

THE VERN WAGNER CASE – II

December 22, 2010

By Flip – Colorado News

There continue to be developments in the Vern Wagner cattle case with all charges dropped at the hearing on November 23rd, 2010, to see if Wagner was in contempt of a court order stemming from his May hearing.

In the ruling from the May 18th hearing to determine if Wagner was fit to own cattle in Park County, District Court Judge of the 11th Judicial District, Stephen A. Groome, ruled Wagner was a fit owner. Groome lifted the restraining order against Wagner, ordered Wagner to take care of the cattle remaining in his possession and gave the Park County Sheriff (PCSO), Park County Animal Control (PCAC) and the Colorado Department of Agriculture (CDA) reasonable access to all of Wagner's property in order to monitor the state of the cattle.

PCSO and CDA had seized 379 head of Wagner's cattle four days before the May 18th hearing, using CRS 35-42-109, saying the animals were in eminent danger of death. This was contrary to local Guffey veterinarian Dr. Amy Mason, who had looked at the cattle at Wagner's request in April and May, just three days before the PCSO seizure of the cattle.

Mason looked at the entire herd and took pictures on May 11th, and said all the cattle looked good and were much improved from her last visit, and none were, or ever were, in eminent danger of death, just recovering from a harsh Park County winter.

Yes, admittedly, there were cattle deaths over the winter, but according to Mason that is fairly common in Colorado and happens every winter. According to Wagner, his loses were within the acceptable loss limits of high altitude ranching. Obviously, it behooves a cattle owner to keep his loses as low as possible because that is how he makes his money.

Then in late August, Kate Anderson, DVM and Administrator of the CDA, Carl Heckendorf, DVM with the CDA, and Scot Dutcher, chief of the CDA Animal Protection Bureau made a visit to Wagner's property to look at the condition of his cattle. Anderson said in an agricultural journal publication that "there continue to be animals in poor condition." Also, Dutcher told Wagner that cow #99 was lame and he needed to take care of her.

When Wagner and Mason found cow #99 and examined her and took pictures of her, she seemed just fine, Mason said. Wagner has been unable to locate any other lame cattle on his property, he said.

So why the continued harassment of Wagner? According to Wagner "this is 5 per cent about animal welfare and 95 per cent exterminate Vern Wagner for the benefit of someone else." Wagner contends that ranchers in the area are trying to gain control of his property. Wagner calls it a "war of attrition", where one gets worn down to nothing, but Wagner is made of stern stuff.

Wagner was born in 1933, near Lamar, Colorado, right into the Great Depression and the Dust Bowl era. Cars were so undependable then, that his father hooked up the team of horses to the wagon and drove his mother from their remote ranch over to the midwife they knew in La Mar. As far back as Wagner knows, his family has been in the ranching business and he said that ranching around South Park was very similar to the La Mar area except for the altitude.

Wagner left home at age 14, served in the armed forces and was discharged with a superior rating in 1954. Wagner then attended Colorado State University and graduated in agriculture.

Wagner ranched in Meeker, Colorado, before coming to Park County in 2000, when he saw an ad for land to lease in South Park in the "Fence Post", an agricultural magazine.

The grazing lease deal fell through leaving Wagner with no where to graze the cattle he was bringing to Park County from Meeker. Wagner started forming a grazing association with small parcel land owners in various subdivisions in the area and now has about 8,000 private leases, as well as state and BLM leases. Currently, Wagner owns the Cross Slash Ranch, LLC, and controls about 130,000 acres of very prime south park property worth about \$2 million. The Cross Slash Ranch is at approximately 8,800 – 10,800 feet elevation.

Wagner runs all Black Baldy cows. Baldies are a cross between Herford cows, which are good mothers, and Black Angus cows, which are bulky and provide good milk. One gets good "hybrid vigor" that way Wagner said. Baldies also have black "goggles" around their eyes which help protect them from fly-borne eye diseases, Wagner said.

Wagner has produced over \$3 million of produce in the last ten years and has had the honor of topping the market several times.

One needs to breed out the respiratory problems which high altitude cattle can get. That's why one can't just bring cows up from Texas or New Mexico and expect them to survive up here said Wagner.

The cattle that were seized in May were the best, young, acclimated cattle of Wagner's herd. Wagner said "it took the heart out of the herd and severely crippled his operations."

Wagner has raised some very serious allegations against the PCSO, the PCAC, and the CDA, including, but not limited to, denial of due process, violation of constitutional rights, seizing his cattle illegally and not taking care of those illegally seized cattle.

According to Jay Sweringen of the Animal Law Center in Wheat Ridge, Colorado and one of Wagner's attorneys, "it is a total denial of due process." To get a fair hearing and trial, if it comes to that, they may call for a change of venue to get the matter out of the county courts.

Mason called the whole seizure process by the PCSO and the CDA a "very serious abuse of power by a person or persons in a position of trust, a general miscarriage of justice, abuse of a statute made to protect animals, selective enforcement for personal or political gain, denial of the rancher's ability to defend himself and denial of due process."

In talking to the opposition all this is denied and much has been written in the Fairplay Flume about all of it. It is basically an old time range war and will most likely be decided in a court of law.

In talking to Wagner on the phone on October 3rd, he said he had just won an appeal in the Colorado Court of Appeals about the contempt of court charges brought against him by the Hartsel Springs Ranch without any notice and no hearing and the 5 days he spent in court because if it, and it has all been thrown out. Wagner said "it's not just the ravings of an old man".

Wagner is in the process of suing the Park County Sheriff's Office, Park County Animal

Control and the State Department of Agriculture over the illegally seized cattle and over the continued harassment of him by those entities.