

STATE OF WYOMING)
) ss.
COUNTY OF CARBON)

IN THE CIRCUIT COURT

SECOND JUDICIAL DISTRICT

Docket No. CT-2021-5871

THE STATE OF WYOMING,)
)
 Plaintiff,)
)
 vs.)
)
PHILLIP G. YEOMANS,)
)
 Defendant.)

**DEFENDANT’S MOTION TO DISMISS
(REQUEST FOR SETTING)**

COMES NOW Defendant Phillip G. Yeomans (“Mr. Yeomans”), by and through his undersigned attorney, Ryan A. Semerad, of Donald L. Fuller, Attorney at Law, LLC, and hereby moves this Court for an order dismissing with prejudice the single misdemeanor count brought by the State of Wyoming, by and through the Carbon County Attorney’s Office, against him, which alleges Mr. Yeomans violated Wyo. Stat. Ann. § 6-3-303 by committing an act of criminal trespass.

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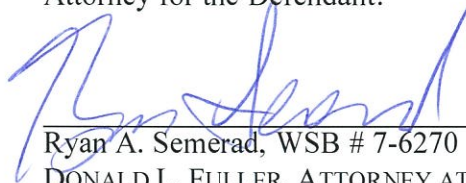
This *Motion* is made pursuant to and based upon Rule 12(b)(1) of the Wyoming Rules of Criminal Procedure, Article I, § 37 of the Wyoming Constitution, Articles IV and VI of the United States Constitution, the papers and pleadings on file, the following Memorandum of Points and Authorities, and any oral argument permitted by the Court.

Mr. Yeomans respectfully requests that this *Motion* be set for a hearing before this Court at time convenient for the Court and all necessary parties.

Further, Mr. Yeomans requests that this Court consider this motion in light of the charges brought against Defendants Bradley H. Cape, Zachary M. Smith, and John W. Slowensky as well considering that all four men have asked this Court to join their proceedings for pretrial and trial related matters through a separate joint motion.

DATED AND SIGNED this 31 day of January, 2022.

Attorney for the Defendant:



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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Phillip G. Yeomans (“Mr. Yeomans”) and his friends, Bradly H. Cape, Zachary M. Smith, and John W. Slowensky, have been cited for criminal trespassing in violation of Wyo. Stat. Ann. § 6-3-303 because they stepped over the corner where four square sections of property—two private and two public—meet as they traveled from one section of public land to another section of public land. Mr. Yeomans and the others used a fence ladder to avoid actually entering into or intruding upon any part of the private sections of land at the corner.

Federal law prohibits any person or group of persons from preventing Mr. Yeomans, his friends, or others from freely passing through public lands. Consequently, private landowners cannot prevent or obstruct free passage from one section of public land to another by claiming that the common corner where two private sections of land and two public sections of land meet is their exclusive property, land, or premises. Accordingly, the State of Wyoming cannot prosecute Mr. Yeomans or any other person for criminal trespass when Mr. Yeomans or another person travels from one section of public land to another section of public land at a common corner with two sections of private land.

For this fundamental reason as well as several others, Mr. Yeomans respectfully requests that this Court dismiss the misdemeanor criminal trespass citation against him with prejudice.

II. RELEVANT FACTS

The following facts are not genuinely disputed¹:

¹Nevertheless, Mr. Yeomans has, out of an abundance of caution, joined Mr. Cape’s request for a bill of particulars as the State’s charging citation does not, on its face, “descend to particulars” and specify exactly what conduct the State alleges violated Wyoming’s criminal trespass statute. *See United States v. Cruikshank*, 92 U.S. 542, 558 (1875) (“It is an elementary principle of criminal pleading, that where the definition of an offence . . . includes generic terms, it is not sufficient that the indictment charge the offence in the same generic terms as in the definition; but it must state the species, – it must descend to particulars.”).

1. Mr. Yeomans, Mr. Cape, Mr. Smith, and Mr. Slowensky (collectively, the “hunters”) arrived in Carbon County, Wyoming, to begin a hunting trip on or about September 26, 2021. *See* Attachment 1 (“Hunter Harassment” Report of Bradly Cape, dated October 8, 2021) at 1.

2. The hunters set up a base camp for their trip off Carbon County Road 400 on a section of land owned by the federal government and managed by the Bureau of Land Management (BLM) (*hereinafter*, referred to generally as “public land”). *See id.*; *see also* Attachment 2 (Wyoming Game and Fish Department Law Enforcement Incident Report, Case No. 56421/5, dated October 4, 2021) at 1.

3. The location of the hunters’ base camp was depicted by Officer Jake Miller of the Wyoming Game and Fish Department in a map of the area. *See* Attachment 2 at 4. This map is reproduced here with alterations to its size only²:



²Each image reproduce in the body of this *Motion* will be appended in its original format in Attachment 2 appended to this *Motion*.

4. Each of the hunters had a valid hunting license to hunt elk on public land. *See* Attachment 2 at 1 (“I I.D. everyone from their valid hunting license for the area.”).

5. On or about September 30, 2021, Officer Miller received a call from Mr. Steve Grende, the land manager for Elk Mountain Ranch. *Id.*

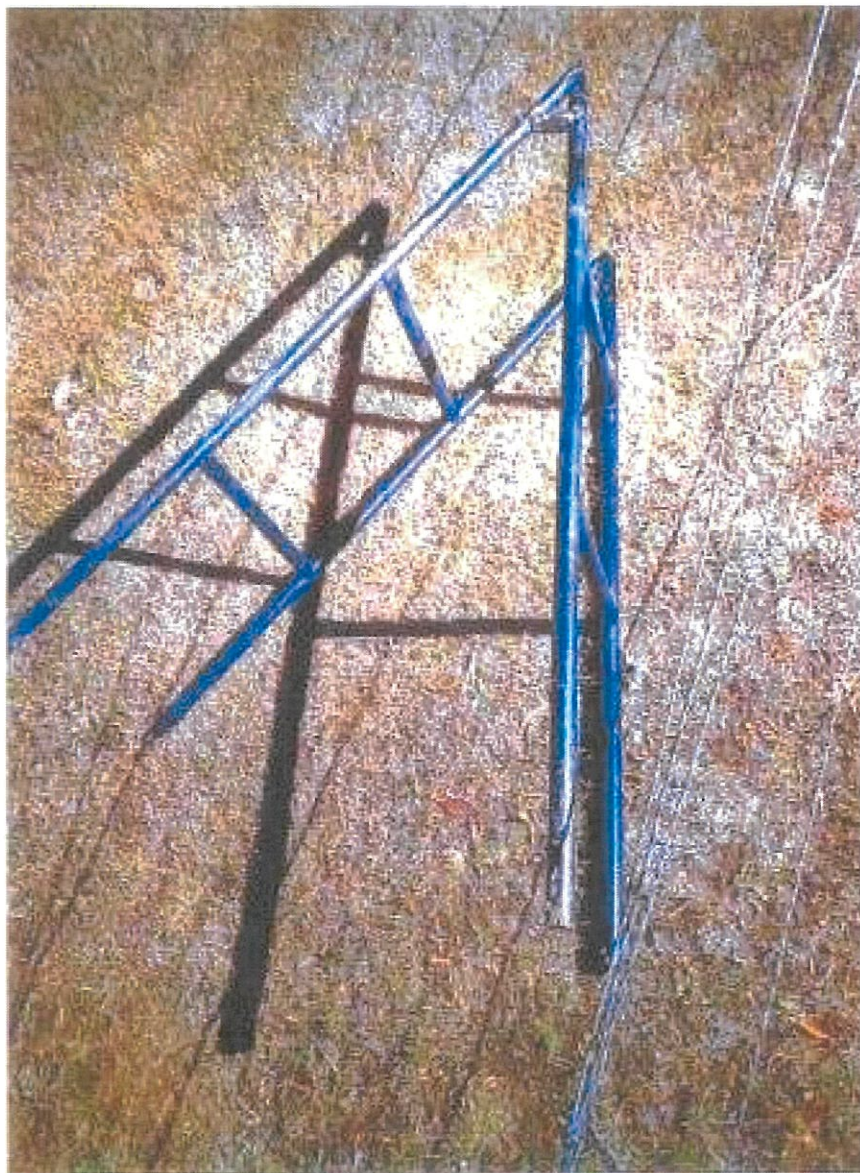
6. Mr. Grende informed Officer Miller that some trespassing was occurring on Elk Mountain Ranch property, which includes some private property in Carbon County, Wyoming. *Id.* In particular, Mr. Grende stated that the hunters, including Mr. Yeomans, had been crossing the corner where two sections of private land owned by Elk Mountain Ranch and two sections of public land meet in order to travel from one section of public land to another section of land. *Id.*

7. That same day, September 30, 2021, Officer Miller traveled to the hunters’ base camp located on public land on County Road 400. *See* Attachment 2 at 1.

8. “While driving on a private ranch road of the Elk Mountain Ranch,” Officer Miller located four (4) individuals dressed in camouflage and carrying archery bows “walking North towards [County] Rd 400 towards the [base] camp.” *See id.* At the time Officer Miller observed the four individuals, “they were on BLM land.” *Id.*

9. “When the group came to the corners of the 2 BLM sections they placed a fence ladder (Attachment 1b) in the 2 corners of BLM and over 2 ‘No Trespassing’ signs and crossed from one side to the other.” *Id.* The four individuals, accordingly, used the fence ladder to cross the corner of the four sections of property to access one section of public land from another section of public land. *See id.*

10. Officer Miller took a photograph of the “fence ladder” and appended it to his report as Attachment “1b.” This photograph is reproduced with alterations to its size only:



11. At about 20:00 hours on September 30, 2021, Officer Miller met with the hunters directly. *See* Attachment 2 at 1.

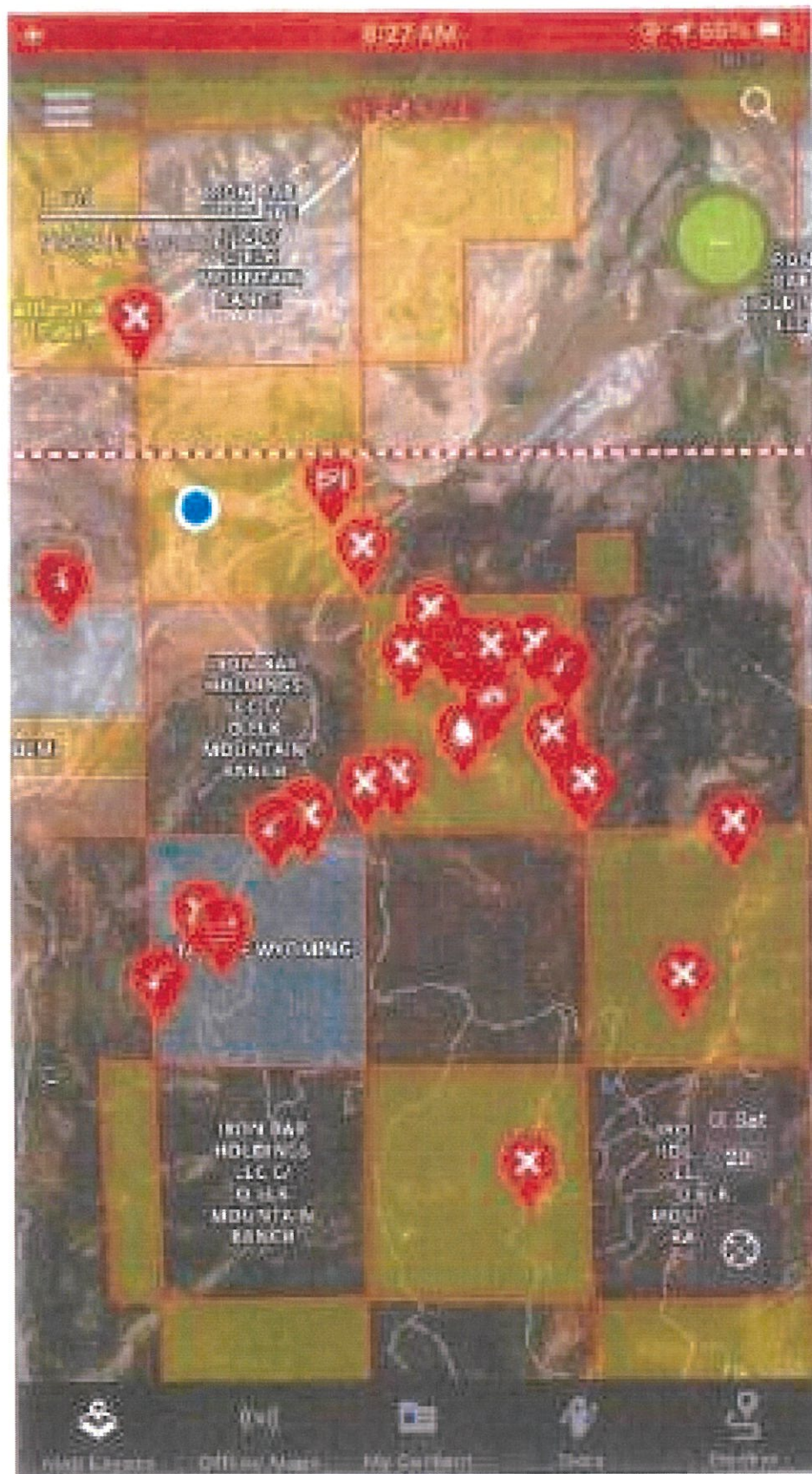
12. The hunters informed Officer Miller that they had been hunting on public land. *Id.* Mr.

Cape showed Officer Miller all the places the group had been hunting with the onX application on his phone, which tracked the hunters' movements during their hunt in Carbon County. *Id.*

13. onX provides public land access services through smartphone, tablet, laptop, and desktop applications that use public and private land records, GPS technology, and other proprietary software to enable sportsmen, hunters, hikers, and other public land enthusiasts to plan trips without running afoul of private property rights or trespass laws. *See generally About Us*, ONX MAPS.COM, (last visited Jan. 13, 2022), available at <https://www.onxmaps.com/about>.

14. Mr. Cape sent Officer Miller "a picture" of the onX map depicting where the hunters had been. *See* Attachment 2 at 1. This "picture" shows several locations where the hunters traveled to and had been during their hunt, but does not show that the hunters had ever entered into private sections of land owned by Elk Mountain Ranch. *See* Attachment 2 at 6. The following is a reproduction of this "picture" from Officer Miller's report without alteration:

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15. Officer Miller discussed the legalities of corner crossing with the hunters. *See* Attachment 2 at 1. The hunters informed Officer Miller that they understood corner crossing was “an opinion to be illegal” or that the issue was otherwise unsettled. *Id.* The hunters noted that they did not rely solely on GPS devices, which they understood to only be accurate to thirty (30) feet, but rather sought out the corner marker at every corner of public land before crossing the corner using their fence ladder. *Id.*

16. Officer Miller spoke with deputies from the Carbon County Sheriff’s Office about the hunters’ conduct. *See id.*

17. Ultimately, Officer Miller and the deputies could not independently conclude that a citation for any crime, including trespassing, was warranted here. *Id.* Instead, these law enforcement officials “decided to gather all the information and consult with the attorneys office before issuing citations.” *Id.*

18. Nevertheless, Officer Miller, in conjunction with Mr. Grende, granted the hunters permission to recover certain elk meat that they had harvested from public land across the corner from the section of public land where the hunters’ base camp was located due to the perishable nature of that meat in the field. *See id.*

19. Separate from Officer Miller’s report, Sheriff Deputy Alex Bakken met with Officer Miller and Mr. Grende around 02:04:37 on October 1, 2021, to discuss the hunters’ corner crossing conduct. Deputy Bakken wore a body camera during this conversation and the video recording from that interaction was produced by the State in discovery. *See* Attachment 3 (DVD of Deputy Bakken’s Body Camera Footage from Oct. 1, 2021).

20. During that interview, in reference to the hunters’ corner crossing with their fence ladder, Officer Miller informed Deputy Bakken that “as far as a Game and Fish trespass, I don’t

really think I can do much with it.” *See* Attachment 3 at 0:00:55-0:01:01. Officer Miller deferred to the Carbon County Sheriff’s Office to pursue a criminal charge for this behavior. *See id.* at 0:00:55-0:01:04.

21. Deputy Bakken stated, “Not going to do anything for it. We will write it up. But the County Attorney will not prosecute for corner crossing.” *See id.* at 0:01:04-0:01:08.

22. Mr. Grende was uncertain about what Deputy Bakken had said. *See id.* at 0:01:08-0:01:09. Deputy Bakken clarified as follows:

Deputy Bakken: “But the County Attorney will not prosecute for corner crossing.”

Mr. Grende: “Will?”

Deputy Bakken: “They will not. Won’t.”

See id. at 0:01:08-0:01:11.

23. Deputy Bakken stated that the County Attorney would only try to charge or prosecute the hunters for “trespass to hunt” if applicable because “the whole corner crossing stuff is so up in the air in the state.” *Id.* at 0:01:14-0:01:20.

24. Mr. Grende admitted that he did not know where the hunters were going after they crossed from one section of public land to another section of public land at the corner of the four sections of land. *See id.* at 0:01:33-0:01:37, 0:02:46-0:02:49.

25. The officers and Mr. Grende then discussed the legal history of corner crossing in other jurisdictions. *See generally id.* at 0:02:50-0:04:50.

26. The officers mentioned that a properly contested corner crossing case could go to the Wyoming Supreme Court and the high court could rule that corner crossing is legal. *See id.* at 0:04:51-0:04:54.

27. Mr. Grende replied that if the Wyoming Supreme Court ruled that corner crossing was

legal, then Elk Mountain Ranch and others would shut “it all” down to the public. *See id.* at 0:04:54-0:05:04. In other words, if corner crossing was deemed legal in Wyoming, then Elk Mountain Ranch, Mr. Grende, and, perhaps, others would take extra steps or efforts to obstruct, prevent, or block access to public lands adjacent to sections of private land or effectively “landlocked” by sections of private land. *See id.*

28. Mr. Grende stated he did not want or desire this outcome, but his boss “owns a lot of land” and his boss is “going to lock it up.” *Id.* at 0:05:07-0:05:24.

29. After discussing how these hunters were allegedly not prosecuted in 2020 for corner crossing, Mr. Grende described how he had installed “no trespassing” signage at the first common corner where two sections of Elk Mountain Ranch property connect with two sections of public property. *See id.* at 0:05:24-0:10:01. Mr. Grende stated he has only marked the first corner and not any subsequent intersection of two sections of public land and two sections of land owned by Elk Mountain Ranch. *See id.*

30. Mr. Grende then asked the officers if the Carbon County Attorney’s Office “realize[d] how much money my boss has?” *See id.* at 0:10:01-0:10:04. Mr. Grende also asked if these same prosecutors knew how much property his boss has. *Id.* at 0:10:04-0:10:08.

31. A few days later, on October 4, 2021, Sergeant John Moore of the Carbon County Sheriff’s Office notified Deputy Patrick Patterson that the Carbon County Attorney “wanted citations issued to four individuals that were corner crossing at the Elk Mountain Ranch off of Rattlesnake Pass road.” *See* Attachment 4 (Carbon County Sheriff’s Office Reports for Incident # 21-003740) at 5. Deputy Patterson drove to the location where the hunters had set up their base camp and issued each of the hunters, including Mr. Yeomans, citations for criminal trespass under Wyoming law. *Id.*

III. LEGAL STANDARD

Wyo. R. Crim. P. 12(b) generally allows this Court to hear “[a]ny defense, objection, or request’ capable of determination without trial.” *See State v. John*, 2020 WY 46, ¶ 38, 460 P.3d 1122, 1134 (Wyo. 2020). Pursuant to Wyo. R. Crim. P. 12(b)(1), this Court may consider and make dispositive determinations regarding a party’s defenses and objections based on defects in the institution of a prosecution before trial. Further, a claim that a party is immune from prosecution for any legal reason may be raised through a motion under this same rule. *John*, ¶ 38, 460 P.3d at 1134.

IV. DISCUSSION

A. FEDERAL LAW PREEMPTS APPLICATION OF STATE CRIMINAL TRESPASS LAWS TO PREVENT OR OBSTRUCT FREE PASSAGE FROM ONE SECTION OF PUBLIC LAND TO ANOTHER SECTION OF PUBLIC LAND

Federal law prohibits any person from preventing free passage over or through public lands. Of course, then, a person must have the freedom to travel from one section of public land to another distinct, but physically adjoining section of public land. And, certainly, no other person may lawfully prevent a person from passing from one section of public land to an adjoining section of public land regardless of whether this other person owns private land adjacent to one or both sections of public land.

In this case, the State’s application of trespass law actually conflicts with federal laws prohibiting private individuals from preventing free passage over or through public lands. Here, the State has effectively announced that a person may not freely pass from one section of public land to another adjoining section of public land where the two sections meet at a corner shared by two sections of private land and the private landowners object to this “corner crossing.” The State’s application of the law of criminal trespass just described cannot be reconciled with federal law that

bans private individuals from obstructing or preventing free passage through public lands. Accordingly, the State's application of Wyoming's criminal trespass statute here is preempted by the federal law on point such that this prosecution ought to be dismissed.

i. Federal Preemption and the Supremacy Clause on Public Lands

The United States Constitution's Supremacy Clause provides that "the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." *See* U.S. CONST. art. VI, cl. 2. The Supremacy Clause is the constitutional foundation for "federal preemption," which instructs that, "any state law, however clearly within a State's acknowledged power, which interferes with or is contrary to federal law, must yield." *Gade v. Nat'l Solid Wastes Mgmt. Ass'n*, 505 U.S. 88, 108 (1992) (quoting *Felder v. Casey*, 487 U.S. 131, 138 (1988)). Put another way, where federal law and state law conflict, federal law controls and state law must recede. *See, e.g., De Canas v. Bica*, 424 U.S. 351, 357 (1976) ("Even state regulation designed to protect vital state interests must give way to paramount federal legislation.").

In general, Wyoming state law can be preempted by federal law in either of two ways. First, "[i]f Congress evidences an intent to occupy a given field, any state law falling within that field is preempted." *Hermes Consol., Inc. v. People*, 849 P.2d 1302, 1306 (Wyo. 1993) (quoting *Silkwood v. Kerr-McGee Corp.*, 464 U.S. 238, 248 (1984)). Second, "[i]f Congress has not entirely displaced state regulation over the matter in question, state law is still preempted to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress." *Id.* "[S]tates are preempted only to the extent there is actual conflict with federal mandates which make it impossible to comply with the federal mandate." *Id.*; *see also In re Adoption*

of Majb, 2020 WY 157, ¶ 17 n.8, 478 P.3d 196, 202 n.8 (Wyo. 2020). To this end, a state law cannot escape preemption if the general purposes behind the state and federal law are different; rather, “[t]he test of whether both federal and state regulations may operate, or the state regulation must give way, is whether both regulations can be enforced without impairing the federal superintendence of the field, not whether they are aimed at similar or different objectives.” *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142 (1963).

As to conflicts between state and federal law concerning or as applied to federally owned public lands found within a state, federal preemption is both more nuanced and more biting. See *Kleppe v. New Mexico*, 426 U.S. 529, 542–43 (1976); *Wyoming v. United States*, 279 F.3d 1214, 1226 (10th Cir. 2002). The Property Clause found in Article IV of the United States Constitution, U.S. CONST. art. IV, § 3, cl. 2,³ “gives the federal government plenary power, including legislative and police power, over federal property.” *United States v. Bd. of Cnty. Comm’rs of Otero*, 843 F.3d 1208, 1212 (10th Cir. 2016) (following *Kleppe*); *Cal. Coastal Comm’n v. Granite Rock Co.*, 480 U.S. 572, 580 (1987) (“This Court has ‘repeatedly observed’ that ‘[t]he power over the public land thus entrusted to Congress is without limitations.’” (quoting *Kleppe*, 426 U.S. at 539)). State jurisdiction over federal land, thus, “does not extend to any matter that is not consistent with full power in the United States to protect its lands, to control their use and to prescribe in what manner others may acquire rights in them.” *Wyoming*, 279 F.3d at 1227 (quoting *Utah Power & Light Co. v. United States*, 243 U.S. 389, 404 (1917)). “If Congress so chooses, federal legislation, together with the policies and objectives encompassed therein, necessarily override and preempt conflicting state laws, policies, and objectives under the Constitution’s Supremacy Clause, U.S. CONST. art. VI, cl. 2.” *Id.* Consequently, “[a]lthough state and local governments can ordinarily exercise their police

³The Property Clause provides that “Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” U.S. CONST., art. IV, § 3, cl. 2.

powers over federal land within their boundaries, those powers must yield under the Supremacy Clause when they conflict with federal law under the Property Clause.” *Bd. of Cnty. Comm’rs of Otero*, 843 F.3d at 1212; *cf. Gulf Oil Corp. v. Wyoming Oil & Gas Conserv. Comm’n*, 693 P.2d 227, 235 (Wyo. 1985). “A different rule would place the public domain of the United States completely at the mercy of [the State].” *Kleppe*, 426 U.S. at 543 (quoting *Camfield v. United States*, 167 U.S. 518, 526 (1897)).

For example, in *Kleppe*, the United States Supreme Court considered the constitutionality of the Wild Free-Roaming Horses and Burros Act (Wild Horses Act), 16 U.S.C. §§ 1331-1340. Congress passed the Wild Horses Act “to protect all unbranded and unclaimed horses and burros on public lands of the United States” and specified that “all such horses and burros on the public lands administered by the Secretary of the Interior . . . or by the Secretary of Agriculture . . . are committed to the jurisdiction of the respective Secretaries.” *Kleppe*, 426 U.S. at 531. The State of New Mexico sought to exercise exclusive control over wild horses and burros on federal lands within its territory and, accordingly, sought a declaration that the Wild Horses Act was unconstitutional. *Id.* at 534. New Mexico argued, *inter alia*, that the Property Clause did not grant Congress the authority to enact the Wild Horses Act because “[t]he statute is aimed at protecting the wild horses and burros, not at protecting the land they live on.” *Id.* at 535.

The United States Supreme Court unanimously rejected New Mexico’s argument by describing Congress’s power over federally owned public lands pursuant to the Property Clause as “complete” in the face of state and local laws or regulations. *Id.* at 540–41. The Supreme Court held that “Congress exercises the powers both of a proprietor and of a legislature over the public domain” and that “even over public land within the States, [t]he general government doubtless has a power over its own property analogous to the police power of the several states.” *Id.* at 540. The

Supreme Court recognized that, pursuant to the Property Clause, Congress’s power is “broad enough to reach beyond territorial limits” and allows for federal regulation of “conduct on private land that affects the public lands.” *Id.* at 538 (analyzing *Camfield v. United States*, 167 U.S. 518 (1897)). To this end, the Supreme Court categorically rejected New Mexico’s argument that approving of the Wild Horses Act as a valid exercise of federal legislative power would impermissibly intrude on the sovereignty, legislative authority, and police power of the State: “The Federal Government does not assert exclusive jurisdiction over the public lands in New Mexico, and the State is free to enforce its criminal and civil laws on those lands. But where those state laws conflict with . . . legislation passed pursuant to the Property Clause, the law is clear: The state laws must recede.” *Id.* at 543.

As another example, in *United States v. Board of County Commissioners of Otero*, the Tenth Circuit Court of Appeals affirmed the district court’s judgment invalidating a state statute and local ordinance that granted a county board the authority to mitigate fire danger in the Lincoln National Forest without first obtaining permission from the U.S. Forest Service. 843 F.3d at 1209. There, the Tenth Circuit, relying on “[b]inding precedent” concerning the plenary power of the federal government under the Property Clause, rejected the county board’s arguments that the federal regulation at issue deprived the state and local authorities of the ability to protect their citizens from imminent threats of extreme danger to the life and property of those same citizens. *Id.* at 1212.

In the matter before this Court here, the State alleges that it may criminally prosecute individuals who peaceably traveled from one section of federally owned public land to another section of federally owned public land because of objections to such free passage over or through public lands lodged by the owners of private land immediately adjacent to the two sections of public land. However, a federal law—the Unlawful Inclosures of Public Lands Act of 1885 (current through Public Law 117-80, approved December 27, 2021)—specifically renders as unlawful any

private enclosures of public lands within any other state or territory as well as the assertion of a right to exclusive use of any part of such public lands without claim, color of title, or asserted right thereto. *See* 43 U.S.C. § 1061. Further, this same federal law also prohibits any person or group of persons from preventing or obstructing “any person from peaceably entering upon . . . any tract of public land” or any other “entry under the public land laws of the United States” “by force, intimidation, or by any fencing or inclosing, or any other unlawful means.” *See* 43 U.S.C. § 1063. Further still, this same federal law prohibits any person from preventing or obstructing “free passage or transit over or through the public lands.” *Id.* Accordingly, due to the binding precedent concerning the plenary power of the federal government to regulate use of and access to public lands, the State may not apply Wyoming’s criminal trespass laws in such a way as to criminalize or otherwise prevent a person from accessing a section of public land by traveling to the corner of another section of public land and stepping directly from public land to another *immediately adjacent* section of public land.

ii. The Unlawful Inclosures of Public Lands Act of 1885

The Unlawful Inclosures of Public Lands Act of 1885 (*hereinafter*, the “UIA”), codified as 43 U.S.C. §§ 1061-1065, prohibits private restrictions that limit public access to public lands.

Congress enacted the UIA to resolve the range wars waging between cattlemen and farmers during the last half of the 19th century. *See Leo Sheep Co. v United States*, 440 U.S. 668, 688 (1979).

In *Leo Sheep Co.*, the Supreme Court summarized the origins of the UIA as follows:

“[The UIA] was a response to the “range wars,” the legendary struggle between cattlemen and farmers during the last half of the 19th century. Cattlemen had entered Kansas, Nebraska, and the Dakota Territory before other settlers, and they grazed their herds freely on public lands with the Federal Government’s acquiescence. To maintain their dominion over the ranges, cattlemen used homestead and pre-emption laws to gain control of water sources in the range lands. With monopoly control of such sources, the cattlemen found that ownership over a relatively small area might yield effective control of thousands of acres of grassland. Another exclusionary technique was the illegal fencing of public lands, which was often the product of the checkerboard pattern of railroad

grants. By placing fences near the borders of their parts of the checkerboard, cattlemen could fence in thousands of acres of public lands. Reports of the Secretary of the Interior indicated that vast areas of public grazing land had been pre-empted by such fencing patterns. In response Congress passed the [UIA].”

See id. at 688–89.

In turn, Section 1 of the UIA, 43 U.S.C. § 1061, provides:

“All inclosures of any public lands in any State or Territory of the United States, heretofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, . . . are hereby declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is hereby forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and hereby prohibited.”

Section 3 of the UIA, 43 U.S.C. § 1063, provides:

“No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: Provided, This section shall not be held to affect the right or title of persons, who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith.”

Since 1897, the United States Supreme Court has held that, under the UIA, a private landowner may not make any enclosures on his own private land or on land within the public domain “under the guise of enclosing his own land . . . which is useless for that purpose, and can only have been intended to enclose the lands of the government . . .” *Camfield*, 167 U.S. at 528. In short, the Supreme Court emphatically concluded that the entire purpose and meaning of the UIA was to prohibit “all ‘enclosures’ of public lands, by whatever means.” *Id.* at 525. To these ends, the UIA “has long prohibited” private landowners within the Checkboard from directly or effectively

restricting public access to public land for lawful purposes. See *Am. Wild Horse Preservation Campaign v. Jewell*, 847 F.3d 1174, 1179 (10th Cir. 2016); see also *United States ex rel. Bergen v. Lawrence*, 620 F. Supp. 1414, 1419 (D. Wyo. 1985), *aff'd* 848 F.2d 1502 (10th Cir. 1988) (“[I]t is not the fence itself, but its effect which constitutes the UIA violation.”).

To establish a violation of the UIA, a party seeking access to public lands for a lawful purpose must show that a private party engaged in unlawful conduct in violation of *Camfield*/43 U.S.C. § 1061, 43 U.S.C. § 1063, or both. A UIA violation occurs when a private party has constructed or affected an enclosure of public land that restricts free and unrestricted access for lawful purposes to the enclosed public lands. See *United States ex rel. Bergen v. Lawrence*, 848 F.2d 1502, 1508–12 (10th Cir. 1988) (relying on *Camfield*/43 U.S.C. § 1061). A UIA violation also occurs when a private party has prevented or obstructed the entry upon or the free passage or transit over or through the public lands for lawful purposes. See *United States v. Byers*, CIV. 98-1359 JP/LFG, 2001 U.S. Dist. LEXIS 27974, at *14-*15 (D. N.M. Mar. 27, 2001) (relying on 43 U.S.C. § 1063). “[L]awful uses of the public lands will change over time” and courts may look to current laws to determine if a particular use is a lawful use. See, e.g., *Bergen*, 848 F.2d at 1509. Here, hunting on public land with an appropriate license is undoubtedly a lawful use of public land.

Here, the State, through this prosecution, has endorsed and seeks to enforce Elk Mountain Ranch’s claimed right to exclusive use and enjoyment of the common corner shared by two sections of Elk Mountain Ranch property and two sections of public land. Despite Elk Mountain Ranch’s claims, this common corner is literally composed of equal parts private property and public property. Consequently, the public retains, as both a matter of course and logic, a correspondingly *equal* right to use and access this common corner. Yet, Elk Mountain Ranch and other similarly situated private landowners claim the common corner as their exclusive property alone.

Elk Mountain Ranch's claim to exclusive ownership, dominion, and/or control over the common corner it shares with public land is intended to prevent the public from crossing the corner to reach one section of public land from another section of public land. Elk Mountain Ranch's claim have the actual effect of both restricting public access to public lands as well as enclosing public lands. Thus, Elk Mountain Ranch's claim is, in reality, an unlawful enclosure or obstruction to free passage through public lands by another name. Accordingly, Elk Mountain Ranch's claim to exclusive ownership of the common corner violates the UIA under *Camfield*/43 U.S.C. § 1061 and under 43 U.S.C. § 1063.

iii. Wyoming's Criminal Trespass Statute

Wyoming's criminal trespass statute, Wyo. Stat. Ann. § 6-3-303(a), provides:

(a) A person is guilty of criminal trespass if he enters or remains on or in the land or premises of another person, knowing he is not authorized to do so, or after being notified to depart or to not trespass. For purposes of this section, notice is given by:

(i) Personal communication to the person by the owner or occupant, or his agent, or by a peace officer; or

(ii) Posting of signs reasonably likely to come to the attention of intruders.

See Wyo. Stat. Ann. § 6-3-303(a).

Wyo. Stat. Ann. § 6-3-303(a), thus, requires that the defendant entered or remained on land or premises that are owned by or belong to another person. Consequently, a criminal trespass under Wyoming law necessarily depends upon the validity of the relevant landowner's claim to the land or premises upon which a defendant alleged entered or remained.

iv. Application of Wyoming's Criminal Trespass Statute to Corner Crossing Actually Conflicts with the Unlawful Inclosures of Public Lands Act of 1885

Because Elk Mountain Ranch or any other private landowner cannot claim complete and exclusive access to a common corner shared by two sections of land it owns privately and two

sections of federally owned public land without violating the UIA, the State's application and enforcement of state criminal trespass law against a person who seeks access to and free passage through public lands at this common corner is preempted under the Supremacy Clause and the Property Clause and cannot proceed.

The Property Clause delegates to Congress—and, thus, the Tenth Amendment does not reserve to the States—“the Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” U.S. CONST. art. IV, § 3, cl. 2; *see also Wyoming*, 279 F.3d at 1226. While the Property Clause alone does not withdraw federal land within a State from the jurisdiction of the State, *see Granite Rock Co.*, 480 U.S. at 580, and, for many purposes, “a State has civil and criminal jurisdiction over lands within its limits belonging to the United States,” *Utah Power & Light Co.*, 243 U.S. at 404, the Property Clause empowers Congress to exercise exclusive jurisdiction over federal land within a State if Congress so chooses. *See Kleppe*, 426 U.S. at 543–45.

Congress' power in this regard is “plenary.” *Granite Rock Co.*, 480 U.S. at 581. If Congress acts pursuant to the Property Clause and enacts federal legislation, *inter alia*, to control the use and access to federally owned public lands, the federal law, as well as “the policies and objectives encompassed therein,” must preempt conflicting state laws, policies, and objectives. *Wyoming*, 279 F.3d at 1227; *Kleppe*, 426 U.S. at 543 (“A different rule would place the public domain of the United States completely at the mercy of [the State].” (quoting *Camfield*, 167 U.S. at 526)).

In enacting the UIA, Congress intended to prohibit private persons from taken unilateral actions on private or public land to restrict access to federally owned public lands. *See Leo Sheep Co.*, 440 U.S. at 683–87. Further, the text of the UIA itself has long been understood and applied to prohibit private landowners from exploiting all manner of strategic property planning, actual and

effective enclosures, and specious claims of right to wrest a monopoly over public lands from the public to whom these public lands belong. *See Camfield*, 167 U.S. at 528; *Am. Wild Horse Preservation Campaign*, 847 F.3d at 1179; *Bergen*, 848 F.2d at 1508–12; *Byers*, 2001 U.S. Dist. LEXIS 27974, at *14-*15. To this end, the UIA prohibits and declares unlawful not only illegal fences that actually prevent public access to public lands, but also force, threats, intimidation, and confederation with others for the purpose of preventing or obstructing access to public lands. *See* 43 U.S.C. § 1063. And the UIA has remained the law of the land without abrogation since its enactment, having been amended with only a procedural modification as recently as 1984. *See Bergen*, 848 F.3d at 1506 & n.5.

In short, Congress has acted and it has acted unequivocally: when a person seeks to access public land from another section of public land, no other person has the right or authority to prevent or obstruct free passage through or over the public lands. Consequently, any conflicting state law, policy, or objective “must recede.” *Kleppe*, 426 U.S. at 543.

Here, the State has brought a criminal prosecution against Mr. Yeomans and the other hunters under Wyoming’s criminal trespass laws because Mr. Yeomans and the others crossed a common corner shared by two sections of private land and two sections of public land to reach one section of public land from another section of public. This application of Wyoming’s criminal trespass law actually conflicts with the UIA for two reasons.

First, it is not possible for a person to comply with both the state criminal trespass law and the UIA. *Hermes Consol., Inc.*, 849 P.2d at 1306. Under the UIA, a person must have free access to contiguous, adjacent sections of federally owned public land and no other person may prevent or obstruct that person’s free passage across the connected sections of federal law. *See* 43 U.S.C. §§ 1061, 1063. However, under the State’s present application of Wyoming criminal trespass law in

this case, a person violates state law when he crosses a corner shared by two sections of private land and two sections of public land by stepping from one section of public land to another section of public land.

Second, as illustrated in above, the State's application of Wyoming's criminal trespass law in this case "stands as an obstacle to the accomplishment of the full purposes and objectives of Congress." *Hermes Consol., Inc.*, 849 P.2d at 1306. Congress passed the UIA to put an end to private landowners playing games with state and local property regulations, fencing, and other machinations designed to limit public access to federally owned public lands. See *Leo Sheep Co.*, 440 U.S. at 683–87; *Camfield*, 167 U.S. at 528. By applying Wyoming's criminal trespass law to make it a state crime to pass from public land to public land at a corner shared by two sections of private land, the State is undermining the UIA and Congress' intent to restore free access to the public lands and "prevent the obstruction of free passage or transit for any and all lawful purposes over public lands." *Stoddard v. United States*, 214 F. 566, 568–69 (8th Cir. 1914).

Elk Mountain Ranch and other private landowners may not want the public to access public lands by crossing common corners their property shares with public lands. They may extract great riches out of their perceived monopoly over public lands adjacent to and "landlocked" by their large real estate holdings. They may strongly wish to retain the ability to keep making money from the wealthy elite by granting special access to what is, in reality, a public treasure gifted to all Americans. However, in the American legal system, personal interest does not and cannot trump the law.

The simple fact is the UIA prohibits Elk Mountain Ranch and other private landowners from preventing corner crossing from a section of public land to another section of public land. The State cannot accomplish indirectly through the criminal process what the private landowners cannot do

directly under the UIA. Therefore, this criminal prosecution is preempted and ought to be dismissed with prejudice.

B. CRIMINAL PROCESS SHOULD NOT BE USED TO SETTLE A LAND DISPUTE

This case should be dismissed for the separate reason that, to the extent they actually “entered” the property of Elk Mountain Ranch by corner crossing, Mr. Yeomans and the other hunters were acted pursuant to a good-faith belief that they were adhering to the long-standing public access rights described above. Because a criminal process should not be used to resolve a real property dispute, Mr. Yeomans requests dismissal.

“[T]he criminal process should not be used for the purposes of settling a land dispute.” *United States v. Miller*, 659 F.2d 1029, 1030 (10th Cir. 1981). While Wyoming courts have not spoken on the issue of whether it is an abuse of the criminal process to use a criminal trespass statute to try disputed rights to real property, other states have held that it is.

In *Steele v. State*, 191 Ind. 350, 132 N.E. 739 (Ind. 1921), the Indiana court held that a criminal court was not the proper forum to settle a dispute between a landlord and a subtenant. The opinion stated, in relevant part:

It is the well-settled law in this state, and of many other states, that it is an abuse of the penal statute relating to criminal trespass to try disputed rights in real property. It is the opinion of the court therefore that the verdict (finding the defendant guilty of criminal trespass) is contrary to law.

132 N.E. at 740.

In *State v. Larson*, 1956 Ohio Misc. LEXIS 306, 143 N.E.2d 502 (Ohio Ct. Common Pleas 1956), when a defendant was charged for a criminal trespass for parking his car on the plaintiff’s land where the defendant believed that he had an easement to park there, this same rule was invoked. 1956 Ohio Misc. LEXIS 306 at *5. The court stated that a criminal trial is not suitable for

determining property rights, because criminal trespass statutes have generally been construed strictly and do not afford a substitute for other adequate civil remedies. *Id.* The court added that it is an abuse of a penal statute relating to criminal trespass to use it to try disputed rights in real property. *Id.* at *5-*6.

In *People v. Miller*, 344 Ill. App. 574, 581–82, 101 N.E.2d 874 (Ill. App. 1951), the Third District Appellate Court of Illinois reached the same conclusion. There the defendant was charged and was adjudged guilty of criminal trespass, where he was also on the land in question under a claim of right. *Miller*, 344 Ill. App. at 576–78. The appellate court found that the evidence did not prove the defendant guilty beyond all reasonable doubt and it stated that if the conviction were allowed to stand on the facts disclosed by the record it would settle a dispute over title and right of possession of land. *Id.* at 580–81. A penal statute, it continued, cannot be used to try disputed rights of title. *Id.* at 581–82. The court said that it was well settled law that it is an abuse of the penal statute relating to criminal trespass to so use it. *Id.* at 582.

Likewise, the Tenth Circuit Court of Appeals, on an appeal from the federal district court for the District of Wyoming, remanded with instructions for the trial court to vacate a criminal conviction for criminal trespass and to dismiss the charge on the same reasoning and logic. *Miller*, 659 F.2d at 1032–34. In short, the court concluded that a criminal trespass statute is not designed to resolve a civil property dispute and an attempt to accomplish this end constitutes an abuse of process. *Id.* at 1033–34 (“We are of the opinion that it is an abuse of process when a legal procedure is perverted to accomplish an ulterior purpose for which it was not designed.”).

Here, Mr. Yeomans and the other hunters clearly intended to follow the letter of the law in traveling from public land to public land. They took unusual efforts to avoid committing any trespass or unlawful intrusion onto private property. And they followed the vagaries of the law concerning

corner crossing, public access to public lands, and Wyoming trespass as best as they could to accomplish their hunt peaceably and lawfully.

This prosecution is an effort to achieve a resolution of long-standing civil disputes about corner crossing and the competing interests over private property rights and public land access. Accordingly, this prosecution is fatally misguided. Like the other courts cited herein, Mr. Yeomans asks this Court to apply the well established principle that a criminal trespass action should not be used to resolve a real property dispute and dismiss this action with prejudice.

C. CORNER CROSSING DOES NOT VIOLATE WYOMING’S CRIMINAL TRESPASS STATUTE

Separate and apart from the serious constitutional and other procedural issues with this prosecution discussed in Parts IV.A and IV.B *supra*, corner crossing simply does not violate Wyo. Stat. Ann. § 6-3-303(a). For this reason, Mr. Yeomans requests that this Court grant this *Motion* and dismiss the charge against him here.

The charge against Mr. Yeomans and the other hunters alleges, in effect, that they “entered” or “remained on or in” the land of Elk Mountain Ranch by using a fence ladder placed with one leg on federally owned public land and the other leg on another section of federally owned public land to cross over a corner shared by two sections of land owned by Elk Mountain Ranch. In this way, the State seems to be alleging that disturbing an indiscernible segment of private air space for a moment or two is sufficient to have “entered” or “remained on or in” private property for purposes of Wyo. Stat. Ann. § 6-3-303(a). Whether a *de minimis* intrusion into private air space when engaging in the corner crossing alleged in this case is sufficient for a conviction under Wyo. Stat. Ann. § 6-3-303(a) remains an open question under Wyoming state law.

First, no binding Wyoming Supreme Court cases have addressed the relationship or interplay

between corner crossing in general and criminal trespass. Most Wyoming trespass cases involve livestock, the right to enter property in order to repossess, and so on. *See, e.g., Heilig v. Wyo. Game & Fish Comm'n*, 64 P.3d 734 (Wyo. 2003); *Hardman v. King*, 85 P. 382 (Wyo. 1906); *Salisbury Livestock Co. v. Colorado Cent. Credit Union*, 793 P.2d 850 (Wyo. 1996). Most of these cases concern whether the entry onto the property or land of another was privileged either by Wyoming's self-help statute or by consent.

Second, the plain terms of Wyo. Stat. Ann. § 6-3-303(a) leave unanswered the question of what conduct is sufficient to constitute an “entry” on the property of another. The plain terms alone do not instruct as to whether the entry may be *de minimis* or whether a more substantial intrusion is required. *See* Wyo. Stat. Ann. § 6-3-303(a).

Nevertheless, the plain terms of Wyo. Stat. Ann. § 6-3-303(a) do suggest that more than literal entry or minimally invasive contact with the property of another is required. The statutory language provides that a violator must make such entry either “knowing he is not authorized to do so” or “after being notified to depart or not to trespass.” *Id.* In other words, a person must make “entry” with a sufficiently culpable mental state—a particular *mens rea*—in order to violate the statute; an ignorant detour or negligent crossing onto the property of another will not do. *See id.* In this way, the Wyoming Legislature commanded that not all mere entries merit prosecution; only those committed with knowledge or actual disregard of sufficient signage or other notice. *See id.*

Still, where the terms of a criminal statute are ambiguous and lead to multiple, equally plausible interpretations, the rule of lenity requires that this Court adopt the less punitive interpretation of the bunch. *See Adekale v. State*, 2015 WY 30, ¶ 25, 344 P.3d 761, 768 (Wyo. 2015); *Amrein v. State*, 836 P.2d 862, 864–65 (Wyo. 1992). Moreover, the rule of lenity applies with “greater vigor” where the conduct criminalized by the relevant statute is a crime merely because

it is prohibited, not because it is inherently immoral. *See Adekale*, ¶ 27, 344 P.3d at 769. In other words, “conduct which is otherwise innocent and lawful should not become criminal without a clear and positive expression of legislative intent.” *Id.* (citing *People v. Adamkiewicz*, 81 N.E.2d 76, 78 (N.Y. 1948)).

Applying these long-standing principles here, this Court should adopt the less punitive interpretation of Wyo. Stat. Ann. § 6-3-303(a) and interpret “enter” within that statute to require a substantial intrusion onto the property of another. This approach not only comports with the requirement that courts strictly construe criminal statutes, *see Adekale*, 344 P.3d at 768, but also that “criminal trespass” is read in a logical, reasonable fashion that does not turn *de minimis* contacts with the airspace on another person’s property into a criminal offense.

Outside Wyoming, other courts have adopted precisely this approach to criminal trespass holding that a literal, *de minimis* intrusion into the airspace above private property is insufficient to show illegal entry and that illegal entry or trespass requires an intrusion that is “significant.” *See* Restatement of Torts (Second) § 159 (“Intrusions Upon, Beneath, and Above Surface of Earth”) (collecting and analyzing cases).

For example, in *Commonwealth v. Santos*, the Massachusetts Appeals Court found that the prosecution failed to present a single case from Massachusetts or elsewhere standing for the proposition that “criminal trespass can be founded on an ‘entry’ consisting of the purported invasion of airspace by briefly and harmlessly moving or propelling an object above a parcel of land.” 58 Mass. App. Ct. 701, 706, 792 N.E.2d 702, 705 (Mass. Ct. App. 2003). What’s more, the *Santos* court reasoned that, because “enter” in Massachusetts’ criminal trespass statute was undefined, the term should be given its usual, commonly understood meaning, which “presupposes actual, physical presence in or on property.” *Id.* at 706, 792 N.E.2d at 706. Applying this ordinary meaning of the

term “enter,” the *Santos* court concluded it was implausible that the average citizen would understand “enter” for purposes of a criminal trespass to extend to “the unusual, technical circumstance of momentarily conveying an object through airspace over someone’s property without causing the slightest harm to that property or any interference with or danger to anyone’s use of the property.” *Id.* at 707, 792 N.E.2d at 706.

This same reasoning ought to apply to Wyoming’s criminal trespass statute, which does not define the term “enter.” The State should not be permitted to bring a charge or secure a conviction based upon some hyper-technical, absurdly literal meaning of “enter” wherein a person is guilty of a misdemeanor offense for momentarily and harmlessly passing through the airspace over another person’s property.

While Wyoming’s aeronautics laws do declare that private landowners are vested with ownership of the space above their land (subject to the right of flight), *see* Wyo. Stat. Ann. § 10-4-302, this particular stick in the bundle of property rights granted to each private landowner does not answer the unanswered question in Wyoming’s criminal trespass statute, as applied to corner crossing, which is how substantial of an intrusion is required to constitute criminal entry. In fact, neither Wyo. Stat. Ann. § 10-4-302 nor Wyo. Stat. Ann. § 6-3-303(a) refer to each other whatsoever. When the fact that before the Court in this case is the question of a person transcending a corner shared by two sections of private property and two sections of public property where the airspace ownership is necessarily mixed, the usefulness of Wyo. Stat. Ann. § 10-4-302 dissolves altogether.

At bottom, the question is not whether a person encroaches or passes through some single atom belonging to a private landowner when she corner-crosses in the Checkerboard; the question is does such a *de minimis* and physically harmless momentary crossing constitute a criminal entry under Wyoming’s criminal trespass statute. Following the plain terms of Wyo. Stat. Ann. § 6-3-

303(a), binding precedent concerning the strict construction of criminal statutes in Wyoming, as well as persuasive and on-the-nose guidance from other courts, this Court should conclude that corner crossing from one section of public land to access another adjoining section of public land without making physical contact with the land owned by private landowners cannot be enough to constitute “entry” under Wyo. Stat. Ann. § 6-3-303(a). For this reason, Mr. Yeomans also asks this Court to dismiss the citation against him.

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V. CONCLUSION

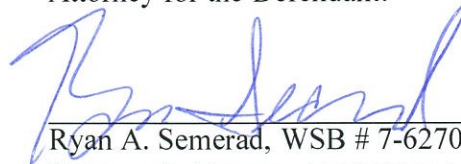
This Court should dismiss the State's prosecution for several reasons. First and foremost, the State's prosecution enforces a violation of federal law concerning the use of federally owned public land. Accordingly, this prosecution is necessarily preempted under the Property Clause and the Supremacy Clause of the United States Constitution and cannot proceed any further. Second, this criminal prosecution is, in reality, an effort to adjudicate a real property dispute through the vehicle of a criminal action in contravention of long-standing process rules demanding that the criminal process be used solely to prosecute violations of criminal law and not for some collateral, albeit possibly legitimate, non-criminal concern. Third, this Court should dismiss this action because the undisputed conduct at issue in this case is insufficient to support the charge of criminal trespass under Wyoming law.

Therefore, for each and every reason stated herein, Defendant Phillip G. Yeomans requests that this Court grant this *Motion* and dismiss the citation against him *with prejudice*.

Mr. Yeomans respectfully requests that this *Motion* be set for a hearing before this Court at time convenient for the Court and all necessary parties.

DATED AND SIGNED this 31 day of January, 2022.

Attorney for the Defendant:

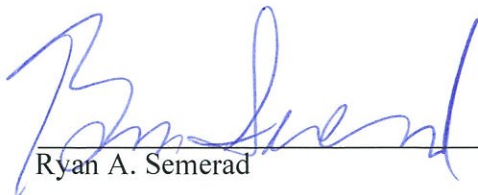


Ryan A. Semerad, WSB # 7-6270
DONALD L. FULLER, ATTORNEY AT LAW, LLC
242 South Grant Street
Casper, WY 82601
(307) 265-3455

CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that a true, accurate, and complete copy of the foregoing instrument was served upon adverse counsel by this 31 day of January, 2022, VIA **EMAIL DELIVERY**, correctly addressed to:

Mr. Mark Nugent
Carbon County and Prosecuting Attorney's Office
P.O. Box 1146
Rawlins, WY 82301
marknugent@carbonwy.com
mandivance@carbonwy.com



Ryan A. Semerad

ATTACHMENT # 1

ATTACHMENT # 1

10-8-21

Hunter Harassment

I am one of a hunting party of four. We arrived at our Elk camp on Carbon Co. Rd 400 the morning of Sept. 26th. We set up camp on BLM land. We had several vehicles drive past us during the day. That evening we loaded our packs and went up the mountain. We wanted to wake up amongst the Elk. At day light while glassing the valley for Elk, we watched a black truck driving slowly through the middle of BLM land. We recognized the truck as Steve Grundy from meeting him the previous year. He came from the East moving slowly and stopping every once in a while. We watched him drive for approx 1/2 mile then turn around and come back. Then he turned North and disappeared. We assumed he was looking for us because we had seen him drive past our camp several times on the county rd and from our experience with him the previous year. We spent four nights on the mountain. We was on our way back to camp on the county rd when we noticed two different trucks parked at strategic locations so they could see us return. We crossed over the property intersection with our ladder and was almost to camp when I noticed a dark green truck above us watching us. We all commented that we hoped it was the Game Warden so we didn't have a confrontation with the two trucks watching us. Shortly after reaching camp Warden Jake Miller pulled into our camp. He told us he had been called by Steve Grundy, of Elk Mtn Ranch, everyday since Sunday. Warden Miller told us that Deputies would be arriving and that our hunting party, himself, the deputies and Elk Mtn Ranch would all have a meeting and discuss what was going on and what was going to happen.

While Warden Miller was speaking to us in our tent, Steve "poked his head in and says" you're the same guys from last year." Warden Miller quickly escorted him outside. Our hunting party remained inside our tent. The deputies arrived and looked over our truck and trailer but never came inside or talked to us. After some time, Warden Miller came back into our tent and told us we had done nothing wrong and that it was our land to go hunt and retrieve the One Elk we had taken. He also told us that he told Elk Mtn Ranch we had done nothing wrong and we were free to hunt. The next morning we went up the mtn for another hunt and had 4 different vehicles watching us. We proceeded ~~North~~ South then turned West when we spotted 4 mule deer. One of our party - Zach - has a deer tag. We were glassing these deer when a SUV with 2 people drove towards us. They could plainly see we were all wearing orange and hunting on public land. They drove extremely slow and even stopped and turned off their engine while staring at us. They never said anything and after a while drove away. Zach killed the deer and we packed it back to our camp on the County rd. Saturday I killed an Elk and we packed Phil's Elk back to our main camp. Sunday we needed a rest day so we didn't hunt. We noticed the same white truck parked in the same strategic spot. Also a black truck parked in a different strategic spot. They both watched as we used the outdoor toilet. One member of our party did not feel comfortable going to the bathroom while being watched so we decided to drive to the nearest gas station. As soon as we started to drive off the white truck started to leave. I

flagged him down and questioned him about watching us. He said he was scouting for the next weeks hunt. I asked him if he had permission to hunt there and he said no. He said the other side of the road was a public cow only hunt but that season didn't start till Nov. I questioned him about scouting for next week but season didn't start until Nov. He said good luck and drove away. Monday morning same white truck was parked further over hill so harder to see. We were going up mountain to park in my 6Lk when Steve came driving extremely fast towards across BLM land. He slams on his brakes and throws his hands up and says "WTF?" I tell him were going with permission from Warden Miller to hunt and retrieve Elk. He says no your not and tells me to return to my camp. I tell him he has know authority to order me. I tell him we are on public land, legally hunting with permission from the Game Warden and we proceed on. Steve then turns around and follows us, staying right behind us for a 1/2 mile. Him following us and trying to intimidate us finally gets to me. I wave him forward. I tell him we are legal hunters on public land and he is harassing us and that is illegal. He says he is hunting. We question him about not wearing orange and that its illegal to hunt from a vehicle and we proceed. We go another 1/2 mile and get a call from Warden Miller. He ask us to return to our camp. Warden Miller told us to remain at our camp until we hear from him. Shortly after returning to camp, Deputy Alex Bakken arrived. He tells us he recieved a call of trespassing. He questions us. We tell him how we corner cross using a ladder. He tells us we done nothing wrong and to go hunt. I question him as to what his report will say. He said his

report would say we done nothing wrong. later that day deputy Pat #671 came and told us he was ordered to write us criminal trespass citations. I questioned as to how we were trespassing when we never had been on private land and that none of the other law enforcement had given us tickets. He said he didnt know and that we could explain it to the Judge. We told him we understand he is just doing what he was told to do. Tuesday morning local hunter Seth Kienrath stopped by to tell us how he has been witnessing Elk/Mtn Ranch employees staking us out and trying to intimidate us. He says he told them to leave us alone that we were legal hunters. He says that Steve said he was going to steal our ladder. He told Steve that he better not that he would report him. We thanked Seth for looking out for us. later same day Warden Miller came to our camp and we gave him GPS coordinates of my elk and he went to retrieve it. The highest tied Kluin bag was missing. We had seen Steve earlier pulling a load of ATV's.

Webster definition of harassment is to annoy or torment repeatedly and persistently. I believe the actions of Elk/Mtn Ranch continuously pursuing us even after being told not to by law enforcement and the Carbon Co. Prosecutor who ordered us to be cited even though the Warden & Deputy reports say we done nothing wrong meets the definition. These actions ruined our Wyoming public land hunt.



ATTACHMENT # 2

ATTACHMENT # 2



Wyoming Game and Fish Department

Law Enforcement Incident Report

Case: 56421/5

Case #:	56421/5	Case Officer:	MILLER, JAKE
Case Date:	9/30/2021 7:00:00 AM	Coordinator:	DAVANON, KRISTEN
Type:	OBSERVED	Creator:	MILLER, JAKE
Status:	OPEN	Create Date	10/04/2021

Case Synopsis

On 9/30/21 I received a call from the land manager of the Elk Mountain Ranch, Steve Grende, about some possible trespassing on Elk Mountain. I located a hunting camp on County Rd 400 that was set up on BLM (Attachment 1a). While driving on a private ranch road of the Elk Mountain Ranch I was able to locate 4 individuals dressed in camo carrying archery bows. The group was walking North towards Country Rd 400 towards the camp. When I observed the group they were on BLM land. When the group came to the corners of the 2 BLM sections they placed a fence ladder (Attachment 1b) in the 2 corners of BLM and over 2 "No Trespassing" signs and crossed from one side to the other. Once in the BLM section connected to the road they returned to camp.

I met the hunting group in their camp at approximately 20:00 hours. The group stated that they had all been hunting on the public land on Elk Mountain. I I.D. everyone from their valid hunting license for the area.

- Brady H. Cape
- Phillip G. Yeomans
- Zachary M. Smith
- John W. Slowensky

I asked the group if they could show where they had all been hunting. Cape showed me his phone of all the places they had been with the OnX phone app. Cape sent me a picture of the map (Attachment 1c).

Yeomans tag did not have a carcass coupon attached to it and he stated that he had harvested an elk on State of Wyoming property on Elk Mountain and that they still had the meat there. Yeomans showed me on his phone the location of the meat.

I asked the group if they were aware of the trespassing laws in Wyoming. Cape stated that they had researched the laws in the state and found that corner crossing sections of public was an opinion to be illegal. They understood that GPSs are only accurate to about 30 feet so they looked for the marker at every corner before crossing. Grende walked into camp and started talking to the hunting party. I pulled Grende aside and I chatted with him until Carbon County SO arrived. The SO and I decided to gather all the information and consult with the attorneys office before issuing citations. This decision was communicated the Grende. Grende and I talked about the elk meat that was on Elk Mountain. Grende agreed to let them retrieve the meat.

I told the group that I would document what I had found today and send it to the Carbon County Attorneys office for review. Since the elk they had harvested is perishable I gave them permission to recover it from the field and return it to their camp. Cape told me that it would take approximately 2 days to recover the full elk due to location of it.

On October 2nd Grende called me and said he thinks the group was hunting while they were going up to retrieve their meat. I called Cape and told him they are to recover their meat and return to their camp.

On October 3rd Cape called me to ask if the County Attorney's have made a decision yet. I told him that I haven't heard anything. Cape expressed his frustration and felt that if they had not been charged that they should still be able to hunt.

On October 4th I spoke with Carbon County Attorney's office and it was discussed that Criminal Trespass was most fitting for the circumstance. Carbon County SO met with the group that evening and issued citations.

On October 5th I received a call from Cape. Cape said that they were packing up camp and would like to talk to me before they leave. The group was upset that they were having to end their hunt early and they felt like they had been harassed by the Elk Mountain Ranch. I told the group that I would need to review the harassment statute. I gave them my contact information and told them to sent me statements when they got home if they still felt strongly about it. Reference 56421/16 for statements.

Suspect(s)

CAPE, BRADLY H

DOB: Hair: BALD Driver's License: MO E
HT: 5:11 Eyes: BLUE SSN:
WT: Race: Caucasian Email Address:

Gender:: M

Address(es):

1 . . .

YEOMANS, PHILLIP G

DOB: Hair: BALD Driver's License: MO A
HT: 5:11 Eyes: BLUE SSN:
WT: 225 Race: Caucasian Email Address:

Gender:: M

Address(es):

SMITH, ZACHARY M

DOB: Hair: BROWN Driver's License: MO E
HT: 5:10 Eyes: BLUE SSN:
WT: 185 Race: Caucasian Email Address:

Gender:: M

Address(es):

SLOWENSKY, JOHN W

DOB: Hair: BROWN Driver's License: MO F
HT: 5:8 Eyes: BLUE SSN:
WT: 200 Race: Caucasian Email Address:

Gender:: M

Address(es):

Signatures

Case Officer Signature

Date

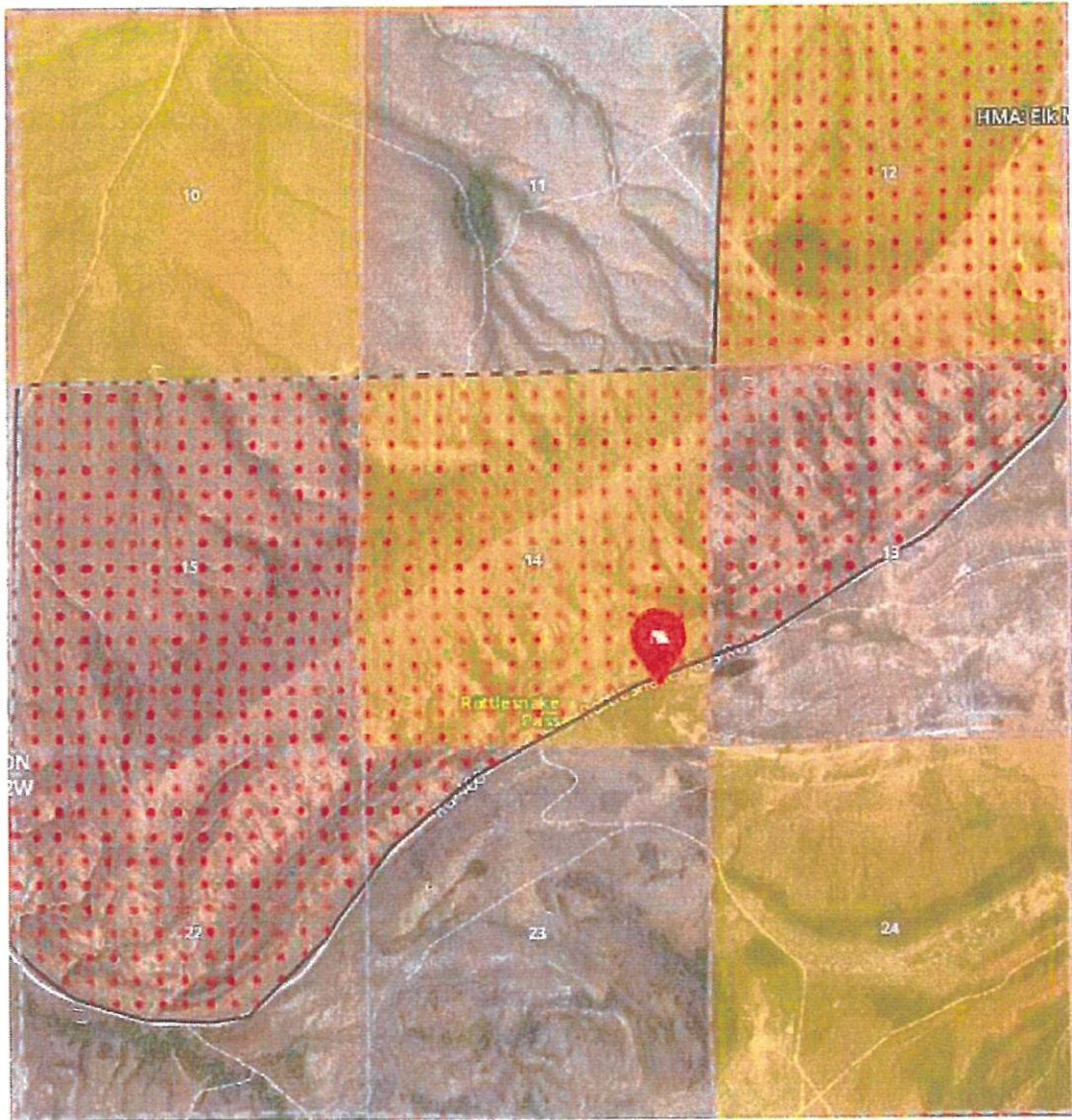
CMS Coordinator Signature

Date

Supervisor Signature

Date

A.



B.



C.





Wyoming Game and Fish Department

Law Enforcement Incident Report

Case: 56421/16

Case #: 56421/16
Case Date: 10/15/2021 9:43:00 AM
Type: REPORTED
Status: OPEN

Case Officer: MILLER, JAKE
Coordinator: DAVANON, KRISTEN
Creator: MILLER, JAKE
Create Date: 12/14/2021

Case Synopsis

In reference to case 56421/4 (attachment 1)

Bradly Cape called me once he returned to Missouri. Cape said they felt like they were mistreated by the Elk Mountain Ranch and was wondering if they can press hunter harassment charges. I told him to have to group write statements of their hunt and email them to me. I received an email on October 15th from Cape with statement from all 4 members of the group. Attachment 2

Statements were forwarded to Carbon County States Attorney's office for review.

Suspect(s)

Signatures

Case Officer Signature

Date

CMS Coordinator Signature

Date

Supervisor Signature

Date

John Slowensky

10th October, 2021

Warden Miller
Wyoming Department of Game and Fish

To Warden Miller and whom this matter may concern,

This statement is concerning the act of "Hunter Harassment" against myself and fellow hunters while hunting and camping on public land in the State of Wyoming in Carbon county.

While on a hunting trip this fall (my very first elk hunting experience) the hunting group I was with experienced an abhorrent amount of hunter harassment from the employees of the neighboring Elk Mountain Ranch and principally their ranch manager Steve.

Our group was watched, stalked and harassed by these groups of individuals constantly from very early morning till hours past dark. Our camp was set up just off of a public county road on public land. The harassers would park their vehicles along the county road and adjacent roads to watch and critique our every movement. It was impossible to even remotely enjoy our hunting/camping experience. The ranch people would keep tabs on our camp and drive by constantly disrupting our peace. Local Law Enforcement also witnessed this on many occasions and confirmed these ranch employees were there watching us and had us "staked out". It was so bad that we couldn't even use the outdoor restroom in private or conduct any personal care or movement without prying eyes.

We spoke with one individual (that was parked watching us on many occasions) that blatantly lied about why he was stopped on the county road we were camped on and he refuted the fact he was "watching us" and reporting back. He gave us the "talking points about his actions" yet it was later confirmed by a couple different law enforcement officers that this individual was an employee of the ranch and his job was to watch our every movement, monitor the situation and report back to his superiors. This individual in a white Chevy truck was watching us almost non-stop during our trip.

Several other vehicles that were confirmed to belong to the ranch or employees of the ranch were also driving by at slow speeds keeping watch on us daily, multiple times of day and night.

On a separate occasion on public land Steve the ranch manager in his vehicle (black Chevy truck) came across us (on foot) and used obscenities while we were attempting to begin our hunt on public property! Steve's demeanor and accusations towards us on what we were doing were extremely misguided, wrong and accusatory. As we tried to move along continuing on public land Steve followed us within 20/30 feet in his vehicle for quite a long distance harassing us as we were trying to hunt legal public land.

Reviewing code 23-3-405 and speaking with many law enforcement officers and Game Warden Miller I am submitting this complaint of "Hunter Harassment".

An immense amount of time, effort, money and aspirations of personal enjoyment of going on my first elk hunt in the great state of Wyoming were extinguished due to the actions, false allegations, intimidation, greed and complete disregard of proper and legal usage of public property and public space by the mentioned groups and individuals above.

Sincerely,

John Slowensky

Hunter Harassment

Dear Jake Miller,

Zach Smith here, I feel as if myself and my hunting partners, (Bradly Cape, Phil Yeomans, and John Slowasky) were harassed by Elk Mountain Ranch employers while trying to hunt public land on Elk Mountain.

The morning of September 27th, 2021 around 7:00 a.m. we had seen Steve Grundy in his black Chevy pickup below us in the valley driving up the valley on bulldozed roads on public land. He would occasionally slow down and stop. It would seem as if he was looking for us. As he almost got out of sight, (because of the hill) he stopped his truck. I saw reverse lights on his truck then parking lights. He sat there looking for the four of us on public land.

The morning of September 29th, 2021, around 10:00 a.m. the four of us public land hunters heard a side by side vehicle as we were standing at the peak of the mountain. Visibility was low because of it snowing at the time. As we started our descent from the peak we had found tire tracks that would match a tire that someone would typically put on a side by side. The tracks had come up the bulldozed road that went to the peak but stopped a couple hundred yards short of the peak and had turned around and headed back off the mountain.

The evening of September 30th around dark the four of us were coming off the mountain and headed for base camp. As you are aware because you were called out there to watch us. As we came into sight of the county road there was a white Chevy 2500 truck sitting down on the county road by our camp. Later that evening as you met with us in our tent, Steve came barging in our tent and proceeded to say "You were the boys in here from last year," of which myself, you the Game Warden or any of my hunting partners did not give him permission to enter our tent.

The morning of October 1st we were getting ready at our camp and a couple of us had to use the outdoor bathroom, but were hesitant because of the white truck sitting on the county road stalking us. We proceeded to hide ourselves as best we could while dropping our pants and going to the bathroom. Once we headed for the first corner crossing and proceeded to cross the corner with the ladder Steve's black truck was sitting down at the county road within 100 yards of our tent. He was again watching us along with the white truck.

Later that morning we had spotted some mule deer and glassing them because I had a deer tag. A blue side by side came up the road and ran the deer over the hill from us. The guys in the side by side were us and

stopped in the road within 100 yards of my group of hunters and watched us for 10 minutes or so.

The morning of October 3rd the white truck was again parked on the county road watching us. This time we had to take one of us hunters (John Slawensky) to the gas station to use the bathroom because he felt very uncomfortable to try and go to the bathroom with the white truck sitting out there stalking us for hours. As we got in the pickup to leave for the gas station, the guy in the white truck started driving towards us after sitting there for roughly three hours watching us. He proceeded to drive past us, but Brad waved him down and he backed up. Brad confronted him & asked him if he was watching us. He came up with some excuse about scouting for elk but proceeded to say that he didn't have permission & that there was no access to the mountain.

At daybreak on the morning of October 4th, 2021 as we made the hike up on the hill for the mountain we once again seen the man in the white truck but this time sitting more strategic and out of sight of our tent but able to watch us go up the hill. As we got through the rock pass here came Steve Grundy in his black pickup flying down the road on public land right at us. As he pulled up to us, he threw his hands up and said "WHAT THE FUCK!" He went on to claim that we weren't allowed to be here (as we were standing on a public road on public land) and that we had to

go back down to camp. As we all know he has no authority over us and no right to tell us to get off public lands. As we proceeded for the mountain he followed us in his pickup within 30 yards from us for 1/2 mile. As he continued to follow us Brad waved him forward and told him he was harassing us. He claimed he was helping our locator for the Sheriff's Department. He then claimed he was hunting but didn't have any orange on after we said we would charge him with hunter harassment.

Midday October 5th 2021, we seen Steve go by on the county road hauling four wheelers. Later you went up to find the meat that we had hung near a road after you mentioned going and getting the meat so it wouldn't go to waste. One bag of meat was missing.

In conclusion I feel as if Elk Mountain Ranch and its employees should be charged with hunter harassment. Although we never hid from anyone we were always worried about confrontation throughout the entirety of our trip. I feel as if we never got to enjoy the great public land of Wyoming because of the employees of Elk Mountain Ranch and what might happen if we ran into them. None of us felt comfortable during the trip to Wyoming that we have now made from Missouri for the past 3 years. Therefore I believe the things of Elk Mountain Ranch employees ruined

our 2021 Wyoming hunting trip that took
us all year to plan.

Sincerely,
Jeff Smith

10-8-21

Hunter Harassment

I am one of a hunting party of four. We arrived at our Elk camp on Carbon Co. Rd 400 the morning of Sept. 26th. We set up camp on BLM land. We had several vehicles drive past us during the day. That evening we loaded our packs and went up the mountain. We wanted to wake up amongst the Elk. At day light while glassing the valley for Elk, we watched a black truck driving slowly through the middle of BLM land. We recognized the truck as Steve Grundy from meeting him the previous year. He came from the East moving slowly and stopping every once in a while. We watched him drive for approx 1/2 mile then turn around and come back. Then he turned North and disappeared. We assumed he was looking for us because we had seen him drive past our camp several times on the county rd and from our experience with him the previous year. We spent four nights on the mountain. We were on our way back to camp on the County rd when we noticed two different trucks parked at strategic locations so they could see us return. We crossed over the property intersection with our ladder and was almost to camp when I noticed a dark green truck above us watching us. We all commented that we hoped it was the Game Warden so we didn't have a confrontation with the two trucks watching us. Shortly after reaching camp Warden Jake Miller pulled into our camp. He told us he had been called by Steve Grundy, of Elk Mtn Ranch, everyday since Sunday. Warden Miller told us that Deputies would be arriving and that our hunting party, himself, the deputies and Elk Mtn Ranch would all have a meeting and discuss what was going on and what was going to happen.

While Warden Miller was speaking to us in our tent, Steve poked his head in and says "your the same guys from last year." Warden Miller quickly escorted him outside. Our hunting party remained inside our tent. The deputies arrived and looked over our truck and trailer but never came inside or talked to us. After some time, Warden Miller came back into our tent and told us we had done nothing wrong and that it was our land to go hunt and retrieve the One Elk we had taken. He also told us that he told Elk Mtn Ranch we had done nothing wrong and we were free to hunt. The next morning we went up the mtn for another hunt and had 4 different vehicles watching us. We proceeded ~~North~~ South then turned West when we spotted 4 mule deer. One of our party - Zach - has a deer tag. We were glassing these deer when a SUV with 2 people drove towards us. They could plainly see we were all wearing orange and hunting on public land. They drove extremely slow and even stopped and turned off there engine while staring at us. They never said anything and after a while drove away. Zach killed the deer and we packed it back to our camp on the County rd. Saturday I killed an Elk and we packed Phils Elk back to our main camp. Sunday we needed a rest day so we didnt hunt. We noticed the same white truck parked in the same strategic spot. Also a black truck parked in a different strategic spot. They both watched as we used the outdoor toilet. One member of our party did not feel comfortable going to the bathroom while being watched so we decided to drive to the nearest gas station. As soon as we started to drive off the white truck started to leave. I

flagged him down and questioned him about watching us. He said he was scouting for the next weeks hunt. I asked him if he had permission to hunt there and he said no. He said the other side of the road was a public cow only hunt but that season didn't start till Nov. I questioned him about scouting for next week but season didn't start until Nov. He said good luck and drove away. Monday morning same white truck was parked further over hill so harder to see. We were going up mountain to pack in my Elk when Steve came driving extremely fast towards across BLM land. He slams on his brakes and throws his hands up and says "WTF?" I tell him were going with permission from Warden Miller to hunt and retrieve Elk. He says no your not and tells me to return to my camp. I tell him he has know authority to order me. I tell him we are on public land, legally hunting with permission from the Game Warden and we proceed on. Steve then turns around and follows us, staying right behind us for a 1/2 mile. Him following us and trying to intimidate us finally gets to me. I wave him forward. I tell him we are legal hunters on public land and he is harassing us and that is illegal. He says he is hunting. We question him about not wearing orange and that its illegal to hunt from a vehicle and we proceed. We go another 1/2 mile and get a call from Warden Miller. He ask us to return to our camp. Warden Miller told us to remain at our camp until we hear from him. Shortly after returning to camp, Deputy Alex Bakken arrived. He tells us he recieved a call of trespassing. He questions us. We tell him how we corner cross using a ladder. He tells us we done nothing wrong and to go hunt. I question him as to what his report will say. He said his

report would say we done nothing wrong. later that day deputy Pat #671 came and told us he was ordered to write us criminal trespass citations. I questioned as to how we were trespassing when we never had been on private land and that none of the other law enforcement had given us tickets. He said he didn't know and that we could explain it to the Judge. We told him we understand he is just doing what he was told to do. Tuesday morning local hunter Seth Kionrath stopped by to tell us how he has been witnessing Elk/Mtn Ranch employees staking us out and trying to intimidate us. He says he told them to leave us alone that we were legal hunters. He says that Steve said he was going to steal our ladder. He told Steve that he better not that he would report him. We thanked Seth for looking out for us. later same day Warden Miller came to our camp and we gave him GPS coordinates of my elk and he went to retrieve it. The highest tied Kium bag was missing. We had seen Steve earlier pulling a load of ATV's.

Webster definition of harassment is to annoy or torment repeatedly and persistently. I believe the actions of Elk/Mtn Ranch continuously pursuing us even after being told not to by law enforcement and the Carbon Co. Prosecutor who ordered us to be cited even though the Warden & Deputy reports say we done nothing wrong meets the definition. These actions ruined our Wyoming public land hunt.



Hunter Harassment Statement:

Under the Wyoming Hunter Harassment Statutes, it is unlawful to prohibit or hinder the lawful taking of wildlife or interfere with the process of lawfully taking of wildlife. It is my belief that this has occurred and I would like for this statement to be considered for proof as such.

The first known instance of hunter harassment occurred on the first morning of the hunt. While my party was listening and observing the public land, looking for elk, we noticed Steve Grundy in his pick-up driving the BLM searching for us. We knew it was him based upon our last year's encounter with him.

Next, Steve called the Game and Fish and had us surveilled under the false accusation that we were trespassing. The Game and Fish officer found that we did not trespass and the sheriff's deputies that were called to investigate found the same.

After being found of no wrong doing, and being told to continue our hunt Steve Grundy and other ranch employees staked out our camp, parking on the county road and watched us while we legally camped on BLM. They observed us even as we had to use the "outdoor toilet". This forced us to at one point drive to the closest convenience store to allow members of our party to use the public restroom there in, to avoid being watched.

Multiple times we noticed Steve Grundy's truck and a certain white truck, told to us to be another Elk Mountain Ranch employee strategically parked to watch us.

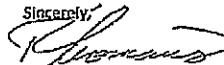
The final morning we tried to hunt to fill our last remaining party member's elk tag and retrieve the remaining elk meat from the mountain. We left out at first light and noticed the white pick up in the strategic position to watch us. It was no coincidence nor surprise that when we reached the BLM road, Steve Grundy was driving quickly towards us. When he reached us, he threw his arms out and said "what the fuck!". We expressed that we didn't know what he meant by this because we were not doing anything illegal and we were, in fact, told to continue hunting, this is "our land". As we continued on our way, Steve followed closely behind in his truck preventing us from hunting until at one point we called him forward to speak again to him and explain to him that he was harassing us illegally on public land. Steve said "I can do whatever the fuck I want". In this conversation, Steve acknowledged more than once that corner crossing was not illegal. We explained to him that we crossed every corner legally and that we have pictures of every USGS corner and t-post marker. He responded by saying that we could have trespassed and then took the picture and that if he couldn't see us then how does he know we didn't trespass? We countered by then asking, if that's the case, you are okay with us hunting public land as long as you can see us? His answer was no. We asked him to stop harassing us and then he said he was hunting. When asked where his hunter orange was, he couldn't produce it. We also informed him that it was illegal to shoot from a vehicle. We then continued on our way until the Game and Fish agent, Jake Miller, called and asked us to return to our camp as the situation had caused much attention at the prosecutor's office.

The last instance of hunter harassment would come from the county attorney's office which instructed a sheriff deputy to come to our camp and cite us for criminal trespass even though no law had been broken and we were told so, several times by law enforcement. I believe this was to appease the landowner and to stop the unrelenting phone calls being made to this office by the Ranch employee.

This forced us to end our hunt 4 or so days early leaving us with one unfilled elk tag and many bad memories of our trip.

On a more personal note, I want to mention that 2021 has been a difficult year for me. I lost my father back in January to cancer. My father in-law passed from covid just last month and covid continues to make life difficult for us all. This hunt was going to be a much needed, though temporary escape from all of this. I had looked forward to this hunt for many months spending countless hours preparing gear and equipment, and spending thousands of dollars to do so. The time, equipment, gear, food, fuel, tags, licenses and permits required cost me greatly. To be harassed in this manner and to be forced to abandon our hunt was especially distressing.

Sincerely,



Phillip G. Yeomans

2-2

Scanned with CamScanner

ATTACHMENT # 3

ATTACHMENT # 3

PLEASE SEE ENCLOSED DVD-R

PLEASE SEE ENCLOSED DVD-R

ATTACHMENT # 4

ATTACHMENT # 4



Carbon County Sheriff's Office

Incident #: 21-003740

Reporting Officer: Alex Bakken

Report Time: 10/04/2021 06:51:27

Incident

Incident Nature	Address	Occurred From
Trespassing or Notice of Tresp	400 COUNTY ROAD 404 SARATOGA, Wyoming 82331	10/04/2021 06:51:27
Occurred To	Received By	How Received
10/04/2021 06:51:27	Savanna Umberger	Telephone
Contact	Disposition	Miscellaneous Entry
STEVE GRENDE	Closed Case	
Disposition Date	Cleared	Judicial Status
10/04/2021		
Cleared Date	Clearance	Cargo Theft Related
	REPORT TO FOLLOW	

ELK MT RANCH

Complainant

Address	Phone	DOB
ELK MT RANCH ELK MT WY	(307)250-5671	
Sex	Race	
M		

Responding Officer(s)

Alex Bakken

Patrick Patterson

Offenses

Completed?	Method Of Entry	Gambling Motivated?
Premises Entered?	Location Type	Cargo Theft Related?
Statute	Description	Category

Persons

**GRENDE, STEVEN T
COMPLAINANT**

Address
1660 COUNTY ROAD 400
ELK
MOUNTAIN Wyoming 82324

Phone

DOB

Race
N-White, Non-Hisp

Sex
M

Ethnicity
African

Height
5'08"

Weight
170

**CAPE, BRADLY H
SUBJECT**

Address

Phone

DOB

Race
N-White, Non-Hisp

Sex
M

Ethnicity

Height
5'11"

Weight
180

**SMITH, ZACHARY M
SUBJECT**

Address

Phone

DOB

Race
N-White, Non-Hisp

Sex
M

Ethnicity

Height
5'10"

Weight
185

**YEOMANS, PHILLIP G
SUBJECT**

Address

Phone

DOB

Race
N-White, Non-Hisp

Sex
M

Ethnicity

Height
5'11"

Weight
225

CRAWFORD, NEIL L WITNESS

Address	Phone () -	DOB
Race N-White, Non-Hisp	Sex M	Ethnicity
Height 5'11"	Weight 210	

SLOWENSKY, JOHN W SUBJECT

Address	Phone () -	DOB
Race N-White, Non-Hisp	Sex M	Ethnicity
Height 5'08"	Weight 200	

ELK MT RANCH Complainant

Address ELK MT RANCH ELK MT Wyoming	Phone (307)250-5671	DOB
Race	Sex M	Ethnicity
Height	Weight 0	

Narratives

Original Narrative

11/01/2021 21:46:09

`Tue Oct 5 09:39:50 2021
Reporting Deputy: A.Bakken 614

This incident occurred in the State of Wyoming and the County of Carbon.

On Monday, October 4th, 2021, I was on-call as a Patrol Deputy with the Carbon County Sheriff's Office. At approximately 0651 hours I was dispatched to a Criminal Trespass complaint located on County Road 400 (Rattlesnake Pass Road.)

I arrived at the entrance of the Elk Mountain Ranch off of County Road 400 and made contact with the reporting party, a Grende, Steve. Grende stated that he is the property manager at the Elk Mountain Ranch and reported that several hunters

have been trespassing on the ranch property. He reported that the hunters were "corner-hopping." Corner-hopping in this instance refers to the act of going from one section of public property to another by moving across the corner where two portions are connected. Grende stated that the party corner-hopped from one section of public property to another section of public property. I informed Grende that we had been instructed by Sheriff Roybal to compile a report about corner-hopping allegations and send them to the County Attorney's Office.

I spoke with hunters Cape, Bradley, Smith, Zachary, Yeomans, Phillip, and Slowensky, John. All hunters stated that they had crossed the corner from one section of public land to another section of public land. All hunters stated that they were aware of the property lines and did not enter any private property. They were advised a report would be compiled and sent off to the County Attorney's Office.

All individuals have been entered into the Spillman File.

Both parties have been provided with my contact information.

No further action taken.

A.Bakken 614.

Supplemental Narrative

10/04/2021 09:27:51 Tracy Newbrough

CAD Call info/comments

=====

RP CALLED TO REPORT TRESPASSERS ON HIS LAND AGAIN. ADVISED THAT DEPUTIES WERE OUT WITH THESE SUBJECTS BEFORE. SUBJECTS ARE CAMPING IN A CANVAS TENT WITH A WHI GMC WITH MISSOURI PLATES.

614 ADVISED AND HE WILL RESPOND, BELIEVES IT IS THE SAME PEOPLE WE HAVE BEEN DEALING WITH THE LAST THREE DAYS AND THEY ARE JUST CORNER HOPPING, WHICH ISN'T ILLEGAL. WILL RESPOND ANYWAY AS THE RP SAID HE WAS GOING TO STOP THE SUBJECTS. RP ASKED TO BE TRANSFERRED TO GAME AND FISH SO I SENT HIM TO WHP AND ALSO CALLED WHP MYSELF TO LET THEM KNOW WHAT INFORMATION I HAVE ON MY SIDE OF THIS. RP IS IN A BLK CHEVY AND THERE IS ANOTHER MALE IN A WHI CHEVY ON THE COUNTY ROAD THAT 614 WILL SEE FIRST AND HE WILL THEN LEAD 614 TO THE RP.

08:40:12 10/04/2021 - T Newbrough

Address change from 900 COUNTY ROAD 400 to 400 COUNTY ROAD 404

09:27:30 10/04/2021 - T Newbrough - From: A Bakken

43 THEY ALL STATED THEY WERE CORNER HOPPING. CLO RTF

Supplemental Narrative

10/04/2021 19:08:25 Kim Starr

CAD Call info/comments

=====

RP CALLED TO REPORT TRESPASSERS ON HIS LAND AGAIN. ADVISED THAT DEPUTIES WERE

OUT WITH THESE SUBJECTS BEFORE. SUBJECTS ARE CAMPING IN A CANVAS TENT WITH A WHI GMC WITH MISSOURI PLATES.

614 ADVISED AND HE WILL RESPOND, BELIEVES IT IS THE SAME PEOPLE WE HAVE BEEN DEALING WITH THE LAST THREE DAYS AND THEY ARE JUST CORNER HOPPING, WHICH ISN'T ILLEGAL. WILL RESPOND ANYWAY AS THE RP SAID HE WAS GOING TO STOP THE SUBJECTS. RP ASKED TO BE TRANSFERRED TO GAME AND FISH SO I SENT HIM TO WHP AND ALSO CALLED WHP MYSELF TO LET THEM KNOW WHAT INFORMATION I HAVE ON MY SIDE OF THIS. RP IS IN A BLK CHEVY AND THERE IS ANOTHER MALE IN A WHI CHEVY ON THE COUNTY ROAD THAT 614 WILL SEE FIRST AND HE WILL THEN LEAD 614 TO THE RP.

08:40:12 10/04/2021 - T Newbrough

Address change from 900 COUNTY ROAD 400 to 400 COUNTY ROAD 404

09:27:30 10/04/2021 - T Newbrough - From: A Bakken

43 THEY ALL STATED THEY WERE CORNER HOPPING. WILL BE COMPILED AND GIVEN TO THE COUNTY ATTORNEY.

Call type I reopened by K Starr at 17:56:32 10/04/21

PER CAO THESE SUBJECTS WERE CITED FOR CRIMINAL TRESPASS

18:59:29 10/04/2021 - K Starr

CITATION 17241N ZACHARY SMITH

18:59:48 10/04/2021 - K Starr

CITATION 17242N PHILLIP YEOMANS

18:59:59 10/04/2021 - K Starr

CITATION 17243N JOHN SLOWENSKY

19:00:22 10/04/2021 - K Starr

CITATION 17244N BRADLEY CAPE

Supplemental Narrative

12/13/2021 20:56:19 Patrick Patterson

Carbon County Sheriff's Office
Supplemental Narrative

On 10/4/2021, I, Deputy Patterson, was notified by SGT J. Moore that the County Attorney wanted citations issued to four individuals that were corner crossing at the Elk Mountain Ranch off of Rattlesnake Pass road.

When I called on Duty I drove to the location given to me by SGT Moore. I found the four individuals and requested identification from all of them and informed them that all were going to receive a citation for Criminal Trespass.

I went to my patrol vehicle and wrote each person a citation. Upon completion I returned to their tent and gave each their copy.

After speaking with the party briefly I departed the area.

Date, Time, Reporting Deputy: P. Patterson