

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

COUNTY OF INYO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 1:06-CV-
	)	01502-AWI-DLB
DEPARTMENT OF THE INTERIOR, DIRK	)	
KEMPTHORNE, in his capacity as	)	
Secretary of the United States	)	
Department of the Interior, NATIONAL	)	
PARK SERVICE, MARY A. BOMAR, in her	)	
capacity as Director, National Park	)	
Service, JAMES T. REYNOLDS, in his	)	
capacity as Superintendent, Death	)	
Valley National Park,	)	
	)	
Defendants, and	)	
	)	
SIERRA CLUB, et al.,	)	
	)	
Defendants-Intervenors.	)	
	)	

DEPOSITION OF LEONARD HUARTE

163 May Street  
Bishop, California  
Wednesday, June 9, 2010; 2:32 p.m.  
Death Valley, California  
Thursday, June 10, 2010

JERI BETH RICH  
Certified Shorthand Reporter, CSR No. 4670  
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2

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9 FOR THE DEFENDANT DEPARTMENT OF THE INTERIOR:

10 U.S. DEPARTMENT OF JUSTICE  
11 ENVIRONMENT & NATURAL RESOURCES DIVISION  
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16 EARTHJUSTICE  
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19

20

21 ALSO PRESENT:

21

22 JOE AUGUSTINE TILMAN, National Park Service

22

23 AINSLEY HOLESO, National Park Service

23

24

25

1 graded it. But I was on it, though, I know that.

2 (A discussion was held off the record.)

3 Q. (BY MR. BERNARD) So you believe that you  
4 graded that road a number of times?

5 A. Probably from around at least from '73 to  
6 around '77, in that range. We -- then why we quit, I  
7 don't know, you know. We just kind of stopped grading  
8 it.

9 Q. Do you recall why you graded it? Because  
10 you've testified back in March of '08 and again today  
11 that you were never told to grade the Last Chance Road;  
12 right?

13 A. I know -- I forgot all about that little road  
14 when we did the last -- the deposition.

15 Q. Okay.

16 A. I totally forgot about it.

17 Q. Well, you also testified in March of '08 that  
18 you didn't know whether that was a County road. Do you  
19 recall that?

20 A. Probably, yeah, probably so.

21 Q. I guess my question is if you -- if you  
22 weren't told by anybody to grade it and you weren't  
23 aware that it was a County road, why would you have  
24 graded it?

25 A. Well, back then from -- we used to go out

1    there and grade, we always graded that little spur, you  
2    know. But I -- I had forgot all about that, though,  
3    I -- honestly. Gosh, it's been almost 40 years, I  
4    guess. But -- well -- we always basically graded it, I  
5    guess, and --

6           Q.   Now, you're saying, "we." Is --

7           A.   Well, there's usually two guys on graders out  
8    there.

9           Q.   Okay.

10          A.   Anyways, that's --

11          Q.   So, again, you weren't told to grade anything  
12   called Last Chance Road or -- is that correct?

13          A.   We probably were but I -- I don't remember  
14   that really, you know, to tell you the truth.

15                When we graded Willow Creek Road, we just went  
16   up there and graded that little road. And like I said,  
17   I forgot all about that little road, you know? It was  
18   in the early 70's that we graded it. Then, after that,  
19   I don't really know, to tell you the truth, and  
20   basically forgot about it.

21                I don't know if they put signs on that road or  
22   what, blocked it off. And then after that we just  
23   forgot about it, you know, and just kept -- just grade  
24   right by it up to where we turn around on Willow Creek  
25   Road and back out so just forgot about it, you know,

1 totally.

2 Q. You testified in March of 2008 that -- and  
3 we're talking about this road at E to G.

4 A. Uh-huh.

5 Q. That at one time it was a pretty decent road  
6 but through the years it just deteriorated. So my  
7 question, over what period of years did it deteriorate?

8 A. Right. It seemed like from all of the late  
9 70's, that that's when we stopped grading it, seemed  
10 like, and it just went, you know, it just went back to,  
11 like, a wash, just -- it goes up this little canyon.  
12 And, to me, I don't even know why we really graded that  
13 road; it went up to hardly nothing. Pretty view up  
14 there.

15 Have you been out there to look at it?

16 Q. I have.

17 A. Oh. Okay.

18 But it just -- it just turned into a wash,  
19 then, you know, like it is now.

20 Q. You testified in March of 2008 that the first  
21 time you went up to this road at E to G was probably in  
22 the early 1970's. And you testified that at that time  
23 it was rough but it was passable. And then you were  
24 asked whether it looked like it had been graded and you  
25 were uncertain. You said, It kind of does, but you

1 didn't know. Do you recall that?

2 A. I do. Didn't I say it looked like there was  
3 some berms or something up it? You know -- and it  
4 never dawned -- oh, I'm sorry.

5 Q. Yeah. You were asked what signs of grading  
6 you might have observed and you said you could see  
7 berms on the side where something evidently had gone up  
8 it.

9 A. Uh-huh, yes.

10 Q. But you're now testifying that you in fact  
11 were the one that graded it?

12 A. Well, I could have been the one, all right. I  
13 don't know if I left that berm there but I was up  
14 there, though, you know. Could have been the other  
15 guy. But, like I said, I just totally forgot about  
16 that little road.

17 Q. How far up that road do you recall grading?

18 A. Well, right up to where you can't go no more.  
19 It dead ends right there at that kind of lookout. We  
20 used to turn around and come back down.

21 Q. And you were up there in December of 2009;  
22 right?

23 A. I think that's when it was. I'm --

24 Q. And that -- the route of the road that you  
25 walked in December of 2009, is that the same route you

1 but --

2 Q. When did you become aware it was shown on a  
3 County map?

4 A. Well, our maps always had that little spur on  
5 there, our old maps and stuff, I'm sure, I think. I'd  
6 have to look. But our old maps show it on there, that  
7 little line there, as a County road. So --

8 Q. Did you grade it because you saw it depicted  
9 on a map or --

10 A. I didn't. I just -- they told me to go grade  
11 it, my boss, so I did.

12 MR. BERNARD: I don't have anything more.

13 THE WITNESS: I wasn't really that interested  
14 in the map part of it. I mean he just said go, you  
15 know, grade it.

16 MR. BERNARD: Just give me one minute. I  
17 think I'm done.

18 THE WITNESS: Well, to tell you the truth, he  
19 probably didn't say grade that road; it was the guys  
20 that I was following, you know, the other old timers  
21 there, they graded it so I guess I graded it too.

22 Q. (BY MR. BERNARD) So you think you saw  
23 somebody else grade it?

24 A. No.

25 Q. Somebody else with the County?

1 A. Yes.

2 Q. Do you recall how many times before 1977?

3 A. Gosh, I don't know. I couldn't really -- I  
4 don't know. I'd just be guessing. I don't -- I think  
5 that's when the -- it was still open zone out there and  
6 you could hunt, you know, anywhere before they started  
7 zoning all these areas.

8 Well, I probably -- I always didn't go up  
9 there but -- no, I can't really say for sure. I'd be  
10 guessing, you know.

11 Q. One or two times before 19 --

12 A. Oh, it's probably more than that probably. I  
13 was out there quite a bit hunting.

14 Q. And using that -- and you specifically  
15 remember using this road, the E to G road?

16 A. Yes. Sometimes I'd go up it, yes. Not all  
17 the time.

18 Q. Okay. And would you ever see anybody else on  
19 that route?

20 A. Yes, I -- yeah, I did. There would be other  
21 hunters parked up there and stuff and they'd basically  
22 walk to the -- be, what, west, I guess, up there in  
23 that big mountain there to the west up there. That's  
24 kind of where I went too.

25 Q. So you recall seeing other vehicles up there



1 in --

2 A. Yes.

3 Q. Before 1977?

4 A. Yes, I do.

5 Q. One time, two times?

6 A. You know, I -- there was vehicles up there but  
7 I can't really say how many, you know. I seen other  
8 trucks up there, jeeps, but I don't really know how  
9 many times for sure.

10 Q. Okay. But you're certain it was before 1977?

11 A. Oh, yes. Yeah.

12 Q. Why is that?

13 A. Well, that little -- that road was always --  
14 it was there all the time. It's just -- went up that  
15 wash there and everybody -- it was a good place to take  
16 off to go hunting from there, you know; it dead ended  
17 right there and everybody would just take off and go  
18 hunting, you know.

19 Q. I guess I was asking why do you remember that  
20 it was before 1977?

21 A. Because that's when I first noticed that  
22 little road, when I was out there; them guys were  
23 showing me all the roads we had to grade and he took me  
24 up that little road there. It was in the early 70's.  
25 He said he used to deer hunt up there many years before

1 you know, just for one vehicle.

2 Q. So, like, six feet maybe?

3 A. Maybe a little wider than that. A lot of  
4 times we had to drive up there and then come back down  
5 on it. And when you grade -- you could take a pretty  
6 good, you know, cut through there.

7 That wash is pretty big, actually, when that  
8 road was -- it was pretty good, you know, like I said,  
9 until it rained; then it would get all mucked out. But  
10 six to eight feet wide, probably.

11 Q. Okay. And would you have the blade down the  
12 whole time going up and coming down?

13 A. Sometimes if it's too bad, we just have to go  
14 up and turn around and come down on it, you know, pull  
15 your dirt down into the wash, you know, where it was  
16 all roughed up.

17 Q. So you'd drive up to the top of the rim --

18 A. Uh-huh.

19 Q. -- when the blade's not on the ground and then  
20 you'd blade down?

21 A. Yes.

22 Q. So you think, when we go up there tomorrow,  
23 we're going to see evidence of blading from the top all  
24 the way to the bottom?

25 A. You can see some berms. But, no, through the

1 years all that water's been down through there and, you  
2 know, flash floods and stuff, it's totally different.  
3 I mean it's, you know, a lot of that's gone.

4 But you could -- you could see in places where  
5 there was a berm, you know. But most of it's pretty  
6 well water took it out.

7 Q. Did you ever see anybody up that route using  
8 it for anything other than hunting?

9 A. Oh, I'm sure people drove up there just to go  
10 up it, I guess, and probably -- and saw the view, you  
11 know. That's about it.

12 Q. But you didn't ever see anybody doing that?

13 A. No, not really, not that much.

14 Q. Did you ever see any dirt bikes on the route?

15 A. Not sure on that. I could have but I don't --  
16 I don't remember.

17 Q. Okay. What about little quads, like an ATV,  
18 or anything?

19 A. I didn't even know if they were out then, to  
20 tell you the truth.

21 Q. Yeah.

22 And when was the last time you were on the  
23 route before you were up there in December 2009?

24 A. Shoot. Thirty years -- oh, probably from  
25 early eighties to now -- till we went up there. Long

1                               Death Valley National Park

2                               Thursday, June 9, 2010

3

4               (Discussions were had with other witnesses  
5   regarding the location, which were reported but are not  
6   transcribed herein, after which the following  
7   proceedings were had at point one:)

8

9                               LEONARD HUARTE,

10                   called as a witness by the Defendants,

11                   being previously duly sworn,

12                   was examined and testified further as follows:

13

14                               EXAMINATION

15   BY MR. BERNARD:

16               Q.   Mr. Huarte, we're resuming your deposition  
17   this morning out here on the road, on the Willow  
18   Springs Road, where the Last Chance Wash intersects the  
19   Willow Spring Road wash.

20                   Mr. Huarte, do you recall where you believe  
21   you had graded -- where you -- when you -- based on  
22   your recollections of having graded the Last Chance  
23   Road at some point, do you recall where you would have  
24   left the Willow Springs Road?

25               A.   It looks to me I think right in here where we

1 dropped off and went up.

2 Q. And what is it that causes you to believe or  
3 recall that?

4 A. Well, just the way -- I don't think I would  
5 have came in way down there and ran up this wash. I'm  
6 sure we just dropped right up -- made wings here and  
7 dropped right off and had the -- the road just going  
8 right into the narrow track, you know, up Last Chance  
9 Road. We'd just feather all this dirt and pull it  
10 down, just make a ramp down, you know, probably to the  
11 wash and then back up, because that way the wash, you  
12 know, it wouldn't eat the road out too bad.

13 Q. You mentioned creating wings. Can you explain  
14 what that means?

15 A. Oh. Yes. Just -- well, just making it wide  
16 out here for the approach. If you're coming down the  
17 road or up the road, you know, just wing it off just --  
18 just make a wing -- just narrow it down into the -- to  
19 the Last Chance Road, you know, just take it down from  
20 the wings so it just wouldn't be a narrow little track  
21 right here and you have to turn, you know, and go --  
22 just kind of ramp it off, wing it off, so you can go  
23 down and up the road.

24 Q. Do you see any -- any indication out here on  
25 the ground of those -- those wings that allows you to

1 make less than a 90-degree turn into the Last Chance  
2 Wash?

3 A. No, not really. Just the way it's ramped  
4 down, I mean kind of looks like it -- the way it went.  
5 But can't really tell.

6 MR. BERNARD: All right. That's all I have  
7 for Mr. Huarte at this point.

8

9 EXAMINATION

10 BY MR. ZUKOSKI:

11 Q. Mr. Huarte, you don't remember turning at this  
12 point in your vehicle?

13 A. It seems to me it was right in here, but I  
14 can't be sure.

15 Q. You can't be sure. And where you turned,  
16 right now, do you observe vegetation that's knee high  
17 and large rocks?

18 A. Yes, I do.

19 Q. So, again, do you see any evidence on the  
20 ground that a road grader -- that you can point to on  
21 the ground of a road grader being here?

22 A. No, I don't, really. I mean, been almost 40  
23 years. None of this -- it's changed a lot.

24 MR. ZUKOSKI: I don't have anything else.

25 ///

1 EXAMINATION

2 BY MR. BERNARD:

3 Q. So, Mr. Huarte, I think I'm a little unclear  
4 at this point. Do you think this, looking off to the  
5 northwest, you think that potentially was the Last  
6 Chance Road route?

7 A. No. I'm like Ted, I think -- we came off from  
8 up there but --

9 Q. And you're pointing up towards the 90- degree  
10 turnoff from Willow Spring Road would be --

11 A. Yes. But this could have been. I don't know.

12 Q. So if this, if this were the road, looking to  
13 the northwest, do you have recollections from having  
14 graded in from the 90-degree turn at the first point  
15 where we recommenced the deposition today, would that  
16 be incorrect?

17 A. If I thought this was the road or --

18 Q. Yes. You're pointing to the northwest.

19 A. Yes. No. I -- I just -- I still think that's  
20 it coming off right there.

21 Q. By "right there," you mean the --

22 A. Yeah.

23 Q. The first point that we started?

24 A. Right. Yes.

25 MR. BERNARD: All right. That's all I have.

1 EXAMINATION

2 BY MR. ZUKOSKI:

3 Q. Mr. Huarte, do you remember this feature off  
4 to the northwest from when you were out here previously  
5 in the seventies?

6 A. No, I don't. It seems to me that we didn't  
7 really come that far up the main wash to get up here.

8 Q. And when you're talking about the main wash,  
9 you're talking about the Willow Springs Wash?

10 A. Yes. It seemed to me that we just dropped  
11 right off our -- the Willow Springs Road and just came  
12 right off and started up here on Last Chance.

13 MR. ZUKOSKI: I have no further questions.

14 MR. KELLER: I have one follow-up.

15

16 EXAMINATION

17 BY MR. KELLER:

18 Q. We just walked up the road that you would have  
19 followed if you came on the 90-degree; is that correct?

20 A. Yes.

21 Q. Does it appear to you that -- that there was a  
22 road that traversed that area we just walked?

23 A. Somewhat, yeah. It seems like it, just the  
24 way it's, like I said, the wings coming off it, almost  
25 you -- you could almost see them where we did make it



1 point that's about a hundred yards to the east?

2 A. Uh-huh.

3 Q. But --

4 A. Yes.

5 Q. But the point directly below us here on the  
6 wash, you think that was mechanically created?

7 A. To me it does, yes, where we've ramped it off.

8 MR. BERNARD: That's all I have.

9 MR. KELLER: I don't have anything more.

10 Thank you.

11 (Discussions were had with other witnesses  
12 regarding the location, which were reported but are not  
13 transcribed herein, after which the following  
14 proceedings were had at point three:)

15 MR. BERNARD: Mr. Huarte.

16 MR. KELLER: Reopen the deposition of  
17 Mr. Huarte.

18

19 EXAMINATION

20 BY MR. KELLER:

21 Q. Mr. Huarte, do you recall these trees at all  
22 from the days you were plowing this -- grading this  
23 road?

24 A. Not really.

25 Q. Do you recall of the two possible routes we've

1 A. No.

2 MR. BERNARD: All right. Thank you.

3 That's all I have.

4 MR. ZUKOSKI: Nothing from me.

5 MR. KELLER: Nothing.

6 (Discussions were had with other witnesses  
7 regarding the location, which were reported but are not  
8 transcribed herein, after which the following  
9 proceedings were had at point six:)

10

11 EXAMINATION

12 BY MR. KELLER:

13 Q. Mr. Huarte, reopen your deposition.

14 Do you recall from point five to point --  
15 which was right where we came out of the wash -- to  
16 point six, which is here on the edge of the head of the  
17 canyon, do you recall grading to this point?

18 A. Yes.

19 Q. Do you recall if you followed the path that we  
20 walked in your grading?

21 A. I'm not sure on that. It kind of looks that  
22 way but I'm not really sure.

23 Q. Okay. But do you recall how far up the road  
24 and how close to the edge of the canyon here did you  
25 grade?

1 Q. And you think you graded all the way to this  
2 point six?

3 A. Oh, yeah. We turned around right here.

4 Q. Did you see between point five and point six  
5 any physical indication of past grading?

6 A. No, not really. That's -- couldn't tell.

7 MR. BERNARD: I believe that's all I have.

8

9 EXAMINATION

10 BY MR. ZUKOSKI:

11 Q. Mr. Huarte, did you observe any wind rows that  
12 would have been created by a blade anywhere along this  
13 route?

14 A. No, not really.

15 Q. And do you recall ever blading an area to the  
16 east of here?

17 A. No. Not really, no. We didn't -- we didn't  
18 go that way. We just came right up here. That's where  
19 we turned around.

20 Q. And by "right up here," you mean you think the  
21 path that we walked --

22 A. Yeah, we walked up. I had to -- I don't  
23 really remember coming up that little part but, like I  
24 said, that must have been it.

25 MR. ZUKOSKI: Nothing further.

1 thought --

2

3 EXAMINATION

4 BY MR. ZUKOSKI:

5 Q. Mr. Huarte, did you observe any wind rows  
6 anywhere along the course of the route we walked today?

7 A. No, I didn't.

8 MR. ZUKOSKI: Thank you.

9 MR. BERNARD: All right. With that, I think  
10 we will wrap up your deposition. Mr. Huarte, you'll  
11 receive a copy of -- a transcript of the deposition  
12 through your counsel, Mr. Keller. You'll have 30 days  
13 to review it, make any changes that you believe are  
14 appropriate. If you make any substantive changes, we  
15 would have the right to recall you and ask you about  
16 the reason for those changes. And then you will sign a  
17 statement indicating that the statements in your  
18 deposition are true and accurate to the best of your  
19 belief under penalty of perjury.

20 THE WITNESS: Okay.

21 MR. BERNARD: Do you understand?

22 THE WITNESS: Yes.

23 MR. BERNARD: All right.

24 Thank you very much.

25 THE COURT REPORTER: Same copy orders?

1 REPORTER'S CERTIFICATE

2

3 I, JERI BETH RICH, CSR NO. 4670, Certified  
4 Shorthand Reporter, certify:

5 That the foregoing proceedings were taken  
6 before me at the time and place therein set forth, at  
7 which time the witness was put under oath by me;

8 That the testimony of the witness and all  
9 objections made at the time of the examination were  
10 recorded stenographically by me and were thereafter  
11 transcribed;

12 That the foregoing is a true and correct  
13 transcript of my shorthand notes so taken.

14 I further certify that I am not a relative or  
15 employee of any attorney or of any of the parties, nor  
16 financially interested in the action.

17 I declare under penalty of perjury under the  
18 laws of the State of California that the foregoing is  
19 true and correct.

20 Dated this                      day of                      , 2010.

21

22

23

24 JERI BETH RICH, CSR NO. 4670

25

1 REPORTER'S CERTIFICATION OF CERTIFIED COPY

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4

5

6 I, JERI BETH RICH, CSR NO. 4670, Certified Shorthand  
7 Reporter in the State of California, certify that the foregoing  
8 pages 1 through 87 constitute a true and correct copy of the  
9 original deposition of LEONARD HUARTE taken on Wednesday, June  
10 9, 2010, and Thursday, June 10, 2010.

11 I declare under penalty of perjury under the laws of  
12 the State of California that the foregoing is true and correct.

13 Dated this day of , 2010.

14

15

16

17 JERI BETH RICH, CSR NO. 4670

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