

**BULL TROUT TESTIMONY – ELKO, NEVADA**

Thank you Mr. Chairman for inviting me to testify at this hearing. I am Bert Brackett and am representing myself, my family and our ranching operation. I am a fourth generation rancher and my family has ranched in the area for over 100 years. Our headquarters ranch is in Three Creek, Idaho where we winter our cattle. We summer across the state line in Nevada. Our ranch like many in the West is a combination of private, state, BLM, and Forest Service lands. When combined together, it forms a viable economic unit and as such helps maintain open space and preserve natural landscapes.

I would like to share with this committee what seems to be a real success story. It is a classic example of how advocacy science can be used to further an agenda. In 1993 Bull Trout numbers in Dave Creek (which is a major stream between the East Fork and West Fork of the Jarbidge River) was estimated at 251 fish. (Johnson and Weller 1994) For the next eight years management practices stayed the same; nothing changed except for the Bull Trout listing. In 2001 a field investigation of Dave Creek by Burton, Klott and Zoelick reported an estimate of about 1000 Bull Trout or a 400% increase. On the surface this might appear to be a remarkable recovery, but the fact of the matter is it was two separate studies with two different objectives that gathered the “science” to support their agenda at the time.

I would like to comment on the process that led up to the listing. In 1994 a Bull Trout working group was formed with the goal of being proactive, being ahead of the curve and trying to take actions that would head off a possible listing under the Endangered Species Act. It included numerous local, state, and federal agencies, affected ranchers and other interested public. There were several meetings a year; a number of problems identified; and projects undertaken to address the concerns. It was done in a collaborative fashion with a spirit of cooperation. That all came to an end on June 10, 1998 when the Jarbidge Bull Trout were listed on an emergency basis to stifle the Jarbidge Shovel Brigade. That was the end of the working group as far as I know and consequently the effort of the working group was wasted.

Others will address the South Canyon Road situation so I will limit my comments to effects on grazing. Listing under the Endangered Species Act opens up a whole new array of possible law suits and legal action. This past year we started to see the radical extremist environmental groups begin to exploit the

Act. We received a Notice of Intent to sue for grazing on our private lands. The notice says “your actions have caused and will foreseeably continue to cause the killing, harming, harassing, capturing and or other forms of ‘take’ of listed threatened Bull Trout”. The charge is without merit, but when threatened, we must defend ourselves. The BLM and Forest Service also received notice of intent to sue which would force them to deny us water for our cattle which we have used for close to fifty (50) years. The extremist goal is to end grazing on federal land in the West and the Endangered Species Act has become the weapon of choice because it lends itself to harassment and opportunities for lawsuits.

We have and will continue to cooperate fully with the land management agencies to protect natural resources including Bull Trout. For example, the biological assessment for ongoing activity stated that spawning starts in September and since our cattle were present, that fish may be adversely affected. Our grazing permit has a season of use from July to October. We asked the Forest Service to modify our permit so we would remove cattle from the allotment by September 1 thereby limiting the possibility of conflict. They would not modify our permit, but did make the change in our annual operating plan.

The burden from redundant over regulation on ranchers speaks to the socio-economic impacts caused by the listing. We have been in compliance with the rules and regulations and are meeting the standards so this is not about protecting the fish. It is about abuse of process with the purposeful intent to damage private citizens.

The upper end of the Jarbidge River Watershed is wilderness. The lower is Wilderness study area, wild and scenic river and ACEC ( area of critical environmental concern) for Big Horn sheep so it receives layer upon layer of restrictions and protection. The streams have been evaluated for PFC and are in properly functioning condition. In addition there are water quality standards set by DEQ (Department of Environmental Quality). For grazing, we also have to meet standards and guidelines as well as utilization levels on upland vegetation as well as riparian forage and shrubs.

To add the full weight of regulation provided for in the Endangered Species Act is overkill. Most troubling is the additional avenues of harassment it opens for radical environmentalists dedicated to ending livestock grazing in the West.

In conclusion, is the Jarbidge River population of Bull Trout truly threatened – probably not. Should

it be delisted –most definitely. Should the act be amended to require peer review science and to prevent many of the abuses that the law currently allows, again – most definitely.

Thank you for allowing me to testify. Are there any questions?