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JOYCE L. JULSRUD, CLERK
KITITAS COUNTY WASHINGTON

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KITITAS COUNTY
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IN THE KITITAS COUNTY SUPERIOR COURT, STATE OF WASHINGTON

TANEUM CREEK RANCH LIMITED
PARTNERSHIP, a Washington limited
partnership,

Plaintiff,

vs.

STATE OF WASHINGTON DEPARTMENT
OF FISH AND WILDLIFE,

Defendant.

NO. 10-2-00574-1

COMPLAINT TO JUDICIALLY
ESTABLISH AN EASEMENT

COMES NOW the Plaintiff above named, TANEUM CREEK RANCH LIMITED PARTNERSHIP, a Washington limited partnership, by and through its attorney, JAMES T. DENISON, JR. of LATHROP, WINBAUER, HARREL, SLOTHOWER & DENISON, L.L.P., and alleges as follows:

I. PARTIES

1.1 Plaintiff, TANEUM CREEK RANCH LIMITED PARTNERSHIP ("Taneum Creek") is a Washington limited partnership and owns real property in Kittitas County, Washington.

1.2 Defendant, STATE OF WASHINGTON DEPARTMENT OF FISH AND WILDLIFE ("DFW"), is an agency of the State of Washington and owns real property in Kittitas County, Washington.

COPY

1 3.2 DFW owns real property legally described as follows:

2 Government Lots 5, 6 and 7; the Southeast Quarter of the Northwest
3 Quarter; the East Half of the Southwest Quarter; the South Half of the
4 Northeast Quarter; and the Southeast Quarter of Section 6, Township 18
North, Range 17 East, W.M., Kittitas County, State of Washington.

5 Tax Parcel No. 663633

6 (hereinafter the "DFW Property").

7 3.3 On the DFW Property lies a road that runs generally across the DFW Property in
8 semicircular direction. The approximate path of the road is depicted on the attached Exhibit A
9 (hereinafter the "Road"). The Road provides access to the upper portion of the Taneum Creek Property.

10 3.4 The DFW Property was acquired by the Defendant in 1971 by Statutory Warranty Deed.
11 The Road was established over 25 years before Defendant came into possession of the DFW Property.
12 The road was established and constructed by Plaintiff's predecessors in interest, Mike and Marge
13 Ozanich.

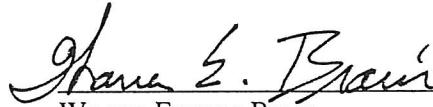
14 3.5 The Road was used continually for ingress and egress, by foot and by motorized vehicles,
15 to the upper portion of the Taneum Creek Property from the time it was established and constructed until
16 the Defendant blocked the road. In 2003 or 2004, the Defendant intentionally and purposefully blocked,
17 interfered and otherwise refused to allow Plaintiff to utilize the Road for purposes of ingress and egress
18 into the Taneum Creek Property. Defendant allowed or hired a third party to dig up sections of the Road
19 and place berms in the Road making travel along the Road difficult on foot and impossible with a vehicle.

20 IV. CAUSE OF ACTION

21 4.1 Plaintiff has an easement across the DFW Property for the purpose of accessing its
22 property. The Easement is an easement created by prescription. Plaintiff's right to cross the DFW
23 Property exists because for more than 10 years prior to Defendant coming into possession of the DFW
24 Property, Plaintiff and its predecessors used the DFW Property for access over a uniform route as
25 depicted in Exhibit A. Plaintiff and Plaintiff's predecessor's use of the DFW Property property has been
26

1 COMES NOW, Plaintiff, WARREN EUGENE BRAIN, agent for TANEUM CREEK RANCH
2 LIMITED PARTNERSHIP, a Washington limited partnership, and states and declares that he has read
3 the within and foregoing Complaint to Judicially Establish an Easement, knows the contents thereof and
4 believes the same to be true and correct.

5
6 SIGNED at Ellensburg, Washington this 22 day of December 2010.

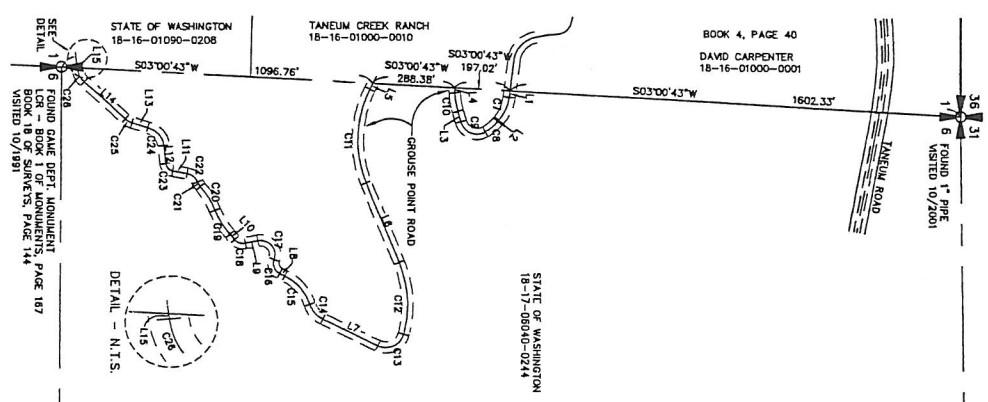
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Warren Eugene Brain

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RECORD OF SURVEY
 A PORTION OF THE NW 1/4 OF SECTION 6,
 TOWNSHIP 18 NORTH, RANGE 17 EAST, W.M.,
 KITITAS COUNTY, STATE OF WASHINGTON

CURVE	LENGTH	RADIUS	DELTA
C7	91.06'	160.00'	32.36/29°
C8	38.63'	160.00'	20.59/10°
C9	110.62'	61.00'	103.54/21°
C10	66.69'	295.00'	12.57/07°
C11	344.81'	400.00'	49.23/23°
C12	282.11'	400.00'	37.32/12°
C13	114.37'	65.00'	100.48/44°
C14	72.33'	90.00'	46.02/48°
C15	138.47'	175.00'	45.20/10°
C16	58.70'	40.00'	84.04/49°
C17	106.86'	50.00'	122.27/12°
C18	42.47'	40.00'	60.50/12°
C19	100.00'	300.00'	18.05/45°
C20	99.38'	300.00'	18.58/49°
C21	19.30'	60.00'	18.25/35°
C22	50.12'	50.00'	57.25/48°
C23	38.54'	30.00'	73.36/46°
C24	88.05'	75.00'	67.15/48°
C25	27.39'	60.00'	26.09/35°
C26	51.52'	75.00'	39.21/25°

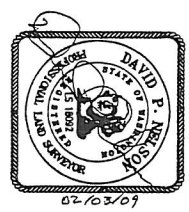
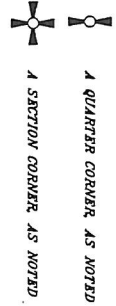
LINE	BEARING	DISTANCE
L1	S83°27'07"E	22.70
L2	N50°44'39"W	5.18
L3	N74°08'49"E	39.80
L4	N67°05'56"E	17.94
L5	S83°06'49"E	23.24
L6	N67°29'48"E	306.13
L7	S25°51'14"W	216.78
L8	S28°33'52"W	19.74
L9	S11°48'31"E	43.94
L10	S49°01'41"W	24.76
L11	S10°08'34"W	52.54
L12	S83°44'50"W	65.14
L13	S16°29'00"W	61.23
L14	S44°28'35"W	194.96
L15	S82°20'00"W	5.66



NOTES:

1. THE PURPOSE OF THIS SURVEY IS TO IDENTIFY THE LOCATION OF GROUSE POINT ROAD AS IT IS SITUATED IN SECTION 6, TOWNSHIP 18 NORTH, RANGE 17 EAST, W.M., KITITAS COUNTY, STATE OF WASHINGTON.
2. THIS SURVEY MAY NOT SHOW ALL EASEMENTS WHICH MAY PERTAIN TO THIS PROPERTY.
3. FOR ADDITIONAL SURVEY INFORMATION SEE THE FOLLOWING SURVEYS OF RECORD:
 - BOOK 4 OF SURVEYS, PAGE 40; BOOK 7 OF SURVEYS, PAGE 31; BOOK 7 OF SURVEYS, PAGE 73; BOOK 8 OF SURVEYS, PAGE 144; BOOK 27 OF SURVEYS, PAGE 71; AND BOOK 27 OF SURVEYS, PAGE 100.
 - ALL SURVEYS REFERENCED THEREON, ON BASIS OF BEARINGS ARE PER BOOK 18 OF SURVEYS, PAGE 144; RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON.
4. THIS SURVEY WAS PERFORMED USING A TRIMBLE S6 SERIES TOTAL STATION. THE CONTROLLING MONUMENTS SHOWN HEREON WERE LOCATED AND CHECKED FROM A CLOSED FIELD TRAVERSE IN EXCESS OF 1:10,000 LINEAR CLOSURE AFTER AZIMUTH ADJUSTMENT.

LEGEND



INDEX LOCATION:
 SEC. 06 T. 18N. R. 17E. W.M.

06

RECORDOR'S CERTIFICATE

FILED FOR RECORD THIS DAY OF 20 AT _____ M IN
 BOOK _____ OF _____ AT PAGE _____ AT THE REQUEST OF
 DAVID P. NELSON
 SURVEYOR'S NAME
 COUNTY AUDITOR _____ DEPUTY COUNTY AUDITOR _____

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE
 BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH
 THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT
 THE REQUEST OF DAVID P. NELSON
 IN FEBRUARY 2009
 DAVID P. NELSON
 SURVEYOR
 02/23/09
 DATE
 CERTIFICATE NO. 18992



108 EAST 2ND STREET
 CLE ELUM, WA 98922
 PHONE: (509) 874-7433
 FAX: (509) 874-7418

RECORD OF SURVEY

PREPARED FOR
 TANEUM CREEK RANCH
 A PORTION OF THE NW 1/4 OF SECTION 6,
 TOWNSHIP 18 NORTH, RANGE 17 EAST, W.M.,
 KITITAS COUNTY, WASHINGTON

DATE: 02/2009
 JOB NO.: 04667
 SCALE: 1"=300'
 SHEET: 1 OF 1

CHKD BY: D. NELSON

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**STATE OF WASHINGTON
KITITAS COUNTY SUPERIOR COURT**

TANEUM CREEK RANCH LIMITED
PARTNERSHIP, a Washington
Limited partnership,
Plaintiff,

NO. 10-2-00574-1
ANSWER

v.

WASHINGTON STATE
DEPARTMENT OF FISH AND
WILDLIFE,
Defendant.

COMES NOW the Defendant State of Washington, Department of Fish and Wildlife (State), by and through its attorneys of record, ROBERT M. MCKENNA, Attorney General, and JAMES SCHWARTZ, and JESSICA FOGEL, Assistant Attorney Generals, in answer to the Plaintiff's Complaint.

Under Civil Rule (CR) 8, defendant generally denies each and every allegation of the Complaint that the defendant does not expressly admit. The defendant also expressly denies some allegations without affecting its general denial of other allegations. The defendant will not respond to allegations that present purely legal arguments. If an answer to any such allegation is required, defendant denies each such allegation that is not expressly admitted.

In addition to the above general responses, defendant answers the specific allegations in the Complaint as follows:



Rob McKenna
ATTORNEY GENERAL OF WASHINGTON

Fish, Wildlife & Parks Division
PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-2498

January 20, 2011

Dan Valoff/Jeff Watson
Kittitas County Community Development Services
411 N. Ruby St, Suite 2
Ellensburg, WA 98926

Christina Wollman
Kittitas County Department of Public Works
411 North Ruby St, Suite 1
Ellensburg, WA 98926

RE: Brain SG-10-00018

Dear Dan and Christina:

I write this letter on behalf of my client, the Department of Fish and Wildlife (WDFW), to express a concern regarding the proposed or potential access to certain lots that are identified in the above lot segregation application. I reviewed the application for the proposed lot segregation. It was not apparent from the document on file just how the lots identified as 3, 4, and 5 would be accessed. I understood from a conversation with Christina that the applicant hoped to build a road within the lot boundaries to address access to the above mentioned lots. There may be some environmental concerns and restrictions that prevent the proposed road from being constructed within the lot boundaries.

At this time, I want to put the county on notice that Taneum Creek Ranch has filed a lawsuit against the WDFW alleging that Taneum Creek Ranch has a prescriptive right to cross the WDFW land to the east of the proposed lots to be created by this segregation. WDFW disputes that the easement exists and the scope of any such prescriptive easement: any prescriptive easement would be limited in scope to the historical use of the road prior to WDFW acquiring the property in 1970.

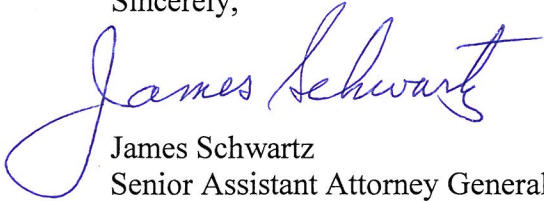
ATTORNEY GENERAL OF WASHINGTON

January 20, 2011

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I am attaching a copy of the complaint and answer. Please place me on the list of parties that get notice should this segregation reach final approval. Thanks for your cooperation.

Sincerely,



James Schwartz
Senior Assistant Attorney General
P.O. Box 40100
Olympia, WA 98504-0100
(360) 586-4034

Attachments

cc: Dan Budd (w/o attachments)
Elyse Kane (w/o attachments)
Cindi Confer (w/o attachments)
James Denison (w/o attachments)