. Well, I would just call it observation.

3 Q. Okay. So what is your personal
4 definition of work that you're using when you used
5 the word are earlier?

6 A. Well, I don't really know how to answer
7 that.

8 Q. Okay. That's okay. I think we
9 understand each other. I just wanted to try to make
10 sure the record was clear.

11 Is it also your herders' responsibility
12 to make sure that sheep do not eat any poisonous
13 plants?

14 A. Yeah, if they can avoid it, yes.

15 Q. And do you give the herders medicines
16 that they can administer to the sheep if they notice
17 that they're ill?

18 A. Yes, we do.

19 Q. Okay. And do the herders, are the
20 herders responsible for setting up any temporary
21 fencing?

22 A. Yes, they are. Occasionally, sometimes
23 if we're in an area where we're having predator
24 problems, we have a portable electric netting fence,
25 and we'll actually make a night pen, and that helps

1 and we discussed what was the best way to go with
2 the sheep, and we moved 'em away from the fire.

3 Q. Got it. And conversely have you ever had
4 to call the herders and tell them that a wildfire
5 has broken out near where they are and that they
6 need to move the sheep?

7 A. I called them and asked them where their
8 sheep were in proximity to the fire, and the report
9 back at that particular time was that the sheep were
10 in a safe place and everything was good.

11 Q. Okay, great.

12 A. And I also, I wanted to let you know we
13 also notify the fire-fighting people that we have
14 sheep in the area and please help us keep a lookout,
15 you know.

16 Q. Sure, yes, got it.

17 And is it your expectation that the
18 herder will stay at the camp every night with the
19 sheep?

20 A. Yes.

21 Q. Got it, and I apologize if I've already
22 asked this, but I just can't remember. The goal is,
23 of course, that the herders will return at the end
24 of the year with as many sheep as possible, correct?

25 A. Correct.

1 Q. And the herders understand that
2 expectation, correct?

3 A. Correct.

4 MS. REIF: Got it.

5 MS. WINOGRAD: I was going to object,
6 calls for speculation as to what they understand.

7 MS. REIF:

8 Q. Have you had conversations with the
9 herders explaining to them that that is the
10 expectation?

11 A. Yes.

12 MS. REIF: Okay. I believe that I am
13 pretty much done. I just want to take a ten-minute
14 break and check my notes, and then we can hand it
15 over to Ellen and Jerry.

16 We can go off the record.

17 MS. WINOGRAD: Can we, okay, if you need
18 the ten-minute break, that's fine, if there are more
19 questions. I'd like to move this along for
20 Mr. Filbin if we could.

21 MS. REIF: We can do a five-minute break.

22 MS. WINOGRAD: That works.

23 MS. REIF: Okay.

24 THE WITNESS: Yup.

25 MS. REIF: Back in five, thank you.

1 (Whereupon, a recess was taken from
2 12:00 p.m. to 12:04 p.m.)

3 MS. REIF: I just have just a couple
4 clarifying questions.

5 Q. We were speaking earlier about trying to
6 estimate how much of the year the sheep and the
7 herders are on the range. Do I understand correctly
8 that when they are confinement lambing they are not
9 on the range?

10 A. Yes, that's true.

11 Q. Okay. But the ones that are range
12 lambing, they are on the range, correct?

13 A. Correct.

14 Q. Okay, and apart from lambing is there any
15 other time of year in which your herders and the
16 sheep are not on the range?

17 A. Well, we do pasture some crop aftermath.

18 Q. Okay. When is that?

19 A. In the fall of the year after the crops
20 are harvested.

21 Q. Okay. And how many months does that last
22 or how long does that last?

23 A. Depends on when the snow flies.

24 Q. Okay. Could you give me a range, weeks?

25 A. It could be from a couple of weeks to a

1 couple of months. If the snow gets too deep and
2 covers the feed up, we have to go back to the range.

3 Q. Got it.

4 A. But if it is not in the corral or not in
5 confinement, and to clarify on the confinement
6 thing, not all the sheep are in the corral at one
7 time. Like I explained earlier the sheep are
8 synchronized or bred in groups so we don't lamb
9 everything at one time. We kind of spread it out so
10 it makes the workload for the men a lot easier.

11 Q. Got it, so for the sheep that are not
12 confinement lambing at that time, are the rest of
13 the sheep out on the range?

14 A. Yes.

15 Q. Got it, and so besides the confinement
16 lambing and what you've just described about pasture
17 in the fall, are there any other times of the year
18 when they're not on the range?

19 A. No, I can't think of any.

20 MS. REIF: Okay, that's great. I have no
21 further questions at this time.

22 THE WITNESS: Thank you.

23 MS. REIF: I'll turn it over to Jerry.

24 MS. WINOGRAD: Jerry --

25 MR. SNYDER: Sure. I'll go ahead. I

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.

EXHIBIT 43

Page 1

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

TELEPHONIC

FRCP 30(b)(6) DEPOSITION OF

WESTERN RANGE ASSOCIATION

BY KRISTOFOR LEINASSAR

LAS VEGAS, NEVADA

VOLUME 1

REPORTED BY:
KENDALL KING-HEATH
NEV. CCR NO. 475
CALIF. CSR NO. 11861
JOB NO.: 4744626

PAGES 1 - 140

RA 01175

1 given was, "Sheep camp for seven months and pack
2 for five months." Is that consistent with your
3 recollection of how FIM divided the year in 2010?

4 A Yes, it is.

5 Q Is that something that's pretty
6 consistent over time, that four or five months out
7 of the year you have herders packing in tents and
8 the rest of the time in sheep camp?

9 MS. WINOGRAD: Objection to the form of
10 the question. It's vague and overbroad.

11 THE WITNESS: Fairly consistent,
12 depending on any situation we have to deal with
13 such as fires, but we also do have fixed housing on
14 our ranch.

15 BY MS. WEBBER:

16 Q And herders are in that fixed housing
17 during lambing season; is that correct?

18 A Yes.

19 Q And then for most of the rest of the
20 year, they would be in sheep camps, meaning
21 something like a trailer; is that correct?

22 A Yes.

23 Q Then for about four or five months out of
24 the year, depending on exact weather or fire
25 circumstances, they would be using tents; is that

1 right? That's what it's referring to when it says
2 "pack"?

3 A Yes.

4 Q Then going about the bottom third or
5 quarter of that first page of Exhibit 3, do you see
6 the question, "Do you use open range in more than
7 one state?"

8 A Yes.

9 Q And this question was answered with an X
10 next to yes and says, "California, two and a half
11 months." Is it correct that in 2010, FIM herders
12 would have spent approximately two and a half
13 months in California?

14 MS. WINOGRAD: I'm going to object to the
15 form of the question because using open range and
16 spending time in California may be two different
17 things.

18 BY MS. WEBBER:

19 Q Is it your understanding or is it your
20 recollection, sir, that when your herders were in
21 California, that they were on the range?

22 A I don't know.

23 Q Okay. Other than during lambing season,
24 is there any time of the year when you do not
25 consider your herders to be on the range?

1 A Can you rephrase that.

2 Q Sure. Do you -- let me ask it this way:
3 Are there some times of the year when you consider
4 your herders to be out on the range?

5 A Yes.

6 Q What portion do you consider your herders
7 to be out on the range?

8 A I would say from earliest is April 1, up
9 until mid February.

10 Q Would that encompass the time period when
11 herders might be crossing into California?

12 A Yes.

13 Q Did FIM pay herders any differently
14 during the time periods they may have been in
15 California?

16 A No.

17 Q Going back to Exhibit 3, if you turn
18 ahead to the survey form for 2012, do you see
19 that?

20 A Yes.

21 Q About -- same question from about a third
22 of the way up from the bottom of the page or a
23 quarter of the way up from the bottom where it asks
24 about being in more than one state, and there's a
25 little bit more description here where it says,

1 "California on the border, two months our ranges
2 overlap."

3 Can you explain to me what is meant by
4 FIM in saying that its ranges overlap?

5 A Being close to the state line, we have
6 ranges that are on both sides of the state line and
7 so they overlap. We are on Nevada side, we are on
8 California side, depending where the feed is the
9 best and where feed is available.

10 Q Is this one leased area that crosses
11 state lines, or is it that you have leases that
12 fall on both sides of the border, but for different
13 parcels of land?

14 A We have four service allotments that are
15 on -- that fall on both sides of the border.

16 Q And as the herd -- or excuse me, as the
17 flocks move throughout their range area over time,
18 they may cross back and forth between Nevada and
19 California?

20 A Yes.

21 Q It looks like on each of these survey
22 forms that you submitted to Western Range, you
23 reference the allotments being on both sides of the
24 border for a couple of months of the year.

25 Did anybody from Western Range ever

1 that sentence. So it started off as
2 "Misuse/abuse," then it continues here, "of
3 alcohol, illegal drugs, or misuse of prescription
4 medication is cause for termination."

5 Is it correct that it is FIM's policy
6 that if any of its herders misuse or abuse alcohol,
7 illegal drugs or prescription medication, that that
8 is grounds for termination?

9 MS. WINOGRAD: Object to form of the
10 question because the first part starts out, "In the
11 workplace."

12 THE WITNESS: For the record, we have
13 never seen these papers, these forms before. I
14 wanted to state that, but could you rephrase the
15 question.

16 BY MS. WEBBER:

17 Q Sure. Thank you for alerting me to that.
18 Setting aside Exhibit 5 and whatever it may say,
19 does FIM Corporation, as a matter of its own
20 policies, take the position that if a herder
21 misuses or abuses alcohol, illegal drugs or
22 prescription medication in the workplace, that that
23 would be grounds for termination?

24 A Yes, it could be.

25 Q Do you have any rules for your herders

1 regarding whether they can have alcohol with them
2 when they're out on the range?

3 A We do not have any set rule, per se. It
4 has never been an issue.

5 Q Now, when they're out on the range, they
6 get all of their groceries supplied by FIM;
7 correct?

8 A Yes.

9 Q In providing groceries, food and
10 beverages to the herders, does FIM ever provide any
11 alcohol if a herder requests it?

12 A No, we do not.

13 Q I assume when the herders are out on the
14 range, they're not within walking distance of a
15 place where they could buy alcohol; is that
16 correct?

17 A For the most part, yes.

18 Q It would be your expectation while the
19 herders are out on the range, they would not have
20 alcohol with them; is that fair?

21 A I don't know what they could have with
22 them. There are people that visit their camps, so
23 I can't speak to what they may bring in or not.

24 Q Okay. Fair enough. I'd like to turn now
25 to -- hopefully the nomenclature won't get too

1 separate checks.

2 Q Okay. Because I didn't see it on the
3 payroll page on page FIM12, so I was wondering how
4 that was handled.

5 Would the bounty have been a separate
6 check or would it be paid in cash? Do you recall?

7 A Yes, I believe it was separate checks.

8 Q Okay. Is there a standard amount that
9 you pay per coyote?

10 A Yes.

11 Q At least as of 2020, what amount would
12 that have been?

13 A \$20.

14 Q Have you always paid bounties for herders
15 who kill a coyote, going back at least to 2010?

16 A Yes.

17 Q Has it always been at the rate of \$20 per
18 coyote or has that changed over time?

19 A I don't recall whether that's changed
20 over time.

21 Q Is this something you tell the herders
22 like, you know, when they first come to work for
23 you, that while obviously you always want herders
24 to protect the sheep from predators, that, in fact,
25 if they're able to kill one of those predators,

1 that they would also get a bonus payment, one of
2 these bounty payments?

3 A In the contract as far as the herder has
4 to protect the sheep, that's kind of part of the
5 job. And it's, I guess, considered a bonus and
6 incentive to be alert, be aware, watch the sheep.

7 And they want to try and bring back as
8 many lambs as they can to show that they're trying
9 to do the best job that they can.

10 Q Absolutely. So you do let them know
11 about the bounty to give that additional incentive
12 to them; is that right?

13 A Yes.

14 Q And I see Edgar, in addition to the five
15 coyotes, listed below that on page FIM13 to the
16 period ending June 30th, 2020, I think this may be
17 a typo, it says, "Lion County." That would be lion
18 bounty for a mountain lion?

19 A Yes, I believe that is a typo. It should
20 be "Lion Bounty."

21 Q How much of a bounty do you pay for a
22 mountain lion?

23 A I believe it was 35 or \$40. I can't
24 recall off the top of my head.

25 Q That's okay. I take it the mountain

1 But for an inexperienced herder -- a more
2 experienced herder would feel comfortable doing his
3 duties and tasks in the morning, and then getting
4 the sheep bedded down for their siesta. And then,
5 you know, that can take anywhere from three hours
6 in the morning until their siesta.

7 And then take off and prepare his food
8 for the day and do any other tasks he needs to do.
9 And then be ready to go with the sheep once they're
10 ready to rise out of their siesta ground and go
11 with them in the evening until they fill up and are
12 ready to be camped for the night, which is probably
13 about another three hours.

14 So an experienced herder is going to be
15 out there five to six hours a day attending to the
16 sheep with what they do as far as that whole
17 process goes.

18 Q Understood that you have a sense of how
19 they're spending the day, but my question was do
20 you do anything to specifically track and have each
21 herder report the time they started working and the
22 time they broke for lunch or otherwise stopped work
23 and resumed work over the course of the day?

24 A No, I do not collect that information.
25 My herders do not report that information to me.

1 We don't have any records like that.

2 Q Let's go ahead and mark Exhibit 9, and
3 that should be a document that was sent to you
4 labeled document G.

5 A Okay, I see that.

6 (Plaintiff's Exhibit 9 was marked
7 for identification.)

8 BY MS. WEBBER:

9 Q And this is entitled, Preemployment
10 notice of rights and obligations. Are you familiar
11 with herders signing a preemployment notice,
12 sometimes called a precontract, prior to them
13 arriving in the United States?

14 A Yes.

15 Q Have you seen -- if not specific to
16 Exhibit 9, have you seen copies of the
17 preemployment notice that is signed by herders to
18 come to work for you?

19 A Yes.

20 Q In the top, sort of the second or third
21 paragraph, there's a bold -- there's something in
22 bold, notification prior to employment section, and
23 then immediately below that it goes back to regular
24 text and says, "You're being interviewed for the
25 position of an open range sheepherder." Do you see

1 Q Okay. And if you would turn to the fifth
2 page of Exhibit 4. It's Bates numbered at the
3 bottom WRA9260.

4 A Okay.

5 Q I want to ask you to look at the very
6 last paragraph, it's under No. 5, job duties, on
7 that page that gives a brief description of
8 shepherders' job duties. If you could review
9 that, I had a few questions.

10 A Okay.

11 Q Is that an accurate description of the
12 scope of responsibilities for your herders?

13 A There may be some give or take in there.

14 Q Okay. Fair enough. It's got a lot in
15 there, so let's break it down. The description
16 begins with, "Attend sheep and/or goat sloth
17 grazing on range or pasture. Herds flock and round
18 up strays using trained dogs."

19 Is that portion accurate as to your
20 herders?

21 A Yes. They have to herd the flock and
22 they are responsible for strays.

23 Q And it continues, "Bed down flock near
24 evening camp site." Is that also something your
25 herders do, bedding down the flock at the end of

1 each day?

2 A Yes, they bed them down. Whether it's
3 near an evening camp site, that kind of depends on
4 the topography of the range; depends what their
5 goal is the next day, where they need to move to.
6 Bedding them down near a camp site isn't
7 necessarily the practice that they have to follow.

8 Depending on if they have to get an early
9 jump on a piece of range that they need to feed the
10 next day and it may be further away from the camp,
11 they might rise early and hike to the sheep to get
12 to them once they are ready to rise in the morning,
13 you know, at sun up, and then get them to where
14 they need to be grazing.

15 Q So I understand "near" may not mean right
16 next to, it may be some distance walk, but
17 certainly they bed them down where they want the
18 sheep to be for the night, and they may then have
19 to walk a bit of a ways to get to their own camp
20 site; is that correct?

21 A Yes.

22 Q The job description continues, "Guard
23 flock from predatory animals and from eating
24 poisonous plants." I think we actually spoke
25 earlier that one of the responsibilities for your

1 herders is to protect the flock from predatory
2 animals; correct?

3 A Yes.

4 Q You would also expect the herders to be
5 alert to any poisonous plants and try and direct
6 the sheep to graze in an area away from anything
7 that would be harmful to them?

8 A That is something we all aim to avoid.

9 Q Do you drench your sheep?

10 A No.

11 Q I have to say, I've been consistently
12 hearing that from folks in Nevada, that although
13 it's in the description, nobody seems to actually
14 drench their sheep.

15 So moving on to the next sentence, "May
16 examine animals for signs of illness and administer
17 vaccines, medications, and insecticides according
18 to instructions." Is that something that you
19 expect your herders to do?

20 A It depends on the herder. If the herder
21 is experienced in recognizing the illnesses and
22 familiar with how to use antibiotics and vaccines,
23 yes. The camp tender may need to come and assist
24 or teach, instruct or do those tasks.

25 Q I understand some herders are going to,

1 based on their experience, be better at quickly
2 identifying or accurately identifying illness in
3 sheep, but you would at least expect all of the
4 herders to do their best to be alert to any signs
5 of illness, and to at least let you or the camp
6 tender know even if they need instructions about
7 what to do about the particular illness?

8 A Yes.

9 Q The description goes on to say, "May
10 assist in lambing, docking and shearing." Do all
11 of your herders assist in those activities?

12 A They handle lambing and docking. They do
13 not do any shearing. Their responsibility lies at
14 bringing sheep with wool to the shearing crew and
15 then dealing with the sheep once they've been
16 shorn.

17 Q Understanding that there's a separate
18 crew that does the actual shearing of sheep, they
19 are responsible for bringing the sheep in and sort
20 of getting them in a more or less orderly fashion,
21 fed into the crew that does the actual shearing?

22 A Yes.

23 Q And the job description continues. "The
24 work activities involve the herding or production
25 of livestock, which includes work that is closely

1 Q For the ones that are 30 to 40 miles out,
2 how long would it take to trail the sheep from that
3 location to the ranch itself?

4 A Four to five days, depending on their
5 location.

6 Q And on days when the herder is trailing
7 the sheep, does that require more hours of paying
8 close attention to keep the sheep moving where they
9 need to be moved over the course of the day?

10 MS. WINOGRAD: Object to the form of the
11 question.

12 MS. WEBBER: Thank you for that objection
13 because I realize I said more, but I didn't say
14 more than what.

15 Q So let me try rephrasing that question.
16 When the sheep are being trailed and the goal is to
17 get from point A to point B in time for shearing or
18 whatever other activity is next, does that require
19 more hours of activity and attention from the
20 herder to get the sheep moved than if they were
21 just out on the range grazing and not needing to
22 move from one location to the next from day-to-day?

23 A As far as the requirement of
24 attentiveness, no. I think they have to be paying
25 attention to the sheep regardless of where they are

1 and what they are doing. What you're doing when
2 you're feeding an allotment and grazing, you are
3 always kind of constantly on the move.

4 And there might be a bit of a difference
5 when you're trailing, but you're still feeding your
6 sheep along the trail and instead of -- you're
7 focused on moving in one direction when you're
8 trailing.

9 Q Do the sheep bed down midday for -- are
10 they allowed to sleep for as long in the middle of
11 the day when you're trailing as they would be when
12 they're grazing, or do you try and sort of get them
13 up and moving so that you can get to your
14 destination?

15 MS. WINOGRAD: Object to the form of the
16 question. Compound.

17 THE WITNESS: With any typical animal
18 husbandry, you got to work with what you got. You
19 may push that a little bit in those situations we
20 were talking about previously with fires.

21 But when you're trailing, you're not out
22 there trying to get the sheep out of the bed-ground
23 and trying to get them to wake up earlier. You're
24 not trying to push them harder, you're working with
25 what you got.

1 (Cross-talking.)

2 MS. WINOGRAD: Let's push through --

3 MS. WEBBER: -- take a short break.

4 MR. SNYDER: I'm okay with pushing
5 through, but this is supposed to be limited to
6 three hours of questioning by plaintiff's counsel.
7 So I would appreciate it if you would wind it up
8 pretty soon.

9 MS. WEBBER: Very close.

10 Q In the summer months when they're packing
11 in a tent, I assume then that obviously there's no
12 running water, no facilities at that time. What do
13 they have in terms of the ability to cook in the
14 summer?

15 A They're provided a propane gas stove, a
16 double burner stove.

17 Q How do they get drinking water in those
18 months when they are packing?

19 A Drinking water is taken to them mainly by
20 the camp tender or by any extra person that may go
21 out there, either someone that is running and may
22 need to run extra provisions out to them, may need
23 to run a water truck out to them. I myself, if I
24 see they're not on the range, I pack water.

25 Q Do they have any refrigeration in the

1 summer when they are packing?

2 A We have had portable -- I don't know if
3 they're portable refrigerators, but they look like
4 a cooler and you can hook that up to the propane
5 bottle that supplies fuel to their cook stove.

6 Q Is that something they have available in
7 the summer as well as when they are in the sheep
8 camps in other points of the year?

9 A In the summer, yes, that is available to
10 them. They are at high elevations where it freezes
11 at night, so Mother Nature assists with that also.

12 Q And in the summer when they're packing in
13 tents, do they have any sources of electricity?

14 A They have access to solar panels.

15 Q When you say they have "access to," does
16 that mean that they are available if they want to
17 carry them and set them up, but not everybody
18 does?

19 A We provide solar panels in different
20 forms: Portable solar panels, solar panels that
21 would be more, I guess, rigid and attach to their
22 trailer. They have purchased solar panels
23 themselves. But no, we set them up -- we provide
24 them with a solar panel initially.

25 Q And has that been the case since 2010,

1 that they would have access to solar panels for
2 generating some electricity in the summer months
3 when they're in tents?

4 A I don't know. I would guess that that
5 had been provided to them prior to that.

6 Q Never sure on when the technology
7 develops to that point.

8 And then in the rest of the -- well, I
9 shouldn't say the rest of the year because we
10 talked about when they're at the ranch. In the
11 rest of the time that they're out on the range, but
12 not having to pack and tent, they are in what are
13 referred to as sheep camps; is that correct?

14 A Yes.

15 Q As I understand it, the sheep camp is
16 like a trailer. It's a portable housing that's
17 taken from place-to-place?

18 A Yes.

19 Q And I assume that has a propane stove or
20 something like that they can cook with?

21 A Yes. All of them have three burner
22 stoves and ovens.

23 Q And do they have refrigeration units,
24 that same sort of cooler attached to the propane
25 that you described for the summer?

1 A No. The trailers come with what would be
2 considered a built-in refrigerator that runs off of
3 the propane system.

4 Q And they continue to have access to solar
5 panels while they're in the sheep camps?

6 A Yes. They have more of a permanent rigid
7 solar panel that doesn't fold up that they can set
8 up.

9 Q When they are --

10 A They also have access to small generators
11 from time to time. Some --

12 Q When they are -- I'm so sorry. I thought
13 you were done with your answer. Go ahead.

14 A No, that was it.

15 Q When they're in the sheep camps, do they
16 have any sort of running water from the water tank
17 in the sheep camp or how does that work when
18 they're in the sheep camps?

19 A They don't have running water, but they
20 have fresh water supply that is brought to them and
21 stored in the camp.

22 Q In terms of toilets, is there anything
23 like that in the sheep camp or is that still
24 something they would be doing in Mother Nature?

25 A That would be something out and about

1 with Mother Nature.

2 Q Do they have any sort of bathing or
3 shower facility with the sheep camps?

4 A Yes, they have a wash basin.

5 Q If they wanted like warm water to wash,
6 they could heat it up on the stove?

7 A Yeah, that's what some of them do. Some
8 of them can stand bathing right in the running
9 water of a creek. I don't know how they do it, but
10 ...

11 Q Hardier than me, I guess.

12 A Yeah.

13 Q While they're out on the range, I know
14 you said during the summer they have the burro to
15 carry their stuff when they're packing the tents.
16 Are those burros with them the rest of the year
17 when they're using the sheep trailer or is that
18 strictly for tent packing time?

19 A The burro is with the shepherd just
20 during the packing part of the season.

21 Q In your declaration, you refer to
22 providing -- paragraph 23, you refer to providing
23 transportation when needed for herders to go into
24 town if they, for example, if they had a doctor or
25 dentist appointment. How often do your herders

1 obstruction out of his ear. Didn't take up more
2 than, you know, I think an hour or half hour for
3 one day. So that was how we handled it.

4 MS. WEBBER: Okay. I think that covers
5 everything I had. If you hang on for a minute,
6 your counsel or Ms. Winograd may have some
7 additional questions for you.

8 MS. WINOGRAD: Jerry, if you want to go
9 first, I have an ice cream on its way, but I can
10 certainly put that in the freezer. I don't want to
11 keep your client any longer than absolutely
12 necessary. And Kris, I probably only have about 10
13 minutes worth of questions.

14 (Break taken.)

15 EXAMINATION

16 BY MR. SNYDER:

17 Q Jerry Snyder. I just have a couple
18 questions here.

19 We talked about bounties for predators
20 and the extent of which the herders were to guard
21 against predatory animals. Do you expect them to
22 be on duty guarding against predators at night.

23 A No. That could potentially be a very bad
24 thing. Walking around these ranges at night
25 without light or without daylight, it could lead to

1 a mechanical injury of some sort and could be
2 dealing with a herder with a broken leg. That is
3 never a requirement for anything that we ask them
4 to do.

5 Q What do you do to control predators at
6 night?

7 A There isn't a whole lot that can be done.
8 The herder can be alerted of a situation either by
9 hearing the bells that the sheep wear making some
10 kind of noise or the dogs barking. And if it's
11 pitch black dark out there, he can pretty much
12 stick his rifle out of the tent or the camp and
13 fire one in the air and assess the situation once
14 daylight has come.

15 Q So they do have guard dogs?

16 A Yes.

17 Q Would you say your herders are on the
18 clock 24 hours a day, seven days a week?

19 A Not by any means, no.

20 MS. WEBBER: Objection as to form, as to
21 the vagueness of what "on the clock" means.

22 BY MR. SNYDER:

23 Q Can you take a look at document E that we
24 talked about again?

25 A Yes. Let me bring that up.

1 can't really say that I remember my grandfather
2 doing that. There are no old structures around the
3 ranch where that practice happened. So I can't
4 speak to the process of docking, but I understand
5 there are different techniques to that.

6 BY MS. WINOGRAD:

7 Q What is docking?

8 A That is the process of cutting --
9 removing tails from lambs and --

10 Q It's okay.

11 A Ellen, it's being able to tell the
12 difference between a male and female lambs. So we
13 earmark the female lambs and castrating male lambs,
14 and selecting male lambs that you want to save as
15 future reproductive stock.

16 Q You were shown a preemployment notice,
17 which has been marked as Exhibit 9 or document G.
18 Can you get that in front of you, please?

19 A Yeah. I got it.

20 Q Do you know who Abel Cantaro Castillo
21 is?

22 A I do not.

23 Q Have you seen the second amended
24 complaint that the plaintiffs have brought against
25 Western Range Association in this matter?

1 A I'm aware of the claim. It's
2 impossible.

3 Q In your experience, which appears quite
4 extensive, have any of FIM's herders ever worked 24
5 hours a day, seven days a week?

6 MS. WEBBER: Objection. Calls for a
7 legal conclusion.

8 THE WITNESS: Never.

9 BY MS. WINOGRAD:

10 Q In those periods of time during the day
11 when the sheep are bedded down after their morning
12 grazing, and I guess you would call it an afternoon
13 nap if you were human, during those periods of the
14 day, what do the herders do in their sheep camp?

15 MS. WEBBER: Objection. Assumes facts
16 and asked and answered.

17 THE WITNESS: I would speculate that they
18 spend a lot of time wondering how to pass the time
19 of the day. The good herders will take a little
20 bit of time and assess where the next move is and
21 look at the condition of the range, report that
22 back to the camp tender, consult with the camp
23 tender as to what's the best spot to go, what's the
24 next game plan for the next week.

25 The inexperienced guys, they probably are

EXHIBIT 44

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775) 322-4841

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 BONNIE
LITTLE**

1 I operate a sheep ranching operation in the State of Nevada. The
2 matters set forth in this Declaration are true and correct and made from my own
3 personal knowledge. If called upon, I could and would testify competently as to
4 the following:

5 Little Paris Sheep CO., LLC (dba David and Bonnie Little Ranch) is
6 a 100% rangeland sheep ranch operation based in Elko County, Nevada, with all

1 operations in Nevada. We graze sheep exclusively on public lands from the Ruby
2 Mountains in the summer to desert near Duckwater in the winter. We employ
3 temporary, non-immigrant guest workers pursuant to the H-2A program.
4 Western Range Association administers many aspects of member participation in
5 the H-2A program. Our ranch is a member of Western Range Association.
6

7 3. Myself and my husband constitute the entire office and
8 administrative staff for our sheep operation. We perform all administrative
9 duties, as well as all of the other company operations: caring and feeding for
10 livestock, repairing and maintaining real property and equipment, sales and
11 marketing, managing employees, and attending to all the other myriad day to
12 day needs of a ranching operation.
13

14 4. Depending on the time of year, we employ between 8 and 12 sheep
15 herders. Western Range Association handles all the paperwork involved in
16 obtaining H-2A herders for our ranch, including filing Form 790 (job clearance
17 order), Form 9142/9142A (application for certification), and INS Form I-192 (visa
18 application). WRA also arranges travel between herders' home country and the
19 United States. Western Range advertises for Sheepherder jobs locally in Nevada
20 and provides a list prepared by a coordinator in Peru. While we very occasionally
21 hire from the coordinators list, typically hire herders that we have employed in
22 the past or who were recommended by other herders we have employed.
23

24 5. While Western Range arranges the travel (with the exception of
25 2020, when because of the Coronavirus pandemic, I was obliged to make the
26
27
28

1 arrangements myself,) we pay the herder's miscellaneous travel expenses and
2 subsistence pay while they are travelling.

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

9
10 7. Our payroll records for 2020 are attached hereto as **Exhibit 1**. Our
11 payroll records for 2019 are attached hereto as **Exhibit 2**. Our payroll records for
12 2018 are attached hereto as **Exhibit 3**.

13
14 8. Prior to and during the time for which we have records, it is my
15 recollection that we paid the H-2A range herders a monthly wage rate based
16 upon a directive from the Federal Department of Labor, Wage and Hour Division,
17 that dictates wages and hours for each state in which H-2A range herders are
18 employed, including Nevada. It is my understanding the Department of labor
19 refers to this rate as the AEWR. We pay our employees at least the AEWR, and
20 in some instances, a higher wage based their experience or particular merit. In
21 addition, we often pay our herders a bonus ranging from \$1,500.00 to \$4,000.00
22 at the end of their three-year commitment to us.

23
24 9. We typically renew the herder's contracts. I can think of only a
25 single occasion when we did not renew a herder's contract based on performance.
26
27
28

1 10. I am not aware of whether we provide Western Range with the pay
2 rate specified in the contract or whether Western Range provides that number. In
3 any event, we pay the rate that the Department of Labor requires.

4 11. We provide the herders with room and board. When the herders are
5 on the range, we provide food and supplies to them regularly. On the winter
6 range, the herders stay in sheep camp trailers. These trailer have an indoor
7 water supply, but not indoor sanitary facilities. During the summer, they stay in
8 heavy duty camp tents. At all times, the herders have solar panels that provide
9 sufficient electricity to charge their personal electronics. During the winter, we
10 deliver food and supplies once a week or sooner. During the summer, we deliver
11 supplies every six days or sooner. Attached hereto as **Exhibit 4** is a list of the
12 provisions we regularly supply. When a herder has a particular request, we try to
13 accommodate that as well.

14 12. Most of our herders are on the range the entire year, except for one
15 or two herders who stay on the ranch during the winter to care for a small
16 number of sheep at the ranch.

17 13. David Little, my husband and the co-owner of our ranch, supervises
18 and works with the herders on a more than full-time basis. While he cannot visit
19 every herder every day, he visits them on a fairly frequent basis, depending on
20 the extent of assistance and/or supervision any individual herder requires. As
21 such, he is able to observe their activities and work schedule.

22 14. We do not keep time records of the amount of time our herders work
23 per day. By the very nature of the job, is it difficult to estimate with precision
24
25
26
27
28

1 how many hours the herders work. There is no time clock, and the herders are
2 not supervised constantly while on the range. The hours worked can vary based
3 on the type of forage, the weather conditions, the availability of water, and the
4 personality of the herder. At a very rough estimate, our workers typically work as
5 few as five hours per day to as much as 9 hours per day. During some times of the
6 year, they may work somewhat more than that as needed. For example, between
7 April and June, we are busy with shearing sheep, lambing, docking, and various
8 other tasks. However, for most of the year, the herders work for a few hours in
9 the morning and a few hours in the afternoon, with several hours in between
10 while the sheep bed down during the middle of the day.
11
12

13 15. The description of the herder's job duties that is contained in the
14 Western Range contract is fairly accurate. However, because we are a 100%
15 rangeland operation, our workers duties may differ to some extent from ranches
16 that use lambing sheds. Our herders make sure the sheep are taken to locations
17 with adequate food and water. They administer vaccines or medications as
18 needed. They help move the sheep for shipping, docking, and shearing. They
19 monitor predation and try to prevent predators from killing lambs. They monitor
20 the health of the herd and report any concerns to us.
21
22

23 16. Because sheep need to eat every day, the herders work every day of
24 the week.

25 17. Unlike some sheep outfits, we do not use a lambing shed; our ewes
26 lamb while on the range. As a result, we do not directly supervise lambing at a
27 central ranch; the herders are responsible for attending the ewes as needed. The
28

1 herders duties during lambing season are primarily to monitor the ewes giving
2 birth to assist them as needed. Because ewes often have multiple births, a herder
3 will often need to pull lambs out or otherwise assist. Because of this, the workers
4 work long hours during the 20-30 days of lambing season.

5
6 18. For most of the year, two herders are assigned to each band of sheep,
7 so there is usually someone present if one herder needs to rest or to take care of
8 errands of some kind.

9
10 19. We supply herders with horses to ride and with guard dogs, which
11 will frighten off predators, and with sheep dogs to assist in herding. The herders
12 are responsible for feeding and watering these animals. There is not a great deal
13 of training required. In addition, we provide our workers a rifle to kill predators.
14 We lose hundreds of lambs every year to predation. Unfortunately, the herders
15 cannot do much to stop coyotes at night.

16
17 20. In addition, we supply our workers with the tools needed for them to
18 perform their jobs, including saddles and other tack items to care for the horses,
19 blankets and camp gear, necessary veterinary supplies, such as syringes, needles,
20 and medicine, jugs, buckets, etc. Attached hereto as **Exhibit 5** is a list of all tools
21 provided.

22
23 21. We also supply herders with a phone and solar panels and batteries
24 to charge their phones. If a herder wants a phone that is different than the one
25 we supply, we provide them \$50 per month to pay toward their phone plan. We
26 assist them in sending money to their families in Peru, and I am trying to train
27 them how to send money without my assistance. We make sure they are able to
28

1 obtain medical care when needed. If they require care from a work-related injury,
2 we pay for such care. Even if the care required is not work related, we will
3 sometimes pay for that care. We have not provided any health insurance apart
4 from the group program previously offered through Western Range.
5

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

8 DATED: April 13, 2021
9

10 Bonnie Little
11 Bonnie Little
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 45

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775)322-4841

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 TED BORDA**

1 I am the manager and a member of Borda Land and Sheep Co., LLC
2 ("Borda"), a sheep operation headquartered in Western Nevada.

3 Borda grazes sheep on private land and public grazing allotments in
4 Western Nevada. We employ temporary guest workers pursuant to the H-2A
5 program. Western Range Association administers many aspects of member

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

3 3. We employ anywhere from 4 to 7 herders throughout the year.

4 4. Western Range Association handles all the paperwork involved in
5 obtaining H-2A herders for our ranch, including filing Form 790 (job clearance
6 order), Form 9142/9142A (application for certification), and INS Form I-192 (visa
7 application). WRA also arranges travel between Mexico (the herders' home
8 country) and the United States. Our herders are all selected herders based on
9 references from existing herders. Indeed, I believe that most if not all of our
10 herders are related to each other through either blood or marriage.
11

12 5. Our payroll records for 2020 are attached hereto as **Exhibit 1**. Our
13 payroll records for 2019 are attached hereto as **Exhibit 2**. Our payroll records for
14 2018 are attached hereto as **Exhibit 3**.
15

16 6. Prior to and during the time for which we have records, it is my
17 recollection that we paid the H-2A range herders a monthly wage rate based
18 upon a directive from the Federal Department of Labor, Wage and Hour Division,
19 that dictates wages and hours for each state in which H-2A range herders are
20 employed. It is my understanding the Department of labor refers to this rate as
21 the AEWR.
22

23 7. We have always used the DOL's AEWR as the base rate of pay
24 which we pay to my H2A employees. Because we employ herders in both Nevada
25 and California, in 2020, we began paying all our H2A workers the California
26 AEWR, regardless of which state they are working in.
27
28

1 8. We graze sheep in several areas of Western Nevada, including
2 Washoe Valley, Mt. Rose, Carson City, Mono County (North of Sonora Pass,) and
3 in Alpine County near Monitor Pass. During the fall and winter, we also graze
4 sheep on alfalfa stubble in Smith Valley and Carson Valley.
5

6 9. As the first bands of sheep are moved in April, and May, they are
7 initially accompanied by two herders. After a few weeks, they are accompanied by
8 a single herder.
9

10 10. In late April and May, after all lambs are born and the sheep are
11 docked, we move them to our Nevada ranges. At this point, the sheep are divided
12 into bands of approximately 800-1000 ewes. Each band is accompanied by a
13 single herder. The sheep graze in the high country throughout the summer, in
14 the fall, they move into valleys and graze on desert ranges and on alfalfa stubble.
15

16 11. During the months when the ewes are lambing (March and April,) the
17 herders work 10 to 12 hour days. During the rest of the year, the herders
18 work four to five hours per day, or 30 to 35 hours per week.

19 12. Our herders live in sheep camp trailers for most of the time. Four of
20 our trailers were built by me, and one is a commercially purchased Wilson trailer.
21 All of these trailers are heated by wood stoves and have propane stoves and solar
22 panels with a deep cycle battery to provide electricity to power phones and other
23 electronics. The trailers also have a car stereo. All are subject to annual
24 inspection by the State of Nevada.
25
26
27
28

1 13. While in the high country ranges during the summer, one band of
2 sheep is in an area not accessible by vehicle. The herder accompanying that band
3 stays in a tent for a period of about one month.

4 14. All the herders are provided food and other supplies at least once
5 per week, and usually 4-5 days.

6 15. We provide the herders with 2 guard dogs and 2 sheep dogs per
7 band. The herders accompanying sheep in the high country and wilderness
8 allotments pack in with a pack mule.

9 16. The guard dogs are very effective at keeping predators away.
10 However, we also provide herders with a MR17 rifle. The herders are not
11 required to look out for predators at night, in part because the guard dogs keep
12 predators away and in part because a herder can't very well shoot coyotes in the
13 dark.

14 17. We provide our herders with boots, socks, and rain gear. We also
15 provide the sheep herders with the tools they need, including a sheep hook,
16 shovel, knives, veterinary supplies, camp supplies, bedding, a tent, and all the
17 other supplies needed for them to perform their job duties. In addition, we pay
18 our herders a \$60/month stipend to use for a cell phone.

19 18. On rare occasions when our herders need medical attention, take
20 them to a doctor. We will often pay for some or all of this care, depending on the
21 circumstances. For instance, when one of our herders required an appendectomy
22 and was presented with a \$33,000 bill, we negotiated that bill down to a
23 manageable amount and paid for half of it.

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

DATED March 15, 2021


Ted Borden

EXHIBIT 46

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775) 322-4841

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 NICK
ETCHEVERRY**

1 I am a member and manager of Eureka Livestock, LLC. Until
2 October 2020, Eureka Livestock owned and operated a sheep ranch in
3 Bakersfield, California and Northeastern Nevada.

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

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

3 3. When we ran a sheep herd, Eureka Livestock typically employed
4 four or five H2A sheep herders at a time.

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

11
12 5. Attached hereto as **Exhibit 1** are payroll records showing the
13 amount that our herders were paid for the last 3 years. Prior to and during the
14 time for which we have records, it is my recollection that we paid the H-2A range
15 herders a monthly wage rate based upon a directive from the Federal
16 Department of Labor, Wage and Hour Division, that dictates wages and hours for
17 each state in which H-2A range herders are employed, including Nevada. It is my
18 understanding the Department of labor refers to this rate as the AEWR.

19
20 6. We have always used the DOL's AEWR as the base rate of pay
21 which we pay to my H2A employees. When the workers are working in California,
22 we pay the California rate. While in Nevada, we pay the Nevada rate. We
23 occasionally pay bonuses beyond this base rate for various reasons.

24
25 7. We breed our sheep to sheep lamb in Bakersfield in November and
26 December. They are sheared in March and remain in Bakersfield through most of
27 the Spring. In April and May, we transport them to Elko County, Nevada, where
28

1 they graze through the summer. We move the sheep herd to Eureka around
2 October 1, where they graze on alfalfa stubble. In November, we return the ewes
3 to Bakersfield as they are preparing to lamb.

4 8. While the sheep are lambing, the herders will often work up to 10
5 hours per day. However, when on the range in Nevada, the herders are typically
6 occupied with job duties only for 2 to 3 hours in the morning and 2-3 hours in the
7 afternoon. The rest of the day, they are free to rest, fish, or pass the time
8 otherwise.
9

10 9. While on the Ranch in California, the herders live in sheep camp
11 trailers or travel trailers. These trailers have a cookstove, and heating stove, and
12 a refrigerator. While Nevada, they live in the same trailers, with the exception of
13 a period from July to September, when the Sheep graze on allotments in the
14 Jarbidge Wilderness. While on the wilderness range, the herders stay in tents.
15 One herder is assigned to each band of sheep, and one herder sets up and moves
16 camps, as well as supplies camps using a horse and mule to transport supplies.
17

18 10. The herders are provided food and other supplies every week by a
19 camp tender. The supplies include canned goods, fresh meat and fruits and
20 vegetables. The herders can request particular supplies or provisions, and these
21 are provided.
22

23 11. Each band is accompanied by two guard dogs and two herding dogs.
24

25 12. We provide our herders with boots and rain gear. We provide the
26 sheep herders with the tools they need to perform their job duties and to live
27
28

1 comfortably in the wilderness.. We also purchase miscellaneous item for the
2 herders as they request.

3 13. The foregoing is true and made under penalty of perjury under the
4 law of the State of Nevada.
5

6 DATED: March 15, 2021

7
8 
9 NICK ETCHEVERRY
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 6, PART 5

ELLEN JEAN WINOGRAD, ESQ.

Nevada State Bar No. 815

JOSE TAFOYA, ESQ.

Nevada State Bar No. 16011

WOODBURN AND WEDGE

6100 Neil Road, Suite 500

Reno, Nevada 89511

Tel: 775-688-3000

Fax: 775-688-3088

ewinograd@woodburnandwedge.com

jtafoya@woodburnandwedge.com

ANTHONY HALL, ESQ.

Nevada State Bar No. 5977

JONATHAN McGUIRE, ESQ.

Nevada State Bar No. 15280

SIMONS HALL JOHNSTON, P.C.

690 Sierra Rose Drive

Reno, Nevada 89511

(775) 785-0088

ahall@shjnevada.com

jmcguire@shjnevada.com

ATTORNEYS FOR RESPONDENT
WESTERN RANGE ASSOCIATION

EXHIBIT 47

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775) 322-4841

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 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

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

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

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

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

DATED: March 15, 2021

Aulene Ratliff
AULENE RATLIFF

EXHIBIT 48

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775)322-4841

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
28

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

**DECLARATION OF KRISTOFOR
LEINASSAR**

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

2 FIM is a sheep operation which grazes sheep on the high deserts of
Nevada and the Eastern Sierras. We employ temporary, non-immigrant guest
workers pursuant to the H-2A program. Western Range Association administers

1 many aspects of member participation in the H-2A program. Our ranch is a
2 member of Western Range Association.

3 3. Some of our grazing allotments are located on or near the border
4 between Nevada and California. As a result, some of our herders spend some of
5 the summer months in the State of California. We do not track how much time is
6 spent on any particular side of the state line, that depends on range conditions,
7 the availability of feed, and the availability of water.
8

9 4. FIM employs six to nine H2A workers at a time, depending on the
10 season. During the fall and winter, we typically have about 6 guest workers. In
11 Spring and Summer, we typically have nine.
12

13 5. Western Range Association handles all the paperwork involved in
14 obtaining H-2A herders for our ranch, including filing Form 790 (job clearance
15 order), Form 9142/9142A (application for certification), and INS Form I-192 (visa
16 application). WRA also arranges travel between herders' home country and the
17 United States. Most of our herders are either returning employees or herders
18 referred by existing employees. I can only think of one instance in the past five
19 years in which we have employed a herder that we hired from the Western Range
20 list of available herders. This herder is going through the process, but we have
21 not hired him yet.
22
23

24 6. I have reviewed our payroll records for the past three years, which
25 records the Federal Department of Labor and the Nevada Labor Commissioner
26 require us to retain. Over the years for which we have records, we paid the
27 herders a monthly salary, in bi-weekly installments, as required by the Federal
28

1 Department of Labor, Wage and Hour Division, and the Nevada State Workforce
2 Authority (SWA), (DETR) for labor certification.

3 7. Our payroll records for 2020 are attached hereto as **Exhibit 1**. Our
4 payroll records for 2019 are attached hereto as **Exhibit 2**. Our payroll records for
5 2018 are attached hereto as **Exhibit 3**.

6
7 8. Prior to and during the time for which we have records, it is my
8 recollection that we paid the H-2A range herders a monthly wage rate based
9 upon a directive from the Federal Department of Labor, Wage and Hour Division,
10 that dictates wages and hours for each state in which H-2A range herders are
11 employed, including Nevada. It is my understanding the Department of labor
12 refers to this rate as the AEWR. When we fill out member surveys for Western
13 Range, we insert the salary that we pay. This salary is typically the AEWR, but
14 in some instances it may be somewhat higher. For instance, during lambing, the
15 herder who works at night is paid a higher salary.
16
17

18 9. We have always used the DOL's AEWR as the base rate of pay
19 which we pay to my H2A employees. Due to extenuating circumstances, a herder
20 may work more than an eight hour work day and is compensated for additional
21 time.
22

23 10. During January, February, and March, our herders are grazing
24 sheep on a mix of public desert lands in lower elevations and on alfalfa stubble in
25 Mason and Smith Valleys. During January and February, the workers typically
26 work 35 to 40 hours per week. The tasks they perform during this time period
27 including herding sheep, providing protection from predators, watering sheep,
28

1 hauling water, feeding sheep, treating the herd for illness or injury as necessary,
2 which may include administering veterinary supplies, and assisting in the
3 process of getting the sheep shorn.

4
5 11. In March and April, when the ewes begin to drop lambs, the herders
6 typically work approximately 45 - 50 hours per week. All lambing is done in
7 lambing sheds located on the home ranch. After the ewes lamb, the sheep are
8 marked and separated into bands of 600 to 1000. During this time, the herders
9 are not on the range, but remain on the ranch in fixed housing certified by the
10 State of Nevada.

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

18
19 13. In July through mid-September, the sheep are on the summer range.
20 During this time, the herders work between 40 and 50 hours per week. Their
21 duties are similar to the sheep herding duties in the other months: herding sheep,
22 providing protection from predators, watering sheep, hauling water, feeding
23 sheep, treating the herd for illness or injury as necessary, etc. In addition, during
24 this time, the lambs are weened and separated from ewes, and lambs are sold
25 and shipped. Routine annual culling and working/ treating the flock occur during
26 this time, and winter bands are prepared for winter grazing.
27
28

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

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

8 16. We do not have the herders keep time records of their hours. My
9 estimates for the amount of hours worked are approximations based on my years
10 of experience in the sheep business, as well as conversation with the herders
11 throughout the years.

13 17. The degree to which we supervise a herder depends on that herder's
14 experience. A new sheepherder will be accompanied by the camp tender or by a
15 more experienced herder for a few weeks until he understands the job. The camp
16 tender will visit the herders multiple times in a week to see if there are any
17 problems. In addition, if a herder needs assistance, he can call us on a cell phone.

19 18. I cannot think of an instance when we have asked a herder to be
20 reassigned, or in which we did not ask one to return the next season. I can think
21 of one instance in which we had a temporary H-2A herder transfer from
22 California to fill a vacancy. We did not keep him as a herder because he was not
23 able to adapt to the requirements of range sheepherding.

25 19. We provide the herders with room and board. When the herders are
26 working on the home ranch, they have a kitchen facility to prepare meals. While
27 on the ranch, the herders live in fixed housing with either individual or shared
28

1 rooms for each herder. This fixed housing is inspected annually by the State of
2 Nevada.

3 20. When the herders are on the range during the winter months, they
4 live in camp trailers that are adequately heated. During the summer months,
5 they live in sheep camps equipped with heavy duty tents and adequate camp
6 supplies. During the summer months, a camp tender visits every four to seven
7 days to bring groceries and supplies. Obviously, the sheep camps and the tents do
8 not have indoor sanitary facilities. Attached hereto as **Exhibit 4** is a list of the
9 type of groceries that we provide to herders on the range.
10

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

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

21 23. In addition, we provide transportation to and from town for personal
22 needs such as doctor and dentist appointments, banking, etc.
23

24 24. When Western Range offered a group insurance plan for herders, we
25 provided that plan. Since Western Range ceased doing so, we have not provided
26 health insurance.
27
28

25. The foregoing is true and made under penalty of perjury under the law of the State of Nevada.

DATED: June 10, 2021

KRISTOFOR LEINASSAR

EXHIBIT 49

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775) 322-4841

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
INCHAUPE**

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

1 2. We employ temporary, non-immigrant guest workers pursuant to
2 the H-2A program. Western Range Association administers many aspects of
3 member participation in the H-2A program. I am a member of the Western Range
4 Association.

5 3. We typically employ four to five H2A sheep herders at a time.
6 Western Range Association handles all the paperwork involved in obtaining H-2A
7 herders for our ranch, including filing Form 790 (job clearance order), Form
8 9142/9142A (application for certification), and INS Form I-192 (visa application).
9 WRA also arranges travel the herder's home country and the United States.
10

11 4. We pay the H-2A range herders a monthly wage rate based upon a
12 directive from the Federal Department of Labor, Wage and Hour Division, that
13 dictates wages and hours for each state in which H-2A range herders are
14 employed, including Nevada. It is my understanding the Department of labor
15 refers to this rate as the AEWR.
16

17 5. We have always used the DOL's AEWR as the base rate of pay
18 which we pay to my H2A employees. We pay more experienced herders a higher
19 amount. We currently pay my most experienced herder \$2600.00 per month.
20

21 6. I run a herd of approximately 3000 sheep. The winter range is near
22 the Ranch in Austin. In mid-March, we shear the sheep. The ewes begin to lamb
23 in mid-April. When a ewe is lambing for the first time, we use a lambing shed,
24 located on the ranch. The remaining ewes lamb on the range. While the sheep are
25 lambing, the herders work from daylight to dark, with breaks for lunch.
26
27
28

1 7. In May, after the ewes have all lambed, the sheep are moved by trail
2 on to the high country summer range. We typically break the sheep into 3 bands,
3 each of which is accompanied by one herder. During this time of the year, the
4 herders, while they are "on call" all the time, actively engage in their duties for
5 2-3 hours in the morning and 2-3 hours in the afternoon. While there may be
6 times when they need to spend more time to keep the band together (because, for
7 instance, of thunderstorms), such days are infrequent.

8
9 8. For most of the year, the herders live in Timberline sheep camp
10 trailers equipped with a propane stove, a propane refrigerator, and solar panels.
11 These trailers are subject to periodic inspection by the State of Nevada to ensure
12 that they are adequate.

13
14 9. While on the summer range (about two to three months,) the
15 herders live in a heavy duty canvas teepee type tents. The herders move their
16 camp every few days as the sheep graze in new areas. The herders have a mule
17 and a horse to pack their camp gear.

18
19 10. At all times of the year, the camp tender resupplies the herders with
20 food and other supplies every 3-4 days. We have a set list of food that we provide,
21 which includes fresh meat and fresh produce when available). However, if the
22 herders have any particular requests for food or supplies, we will accommodate
23 those requests. When the herders are in back country camps, the supplies are
24 brought to a location near to their camp, and the herders meet the camp tender to
25 pick up the supplies.
26
27
28

1 11. I supply the herders with sheep dogs and guard dogs. Each band of
2 sheep is accompanied by 5 – 10 guard dogs, usually great Pyrenees. In addition,
3 the herders all have a rifle to control predators. When necessary, we pay for a
4 private helicopter wildlife control service or request assistance from the federal
5 wildlife services. While the herders are provided with a rifle, they are not
6 expected to guard against predators at night.
7

8 12. I provide herders all the camp equipment and supplies that they
9 need, as well as the all the tools that they need to do their jobs. I also provide a
10 cell phone and a calling card with \$60.00 in international calling every month. I
11 provide the herders any supplies or personal items that they require.
12

13 13. The foregoing is true and made under penalty of perjury under the
14 law of the State of Nevada.
15

16 DATED: March 15, 2021

17 *Pauline Inchauspe*
18 PAULENE INCHAUSPE
19
20
21
22
23
24
25
26
27
28

EXHIBIT 50

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775) 322-4841

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 HENRY
VOGLER**

1 I operate a sheep ranching operation in the State of Nevada. The
2 matters set forth in this Declaration are true and correct and made from my own
3 personal knowledge. If called upon, I could and would testify competently as to
4 the following:

5 2. Need More Sheep Company is a sheep and cattle ranch operation in
6 White Pine County, Nevada, with all operations in Northeastern Nevada. I am

1 the sole shareholder of Need More Sheep. We graze sheep on public lands from
2 Highway 50 to the Idaho border. 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
5 member of Western Range Association.
6

7 3. Need More Sheep employs up to 26 H2A workers at a time,
8 depending upon a number of factors. On occasion, herders will abscond with no
9 notice. These workers cannot be easily replaced. Travel restrictions caused by the
10 coronavirus pandemic has made it more difficult for H2A workers to travel to the
11 United States and to return to Peru. In addition, various other occurrences can
12 render it difficult to hire qualified H2A workers.
13

14 4. Western Range Association handles all the paperwork involved in
15 obtaining H-2A herders for our ranch, including filing Form 790 (job clearance
16 order), Form 9142/9142A (application for certification), and INS Form I-192 (visa
17 application). WRA also arranges travel between herders' home country and the
18 United States. Most of our herders are either returning employees or herders
19 referred by existing employees.
20

21 5. I have reviewed our payroll records for the past three years, which
22 records the Federal Department of Labor and the Nevada Labor Commissioner
23 require us to retain. Over the years for which we have records, we paid the
24 herders a monthly salary, in bi-weekly installments, as required by the Federal
25 Department of Labor, Wage and Hour Division, and the Nevada State Workforce
26 Authority (SWA), (DETR) for labor certification. If needed, I could provide these
27
28

1 records for the past three years. However, it would be somewhat arduous to so,
2 especially in light of the demands of operating a working ranch.

3 6. Prior to and during the time for which we have records, it is my
4 recollection that we paid the H-2A range herders a monthly wage rate based
5 upon a directive from the Federal Department of Labor, Wage and Hour Division,
6 that dictates wages and hours for each state in which H-2A range herders are
7 employed, including Nevada. It is my understanding the Department of labor
8 refers to this rate as the AEWR.
9

10 7. I have always used the DOL's AEWR as the base rate of pay which I
11 pay to my H2A employees. When I believe an employee's work performance
12 merits it, I will pay additional amounts. I have some H2A employees who have
13 worked for me for several years who I pay more. On occasion, an employee will
14 perform work that I feel merits an additional bonus.
15

16 8. During the winter months, our sheep are typically divided into 5
17 bands of approximately 2000 sheep each. Each band is attended to by one sheep
18 herder and one water truck driver; during these months there is not a reliable
19 supply of surface stockwater. During these months, the herders work relatively
20 short days that are typically approximately 5-7 hours.
21

22 9. Beginning in April, we begin the process of shearing and docking the
23 sheep. During this time period, most H2A workers will work somewhat longer
24 days. When the ewes begin lambing in May, the bands are accompanied by 5 to 6
25 herders. During this time, there are usually three bands of lambing ewes and one
26 band of yearling ewes. Two herders will be with lambing ewes, two will stay with
27
28

1 the rest of the band as it moves on, and one or two will be available to perform
2 whatever tasks need to be done.

3 10. By mid-June, when lambing is done, the sheep are docked and
4 shipped, then split into approximately 8 summer bands. These bands are
5 accompanied by one experienced herder and sometimes by a novice assistant.
6 During this time, the herders typically only work for a few hours in the morning
7 and a few hours in the afternoon and evening. Sheep tend to be somewhat
8 crepuscular, so both the sheep and the herder rest during the middle of the day
9 for several hours.
10

11
12 11. The number of bands, and the number of sheep per band, varies
13 from year to year based on weather conditions. In drought years, the bands tend
14 to be smaller and more spread out.

15 12. We provide the herders with room and board. I take pride in
16 providing my employees with quality food and accommodations. When the
17 herders are working on the home ranch, they have access to a commissary that is
18 well stocked with food and supplies. Those supplies include beef and lamb that
19 Need More Sheep Company raises and butchers for our employees. The herders
20 cook for themselves in a well-supplied and well-stocked bunkhouse kitchen.
21

22 13. While on the ranch, the herders live in a new bunkhouse that is
23 warm, clean, dry, and quite comfortable. Two herders live in each room of the
24 bunkhouse, with individual beds and dresser drawers. The bunkhouse also has
25 a large screen TV and a Dish subscription, which I provide.
26
27
28

1 14. When the herders are on the range, we bring them food and supplies
2 regularly. We deliver provide food and supplies to them once every three days.
3 The herders send a list and unless it has something outrageous, I buy what is on
4 the list and bring it to them.

5 15. We provide our herders with Wilson Sheep Camp trailers to stay in
6 while on the range. These trailers are equipped with a refrigerator, stove, and
7 furnace. The trailers have Honda generators and solar panels to provide
8 electrical power. During the winter months, herders stay in these trailers every
9 night. During the summer, the trailers act as a base camp. The herders may
10 follow a band of sheep for and sleep in a tent and sleeping bag a few days at a
11 time before they return to the base camp.

12 16. The herders are provided a horse, guard dogs, and sheep herding
13 dogs. The guard dogs tend to keep predators away from the sheep. However, the
14 herders also carry a .243 bolt action rifle to kill predators. However, instances of
15 predation are fairly rare, so it is unusual for the herders to attend to the sheep at
16 night.

17 17. Our workers usually arrive in the United States with little more
18 than a small travel bag of belongings. Need More Sheep buys its H2A workers all
19 the clothing and gear they require, including boots, horse tack and saddles, work
20 clothes, camp gear, cooking gear, and all the tools required for them to perform
21 their tasks. We also provide workers with a cellular phone at no charge and pay
22 for a calling plan that allows them to call home.

DATED: March 15, 2021

Harry Dyer

Henry Vogler

EXHIBIT 51

INFORMATION FOR MASTER JOB ORDER

MEMBER SURVEY - June 23, 2010

(Please Complete Both Sides)

PLEASE COMPLETE THE FOLLOWING SURVEY AND RETURN TO WESTERN RANGE ASSOCIATION BY JULY 23, 2010

Company Name: FIM CORP
 Mailing Address: (billing) P.O. BOX 12 Smith, NV 89430
 Owner: Fred Fulstone - Marianne Weinassar
 Contact Person: Fred Fulstone or Marianne Weinassar - Kristofor Weinassar
 Physical Address (please note that even if physical address is just directions, this needs to be filled out):
25 Saroni Road Smith, NV 89430
 Telephone: Residence (775) 465-2381 - Office Cell () 775-771-1295 Marianne
775-772-7191 FRED
775-772-6468 Kristofor

• TYPE OF LAND ON WHICH YOU RUN YOUR SHEEP - PLEASE BE SPECIFIC

(Examples: deeded land, land leased from private property, land leased from Government entity)

Deeded Land - Land Leased - private - Land Leased - Government

• DO YOU USE SHEEP CAMPS ALL YEAR? OR DO YOU PACK AT SOME TIME DURING THE YEAR?

Yes _____ No _____ If yes, what time of the year do you pack? Sheep Camp 7-months
PACK 5-months

• DO YOU HAVE FIXED HOUSING AT THE RANCH FOR HERDERS THAT RESIDE OR RETURN TO THE RANCH? Yes X No _____

• DOES THE FIXED HOUSING HAVE THE FOLLOWING:

HOT & COLD RUNNING WATER	Yes <u>X</u>	No _____
BATHING FACILITIES	Yes <u>X</u>	No _____
INSIDE TOILETS	Yes <u>X</u>	No _____
ELECTRICITY	Yes <u>X</u>	No _____
REFRIGERATED FOOD STORAGE	Yes <u>X</u>	No _____
COOKING FACILITIES	Yes <u>X</u>	No _____

• DO YOU USE OPEN RANGE IN MORE THAN ONE STATE?

Yes X No _____ If yes, what state(s)? CA How Many Months? 2 1/2 Months

• ESTIMATED NUMBER OF POSITIONS REQUIRED FOR THE NEXT 12 MONTHS?

Existing 10 New 5 Will go home (4 are returning)
(1 new man coming 9/10)

• HOW MANY WESTERN RANGE H-2A HERDERS DO YOU HAVE NOW? 10

• HOW MANY NON-WESTERN RANGE H-2A HERDERS DO YOU HAVE NOW? 0

• HOW MANY FULL-TIME DOMESTIC HERDERS DO YOU NOW HAVE? 0

*Note - Do not include Camp Tenders or Ranch Workers - only full-time sheepherders.

Please list individual salaries \$ 800.00 ⁽¹⁰⁾ \$ _____ \$ _____ \$ _____ \$ _____
 WRA005608

RA 01246

Social Security numbers are required for all H-2A sheepherders. Please complete the following list. Make sure you have I-9 documentation on all employees. If needed please attach additional information to these forms.

HERDER NAME	HERDER #	SOCIAL SECURITY #
<u>Antonio Condezo</u>	<u>77873</u>	
<u>Hilario Camargo</u>	<u>77874</u>	
<u>Victor Porras</u>	<u>78020</u>	
<u>Raul Cayahuana</u>	<u>78021</u>	
<u>Hugo Payano</u>	<u>77983</u>	
<u>Jaime Astucuri</u>	<u>78697</u>	
<u>Ricardo Zevallos</u>	<u>78541</u>	
<u>Raul Huaranga</u>	<u>78542</u>	
<u>Antidio Yantas</u>	<u>78698</u>	
<u>Hugo Camargo</u>	<u>78757</u>	

O/HU

RECEIVED

JUN 09 2011

Information for Master Job Order

Member Survey - June 1, 2011

PLEASE COMPLETE BOTH SIDES!

Please complete the following survey and return to Western Range Association by July 15, 2011.Company/Ranch Name FIM CORPMailing/Billing Address P.O. Box 12Smith, NV 89430

Physical Address Note: This needs to be filled out even if your physical address is just directions.

25 Saroni RoadSmith, NV 89430Owner Name: Fred Fullstone Marianne Leinassar Contact Name Marianne or Fred or KrisTelephone: Residence (775) 465-2381 - OFFICE Cell (775) 771-1295 Marianne
775-772-7191 Fred
775-772-6468 KristoferType of land where you run your sheep Deeded - Leased - BLM - Forest Service

Examples: Deeded land, land leased from private property, land leased from government entity.

Do you use sheep camps all year or do you pack at some time during the year?

Yes, I use sheep camps all year _____ No, I pack some time during the year XIf no, when do you pack? Sheep camp 7 months PACK 5 months

Do you have fixed housing at the ranch for herders that reside or return to the ranch?

Yes X No _____

If yes, does the fixed housing have the following:

	Yes	No
Hot and Cold Running Water	<u>X</u>	_____
Bathing Facilities	<u>X</u>	_____
Inside Toilets	<u>X</u>	_____
Electricity	<u>X</u>	_____
Refrigerated Food Storage	<u>X</u>	_____
Cooking Facilities	<u>X</u>	_____

Do you use open range in more than one state?

Yes X No _____If yes, what state? CaliforniaNumber of months 2 1/2 months

Estimated number of positions required for the next 12 months?

Existing Positions 11 New Positions unless someone leaves +How many Western Range H-2A herders do you have at this time? 9 and 2 arriving 6/9/11How many non-Western Range H-2A herders do you have at this time? 1How many full-time domestic herders do you have at this time? 0

Note: Does not include camp tenders or ranch workers - only full-time sheepherders.

Please list individual salaries for all your sheepherders:

\$ <u>800.00 / month</u>	\$ _____	\$ _____	\$ _____
\$ _____	\$ _____	\$ _____	\$ _____

WRA008365

RA 01248

Social Security numbers are required for all H-2A shearers. Please complete the following list. Make sure you have I-9 documentation on all employees. If needed please attach additional information to these forms.

HERDER NAME	HERDER #	SOCIAL SECURITY #
-------------	----------	-------------------

<u>Jaime A Astucuri Osorio</u>	<u>78697</u>	
--------------------------------	--------------	--

<u>Ricardo Zevallos Grijalva</u>	<u>78541</u>	
----------------------------------	--------------	--

<u>Raul J. Huayanga Gallardo</u>	<u>78542</u>	
----------------------------------	--------------	--

<u>Antridio O. Yantas Porras</u>	<u>78698</u>	
----------------------------------	--------------	--

<u>Teodomiro Arredondo Cajahuanca</u>	<u>78758</u>	
---------------------------------------	--------------	--

<u>Hilario Camargo Martinez</u>	<u>78991</u>	
---------------------------------	--------------	--

<u>Raul Cajahuanca Aguilar</u>	<u>79014</u>	
--------------------------------	--------------	--

<u>Hugo Fortunato Payano Ricaldi</u>	<u>79015</u>	
--------------------------------------	--------------	--

<u>Raul Luna Astuhuaman</u>	<u>79168</u>	
-----------------------------	--------------	--

<u>New Herders Arriving 6/9/11</u>		
------------------------------------	--	--

<u>Edgar Clemente Osorio Menis</u>	<u>79019</u>	
------------------------------------	--------------	--

<u>Ulises Delgado Astuhuaman</u>	<u>7080</u>	
----------------------------------	-------------	--

Information for Master Job Order

Member Survey - May 1, 2012
PLEASE COMPLETE BOTH SIDES!

Please complete the following survey and return to Western Range Association by July 6, 2012.

Company/Ranch Name FJM CORP
Mailing/Billing Address P.O. BOX 12
Smith, NV 89430

Physical Address Note: Please fill in your physical address, as well as directions to your ranch.

25 Saroni Road, Smith, NV 89430
Hwy 395 South to Hwy 208 - 65 Miles Hwy 208 to Wellington 12 miles
Turn Right onto Hwy 338 at Catholic Church - 2 miles South to Saroni Road
go 1000 feet and turn Right into Ranch Headquarters.

Owner Name: Fred Fulstone Contact Name FRED - Marianne or Kris
Marianneteinassar

Telephone: Residence (775) 465-2381 Cell Fred 775-772-7191
office (Marianne 775-771-1295
KRIS) 775-772-6468

Type of land where you run your sheep Deeded - Leased - BLM - Forest Service
Examples: Deeded land, land leased from private property, land leased from government entity.

Do you use sheep camps all year or do you pack at some time during the year?

Yes, I use sheep camps all year _____ No, I pack some time during the year X
If no, when do you pack? Sheep Camp 8 months PACK 4 months Approx

Do you have fixed housing at the ranch for herders that reside or return to the ranch?

Yes X No _____

If yes, does the fixed housing have the following:

	Yes	No
Hot and Cold Running Water	<u>X</u>	_____
Bathing Facilities	<u>X</u>	_____
Inside Toilets	<u>X</u>	_____
Electricity	<u>X</u>	_____
Refrigerated Food Storage	<u>X</u>	_____
Cooking Facilities	<u>X</u>	_____

Do you use open range in more than one state?

Yes X No _____

If yes, what state? California - on the Border

Number of months 2 months our Ranges overlap

Estimated number of WRA positions required for the next 12 months?

Existing Positions 11 New Positions 0 unless someone leaves
3 men going Home will
bring them on
new contract

How many Western Range H-2A herders do you have at this time? 11

How many full-time domestic herders do you have at this time? 0

Note: Does not include camp tenders or ranch workers - only full-time sheepherders.

GO TO NEXT PAGE! 
WRA008409

RA 01250

Information for Master Job Order

Member Survey - May 1, 2013
PLEASE COMPLETE BOTH SIDES!

Please complete the following survey and return to Western Range Association by July 12, 2013.

Company/Ranch Name FIM CORP (FRED Fulstone)
Mailing/Billing Address P.O. BOX 12
Smith, NV 89430

Physical Address Note: Please fill in your physical address, as well as directions to your ranch.

25 Saroni Road Smith, NV 89430
N: 38° 45.330° W 119° 19.635° Elevation 4927

Owner Name: Marianne F. Leinassar Contact Name Marianne F. Leinassar
Telephone: Residence (775) 465-2381 Cell (775) 771-1295
Office (775) 465-2381 Fax (775) 465-1200

Type of land where you run your sheep Deeded - Leased (Private) - BLM - Forest Service
Examples: Deeded land, land leased from private property, land leased from government entity.

Do you use sheep camps all year or do you pack at some time during the year?

Yes, I use sheep camps all year _____ No, I pack some time during the year X
If no, when do you pack? Pack 4 months ±

Do you have fixed housing at the ranch for herders that reside or return to the ranch?

Yes X No _____

If yes, does the fixed housing have the following:

	Yes	No
Hot and Cold Running Water	<u>X</u>	_____
Bathing Facilities	<u>X</u>	_____
Inside Toilets	<u>X</u>	_____
Electricity	<u>X</u>	_____
Refrigerated Food Storage	<u>X</u>	_____
Cooking Facilities	<u>X</u>	_____

Do you use open range in more than one state?

Yes X No _____ (BLM / Forest Service)
If yes, what state? CA - our allotments are on the border
Number of months 2 months - Ranges over lap

Estimated number of WRA positions required for the next 12 months?

Existing Positions 11 New Positions 5 of the 11 are going home and we are bringing them back on a new contract
How many Western Range H-2A herders do you have at this time? 11

How many full-time domestic herders do you have at this time? 0

Note: Does not include camp tenders or ranch workers - only full-time sheepherders.

GO TO NEXT PAGE! ➡

WRA008463

RA 01252

RECEIVED
BY: [Signature]
DATE: 10/29/21
RECEIVED
BY: [Signature]

Information for Master Job Order

Member Survey - May 1, 2014
PLEASE COMPLETE BOTH SIDES!

Please complete the following survey and return to Western Range Association by July 11, 2014.

Company/Ranch Name FIM CORP (Fred Fulstone)
Mailing/Billing Address P.O. BOX 12
Smith, NV 89430

Physical Address Note: Please fill in your physical address, as well as directions to your ranch.

25 Saroni Road
Smith, NV 89430

Owner Name: Marianne F. Leinassar Contact Name Marianne F. Leinassar

Telephone: Residence (775) 465-2381 Cell (775) 771-1295
Office (775) 465-2381 Fax (775) 465-1200

Type of land where you run your sheep Deeded - Leased (Private) - BLM - Forest Service

Examples: Deeded land, land leased from private property, land leased from government entity.

Do you use sheep camps all year or do you pack at some time during the year?

Yes, I use sheep camps all year _____ No, I pack some time during the year X

If no, when do you pack? Pack 4 months

Do you have fixed housing at the ranch for herders that reside or return to the ranch?

Yes X No _____

If yes, does the fixed housing have the following:

	Yes	No
Hot and Cold Running Water	<u>X</u>	_____
Bathing Facilities	<u>X</u>	_____
Inside Toilets	<u>X</u>	_____
Electricity	<u>X</u>	_____
Refrigerated Food Storage	<u>X</u>	_____
Cooking Facilities	<u>X</u>	_____

Do you use open range in more than one state?

Yes X No _____

If yes, what state? CA - our Forest Service and BLM Allotments are on the Border

Number of months: 2 Range overlap

Estimated number of WRA positions required for the next 12 months?

Current Positions 10 Expected New 1

How many Western Range H-2A herders do you have at this time? 10

How many full-time domestic herders do you have at this time? 0

Note: Does not include camp tenders or ranch workers - only full-time sheepherders.

GO TO NEXT PAGE! 
WRA008504

RA 01254

RECEIVED

Information for Master Job Order

Member Survey - June 1, 2015
PLEASE COMPLETE BOTH SIDES!

BY: _____

Please complete the following survey and return to Western Range Association by July 17, 2015.

Company/Ranch Name FIM CORP (Fred Fulstone)
 Mailing/Billing Address P.O. Box 12
Smith, NV 89430

Physical Address Note: Please fill in your physical address, as well as directions to your ranch.

25 Saroni Road
Smith, NV 89430

Owner Name: Marianne F. Leinassar Contact Name Marianne F. Leinassar
 Telephone: Residence (775) 465-2381 Cell (775) 771-1295
 Office (775) 465-2381 Fax (775) 465-1200

Type of land where you run your sheep _____

Examples: Deeded land, land leased from private property, land leased from government entity.

Do you use sheep camps all year or do you pack at some time during the year?

Yes, I use sheep camps all year _____ No, I pack some time during the year XIf no, when do you pack? Pack 4 months - Summer

Do you have fixed housing at the ranch for herders that reside or return to the ranch?

Yes X No _____

If yes, does the fixed housing have the following:

	Yes	No
Hot and Cold Running Water	<u>X</u>	_____
Bathing Facilities	<u>X</u>	_____
Inside Toilets	<u>X</u>	_____
Electricity	<u>X</u>	_____
Refrigerated Food Storage	<u>X</u>	_____
Cooking Facilities	<u>X</u>	_____

Do you use open range in more than one state?

Yes X No _____If yes, what state? CA our Forest Service and BLM Allotments are on the BorderNumber of months: 2 month range overlap

Estimated number of WRA positions required for the next 12 months?

Current Positions 10 Expected New 1 plus 2 Herders going to Peru and then coming back on new contracts

How many Western Range H-2A herders do you have at this time? 10How many full-time domestic herders do you have at this time? 0

WRA008547

RA 01256

INFORMATION FOR LABOR CERTIFICATION**MEMBER SURVEY - APRIL 12, 2018****PLEASE COMPLETE THE FOLLOWING SURVEY AND RETURN TO WESTERN RANGE ASSOCIATION BY MAY 1, 2018**

Company Name: FIM CORP 01210
 Mailing Address: (billing) P.O. BOX 12 (This is where FIM get all their mail)
 Owner: Fred Fulstone Kristofer Leinassar Marianne Leinassar
 Contact Person: Marianne Leinassar 775-771-1295
 Physical Address (please note that even if physical address is just directions, this needs to be filled out):
25 Saroni Road, Smith NV 89430 (This where all Sheepherders get their mail)
 Telephone: Residence (775) 465-2381 Cell (775) 771-1295 BEST NUMBER * USE this #
OFFICE Marianne's cell

TYPE OF LAND ON WHICH YOU RUN YOUR SHEEP - PLEASE BE SPECIFIC

(Examples: deeded land, land leased from private property, land leased from Government entity)

Deeded Land Land Leased from private property Forest Service Bureau of Land Management**DO YOU USE SHEEP CAMPS ALL YEAR OR DO YOU PACK AT SOME TIME DURING THE YEAR?**Yes X No If yes, what time of the year do you pack? PACK JUNE - Mid Sept.**DOES YOUR WORKERS USE NATURAL SOURCES OF WATER THAT ARE POTABLE OR EASILY RENDERED POTABLE? Yes No X**We take fresh water to them plus they have water filter systems if they need them (A small RT)**DO YOU USE OPEN RANGE IN MORE THAN ONE STATE?**Yes X No If yes, what state(s)? CA Our FS & BLM Allotments are on the Border How Many Months? 2 months on off Range over lap**ESTIMATED NUMBER OF WRA H-2A WORKERS REQUIRED FOR THE NEXT 12 MONTHS?**

May 2018	<u>9</u>	June	<u>9</u>	July	<u>9</u>	August	<u>9</u>	Sept.	<u>9</u>	Oct	<u>9</u>
Nov 2018	<u>9</u>	Dec.	<u>9</u>	Jan 2019	<u>9</u>	Feb	<u>9</u>	March	<u>9</u>	April	<u>9</u>

HOW MANY NON-WESTERN RANGE H-2A HERDERS DO YOU HAVE NOW? 0**HOW MANY DOMESTIC HERDERS HAVE YOU HAD IN THE LAST 12 MONTHS THAT NO LONGER WORK FOR YOU?** 0

*Note - Do not include Camp Tenders or Ranch Workers - only full-time sheepherders.

TOTAL AVERAGE SHEEP/LAMBS OR GOATS TO BE TENDED 15,000

WRA SENDS OUT NEWSLETTERS TO INFORM MEMBERS ON UPDATES TO THE H-2A REGULATION AND OFFICE NEWS. LET US KNOW IF YOU WOULD LIKE TO RECEIVE THE NEWSLETTER BY MAIL AND E-MAIL. THE MAILED QUARTERLY NEWSLETTERS WILL BE THE SAME INFORMATION AS THE MONTHLY E-MAILED.

☐ Please send the Newsletter Quarterly by mail to the mailing address at the top of this form.

Please send the Newsletter Monthly to the following e-mail address/es:

Name of Recipient: FIM CORPE-mail Address: fimcorporation@gmail.comName of Recipient: E-mail Address: Name of Recipient: E-mail Address:

All my family receives the same email plus I print it out and post it at the office. your emails really help us a lot. Thank you

WRA005638
RA 01258

100

No. _____ Please list individual salaries of your WRA H-2A Workers

No _____ Please list individual salaries of your WRA H-2A Workers

Monthly Salary

_____ \$ _____

EXHIBIT 52

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	)	
	)	

VERITEXT VIRTUAL DEPOSITION OF BONNIE LITTLE

Taken at the Law Offices of Simons, Hall, Johnston
6490 South McCarran Boulevard, Suite E46
Reno, Nevada

On Thursday, July 8, 2021
At 9:09 a.m.

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

1 A. I don't know that I submitted this to a
2 federal agency.

3 MS. WEBBER: Okay.

4 Q. And that was not my question to you, but
5 seeing that the document is titled "Petition for a
6 Nonimmigrant Worker" and directed to, or at least
7 has the heading for the Department of Homeland
8 Security, U.S. Citizenship and Immigration Services,
9 my question to you is if you were presented with a
10 document like this, one that appears to be an
11 official government form requiring signature, would
12 it be your general practice to review that document
13 for accuracy before you added your signature?

14 A. I would imagine back in 2016 that since
15 David's signature is above mine that I relied on his
16 ability to review the document on behalf of our
17 ranch.

18 Q. Do you know, do you have any recollection
19 of why your signature would have been included given
20 that David had also or had already signed it above,
21 as you pointed out his name being listed above
22 yours?

23 A. Not without speculating.

24 Q. In your declaration you refer to your
25 ranch as a 100 percent rangeland sheep operation.

1 What do you mean by saying 100 percent rangeland?

2 A. What I mean is that our breeding ewes are
3 on the range 100 percent of the time.

4 Q. And are you aware of there being federal
5 regulations defining what is considered on the range
6 with respect to H-2A herders?

7 MS. WINOGRAD: Objection, lack of
8 foundation, calls for a legal conclusion.

9 THE WITNESS: I don't understand the
10 question.

11 MS. WEBBER: Okay.

12 Q. Are you aware of there being -- first of
13 all, do you understand what I mean when I refer to
14 H-2A herders?

15 A. Yes.

16 Q. Are you aware that there are regulations
17 which govern the H-2A program specific to
18 sheepherders?

19 A. I think I do. I don't know if I
20 understand it to the full extent, but I think I do.

21 Q. Okay. Are you aware that among those
22 regulations governing H2-A sheepherders there is a
23 regulation that defines what on the range means?

24 A. No.

25 Q. So when you describe your sheep as being

1 is required so that the herder can be in constant
2 attendance to the herd?

3 MS. WINOGRAD: Objection, calls for a
4 legal conclusion.

5 THE WITNESS: I didn't understand the
6 question.

7 MS. WEBBER: Sure.

8 Q. Are you aware of the type of housing that
9 is used by herders when they're out on the range?

10 A. Yes.

11 Q. Okay. And you use sheep camps for
12 herders who are out on the range in the winter
13 months, correct?

14 A. Yes.

15 Q. And for about four months in the summer
16 your herders who are out on the range are using
17 tents rather than the sheep camps, correct?

18 A. I don't know how long they are in tents.

19 Q. Okay. You know that it's for some months
20 in the summer?

21 A. Yes.

22 Q. And when we refer to sheep camps it's
23 something like a trailer that has a place for the
24 herder to sleep and some, at least some rudimentary
25 cooking facilities; is that right?

1 do you have with each band?

2 A. One or two.

3 Q. And then when you bring those bands
4 together so that there is just two bands of breeding
5 ewes in the fall-winter period, how many herders do
6 you have with each band at that point?

7 A. At least two.

8 Q. In addition to the -- let me just stick
9 with the summer. In addition to the four bands of
10 breeding ewes and one band of nonbreeding ewes, then
11 you also have the sheep who are back at ranch
12 headquarters. Are there any other sheep unaccounted
13 for on that list? I just want to make sure we've
14 covered all the bases.

15 A. I forgot to mention the orphan lambs on
16 the ranch.

17 Q. Okay. Oh, so they're part of the group
18 of sheep that are attended to on the ranch itself?

19 A. Yes.

20 Q. Okay. Do you have any expectation that
21 herders who are sent out with a thousand ewes will
22 come back with a thousand ewes?

23 A. We do not expect that.

24 Q. Okay. Do you have any sort of goal as to
25 how many of the sheep will make it through the

1 season?

2 A. The more the better.

3 Q. Okay. Turning to your declaration and
4 the very last attachment to your declaration, it's
5 Exhibit 5 to your declaration, so I guess it's
6 Exhibit 5 to Exhibit 1, is a document titled "Tools
7 Provided to Herders." If you could find that for me
8 I had a few questions about that list.

9 MR. HALL: What was the letter?

10 MS. WEBBER: It's the declaration so
11 there wasn't a letter assigned to it. It was marked
12 as Exhibit 1 to the deposition, but the declaration
13 came with five attachments, and I'm specifically
14 asking about the very last one. Attachment 5 to the
15 declaration was titled "Tools Provided to Herders."

16 MR. HALL: I do not have those. I have
17 the declaration she signed, but I was not provided
18 with the attachments so I don't have those here.

19 MS. WEBBER: Okay. Let me, so first,
20 Megan, can you go ahead and email those attachments
21 to Anthony, and in the meantime I will just, since
22 it's just a two-page list I'll just kind of put it
23 up on screen for just a second.

24 Q. Can you now see on screen, it just says
25 Exhibit 5?

1 Q. Okay. When you take people into town are
2 they generally away from the range for the entire
3 day or is it something that can be done in, you
4 know, the course of an afternoon?

5 A. Both.

6 Q. Okay. So sometimes it's the entire day;
7 sometimes it's just an afternoon?

8 A. Yes.

9 Q. Do you recall as part of compensation for
10 your herders there being two weeks' paid vacation at
11 any point in time?

12 A. I remember that.

13 Q. Do you still have any paid vacation time
14 as part of the herders' compensation?

15 A. No, I don't think we do.

16 Q. Okay. When they had two weeks of
17 vacation time did you have any herders who used all
18 14 of their vacation days as days that they wanted
19 to go into town?

20 A. I believe so.

21 Q. Would it be fair to say that it would be
22 unusual for any one herder to go into town more than
23 14 days in the course of a year?

24 A. I remember, that question about their
25 14 days, I remember off the top of my head taking

1 herders to the bus so they could go wherever they
2 wanted to go for their vacation. However, most of
3 them don't want to do that. Most of them don't want
4 to do that.

5 Q. Uh-huh (affirmative response). Is it
6 fair to say that most herders do not ask to go into
7 town or any place else for more than 14 days out of
8 the year?

9 A. Yes.

10 MS. WEBBER: Okay. I think that should
11 cover it from plaintiff's perspective, and
12 appreciate your time this morning, and I'll let
13 Ellen and your counsel ask their questions.

14 MS. WINOGRAD: I think Anthony gets to go
15 next, but I'm happy to.

16 Anthony?

17 MR. HALL: Yeah, why don't you? You may
18 cover a couple of things I have, so feel free to go.

19 MS. WINOGRAD: I have very few actually.

20

21 EXAMINATION

22 BY MS. WINOGRAD:

23 Q. Do you use herding dogs?

24 A. Yes.

25 Q. Do you use guard dogs?

EXHIBIT 53

1 Jerry M. Snyder
2 Jerry Snyder Law
3 Nevada State Bar No. 6830
4 429 Plumb Ln.
5 Reno, Nevada 89509
6 Jerry@Jerrysnyderlaw.com
7 Telephone (775) 499-5647

8 Louis Test, Esq.
9 Hoffman & Test, P.C.
10 Nevada State Bar No. 435
11 429 Plumb Ln.
12 Reno, Nevada 89509
13 office@htag.reno.nv.us
14 Telephone (775) 322-4081
15 Fax (775)322-4841

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 HANK
DUFURRENA**

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

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

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

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

22 DATED: March 15, 2021

23
24 
25 HANK DUFURRENA
26
27
28