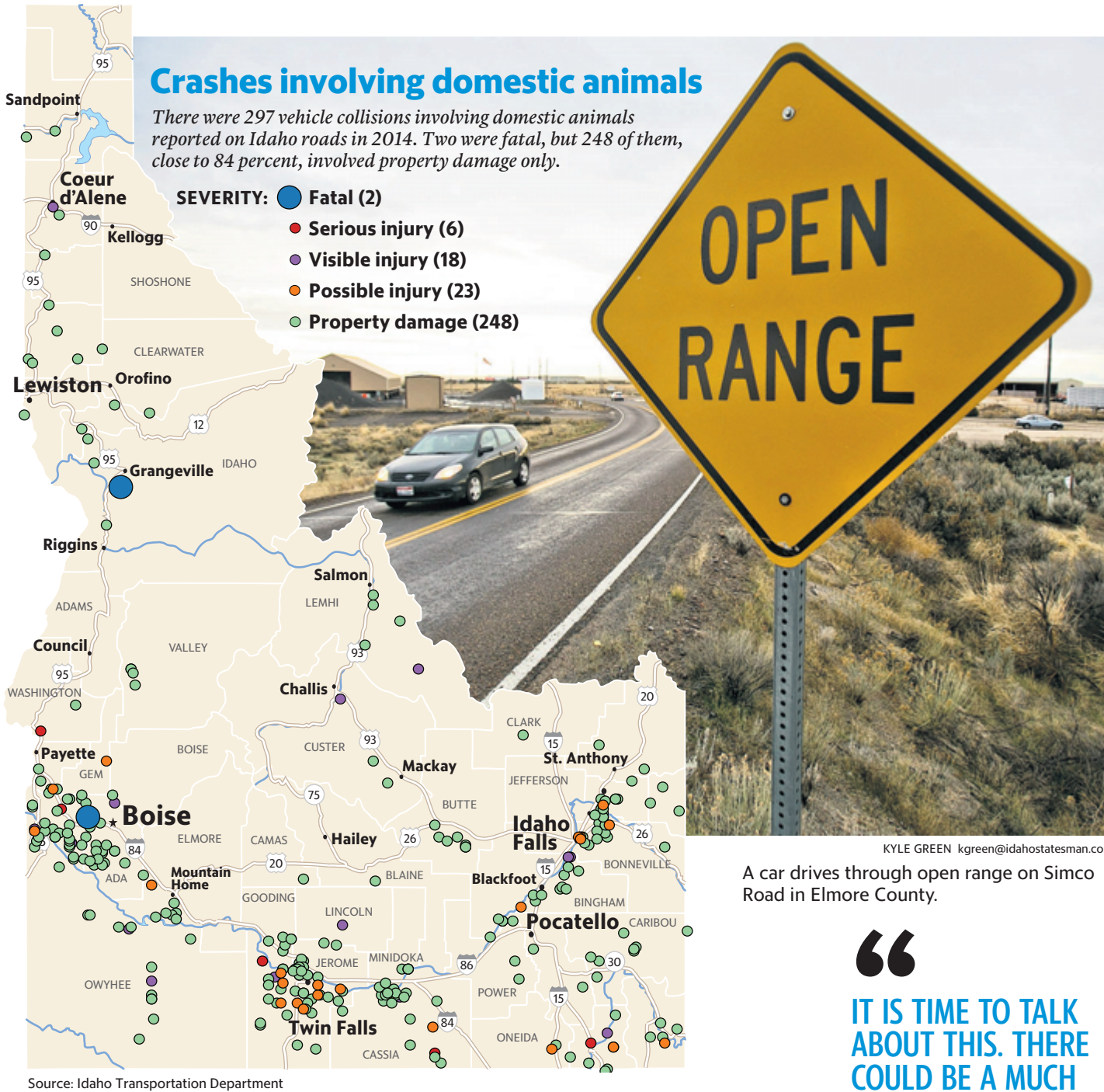


# Depth



**GUEST OPINION REFUGEES**

## Threat to America is violent extremism



BY WENDY OLSON

In 1939, four months before World War II began, the MS St. Louis, a German ship carrying more than 900 Jewish refugees fleeing persecution by the Hitler regime, was turned away in Florida. At the time, U.S. immigration law set firm caps on the number of people who could enter from specific European countries. No humanitarian exceptions were made for these refugees. The ship's passengers were forced to return to Europe, where 254 of them are estimated to have died in the Holocaust.

The U.S. Attorney's Office for the District of Idaho, like its U.S. Department of Justice colleagues and federal law enforcement partners throughout the nation, is committed to fighting terrorism and rooting out those who would engage in violent acts inspired by extremist ideology, including Islamic State. The challenge we face is daunting and it is worldwide, and we must strive to effectively keep acts of violent extremism from our shores. We know that this challenge is constant and demands our very best work. However, the threat, and our fight against it, is with radicalization and violent extremism, wherever that may be found, not with the refugee community. Trying to link the two isn't the solution to the problem.

Working through our FBI-led Joint Terrorism Task Force (JTTF), we in Idaho demonstrated our ability to do get the job done and to do the job right in the recent successful in-

SEE REFUGEES, 5C

**MORE INSIDE**

More views on refugees and immigration  
**Opinion, 4-5C**

- McClure: Don't repeat bad history
- Reeves: The refugee myths
- Fulcher: Steps to take locally
- Labrador: Constituents deserve safety

**“IT IS TIME TO TALK ABOUT THIS. THERE COULD BE A MUCH WORSE TRAGEDY.”**

*Ken Cole, Western Watershed Project*

liable not only for their injuries and damage to their vehicles, but also for the animal they strike.

In Idaho and the West, as traditional land uses cede ground to encroaching development, people and traffic, not everyone thinks that's a fair deal.

“That a rancher is not held liable for accidents that occur on highways in particular just seems kind of outdated and antiquated,” said Ken Cole, Idaho director of the Western Watershed Project, an environmental group. “These laws were written for a time that no longer exists.”

The issue has surfaced again — as it typically does — after an accident. This time, it's one far more tragic than most. On Nov. 1, a Nampa couple struck a one-ton bull on U.S. 95 in Adams County, both suffering serious injuries.

SEE OPEN RANGE, 2C

# Ag-friendly laws rule rural Idaho

On open range, accidents with livestock are motorists' liability exclusively

Established first by tradition, then in law, reflecting how West was won

Collisions stir debate, but law affirmed by state's high court in 2007

BY BILL DENTZER  
bdentzer@idahostatesman.com

In March 2004, a motorcyclist riding through Lincoln County came over a slight rise in the road, hit a calf and died. In that moment, new West and old West collided, and not for the first or last time.

The rider's family sued. The calf's owner, the family claimed in court, had failed to

**15**  
Number of Western states that have open range laws

maintain fencing along the road. The family lost in a case that eventually went to the Idaho Supreme Court. Fencing notwithstanding, the accident had occurred in open range territory, where long-standing tradition, eventually

written into law, absolves livestock owners from liability in such cases.

It's a standard straight out of the code of the West, reflecting the history of its settlement and establishing a pecking order among landed interests: ranchers first, farmers next. Motorists, who came much later, are on notice: Those unlucky enough to collide with livestock in the open range are financially



Photo provided by Garner family

This is the Subaru that collided with rancher Jack Yantis' bull on U.S. 95.

FROM PAGE 1C

## OPEN RANGE

Police summoned the owner to euthanize the animal. But in an exchange of gunfire that authorities have yet to sort out or rule upon, rancher Jack Yantis ended up dead at sheriff's deputies' hands.

Cole and the Western Watershed cited the accident a few days after in their quest to at least modify open range, an issue he calls a "political hot potato."

"I think in some ways we're kind of a lone voice in that we speak publicly about these issues," he said. "The backlash on talking about it is pretty vocal. You say something bad about livestock grazing and you're attacked. ... You bring this issue up outside of context and people really ignore it. But it is time to talk about this. There could be a much worse tragedy."

Lt. Gov. Brad Little, a rancher, said as much in a recent talk with Idaho

Statesman editors.

"I tell my cattlemen friends," he said, "You have a school bus hit a bull, you're not going to like the way the open range laws in Idaho are changed."

Those who back open range — and in Idaho, where agriculture dominates, that's a majority of interests — say that the law had no bearing on what happened in Adams County. Ranchers and farmers predate roads and cars, and the burden lies with motorists to remain vigilant for domestic animals, just as they would for wildlife.

"If we never had an open range law, or if it had been abolished before that accident happened, nothing would be different today with regard to what happened," said John Thompson of the Idaho Farm Bureau Federation, whose 74,000 members include 12,000 full-time ranchers and

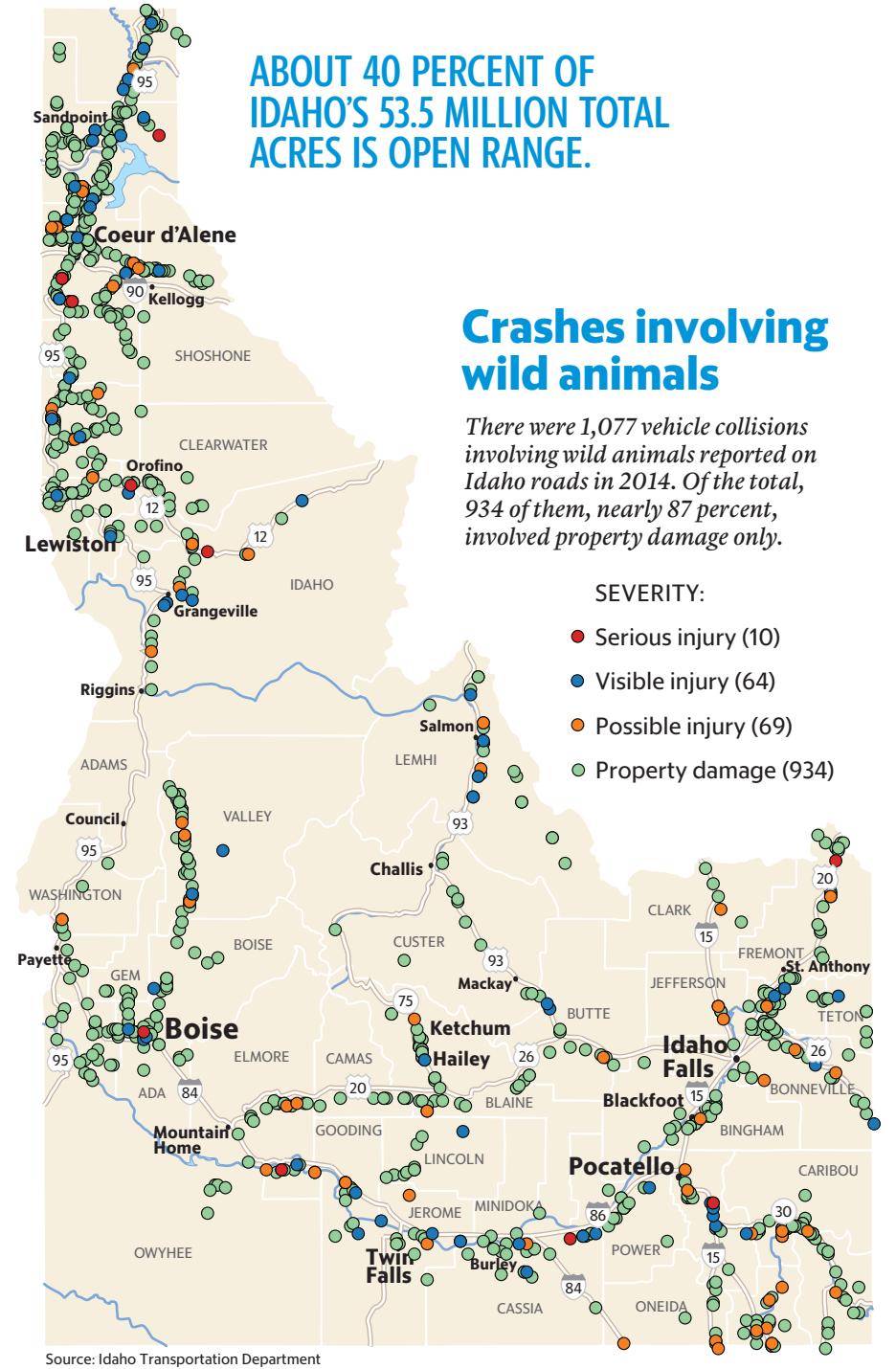
farmers.

"People seem to think that if you get rid of that law or have some other law, that says all livestock have to be fenced in, that that means livestock are never going to be out again, that's just foolish. You think about a bull that weighs 2,000 pounds, plus he's going to go where he wants to go, if he gets spooked or chased by something or whatever."

### FENCING OUT, IN

So entrenched is open range in tradition and common law here that it wasn't officially defined in state code until 1961, when it was described as unenclosed lands "outside of cities, villages and herd districts, upon which cattle by custom, license, lease, or permit, are grazed or permitted to roam."

Herd districts, which are closed range, were defined in 1907. They allow groups of landowners to create pockets where domestic animals must be enclosed. In Idaho, they number in the dozens, mostly in the southern part of the state,



ABOUT 40 PERCENT OF IDAHO'S 53.5 MILLION TOTAL ACRES IS OPEN RANGE.

## Crashes involving wild animals

There were 1,077 vehicle collisions involving wild animals reported on Idaho roads in 2014. Of the total, 934 of them, nearly 87 percent, involved property damage only.

### SEVERITY:

- Serious injury (10)
- Visible injury (64)
- Possible injury (69)
- Property damage (934)

and are created at the county level, either by commissioners or by a majority of landowners in a region. The process involves many steps and is not easily accomplished.

The Idaho Rangeland Resource Commission says at least 20 counties have them — Ada County has 28. At least eight counties have none.

Where open range applies, the prevailing concept is "fence out" — landowners who want to keep animals off their property must erect a fence. And fences must meet strict criteria on height, wire gauge and post spacing. In closed range areas, "fence in" applies.

The principle of open range predates statehood throughout the West. According to a state-by-survey conducted last summer by Progressive Cattleman magazine, 15 Western states still have open range laws on their books, though these statutes have been ratcheted back to varying degrees, either in law or in practice. California, for example, has just six counties where open range is at least partially in effect. Texas, in 1981, revised its laws and included a change to close range along state and federal highways. Livestock owners there are still largely free from liability, with the law saying only that they may not "knowingly permit" their stock to roam free.

In 2000, Montana reversed decades of precedent in a case where a motorist struck an Angus bull and sued. After lower courts dismissed the case, citing open range, the state's Supreme Court went the other way, finding that motorists and livestock owners each had an equal right to occupy the highway and should share the liability. The next year, the Montana Legislature promptly stepped in to change the law, absolving livestock owners of liability except in cases of "gross negligence."

### 2014 CRASHES

The data on accidents show that in Idaho, vehicle collisions with wildlife far outnumber those with domestic animals. State-wide, nearly 1,100 acci-

dents involved wildlife in 2014, according to the state Transportation Department.

By comparison, about 300 accidents involved domestic animals, two of which were fatal to motorists. In March 2014, an Emmett woman died in a collision with a horse on Idaho 16 in Eagle. That accident occurred in closed range.

The other death occurred in September on open range in Idaho County, where a motorcyclist died in an accident involving his dog and another vehicle. No charges were filed in either accident.

Typically, states use highway signs to caution motorists if they are driving in an open range area, said Rusty Rumley, senior staff attorney with the National Agricultural Law Center at the University of Arkansas in Fayetteville. But signs don't get into the fine print explanation. Idaho's signs simply read "Open Range."

Existing laws throughout the West are old, Rumley said, and lawsuits over liability don't usually get far in the courts before they are settled or dismissed. In states where laws are still on the books, "I don't know if all of them actually currently have cattle grazing under an open range," Rumley said.

Idaho's open range definition refers to "highways" generically; it is silent on whether it applies on interstates, for instance. The Statesman asked federal, state and local authorities about the issue; none could verify whether interstates passing through rural areas are open range.

Open range issues also divide ranchers and farmers. Such was the case in Soda Springs in 2006, when the Idaho Attorney General's Office stepped in to help mediate when ranchers' livestock were getting into farmers' crops. The AG's advice for both sides: work it out among yourselves. Farmers do have recourse to deal with domestic animals that damage crops if their property is enclosed by a legal fence.

Where the Rangeland Resource Commission supports ranchers' interests and open range,

groups such as the Idaho Grain Producers Association say the concept is antiquated and want changes "to bring fairness and balance" all around.

Open range is "a law that we need to continue to have but we also need to respect other people and their property also," said IGPA Secretary/Treasurer Dwight Little. "It's tough to keep cows in a dry pasture when there's a green grain field close by."

### AGRICULTURE

On the insurance side, the Idaho Supreme Court's 2007 ruling establishing the open range liability exemption for livestock owners made it very easy to decide claims.

"We just have to know whether it's open range or not," said Tom Lyons, general counsel of the Farm Bureau's insurance affiliate. The rules might seem unfair to someone living in a Treasure Valley city, Lyons said, but in rural Idaho, they go without saying.

"Our economy is so based on agriculture," he said, "that we still certainly favor the farmer/rancher. That can clearly be seen in our law. The Supreme Court made it pretty clear. It doesn't matter if you have fences (in open range) or not."

For motorists, said Tim Stronks, the company's vice-president for personal lines, "it just comes back to having adequate limits on your policy." Liability coverage minimums required under state law are \$25,000 per person and \$50,000 per accident. That barely covers the cost of many new cars, and average coverage chosen in Idaho is \$100,000 per person and \$300,000 per accident, he said.

Like most Idaho motorists, Bill Dentzer's only meaningful encounter with state open range law occurred in a question on his driver's license test. Tipped off ahead of time, he answered it correctly. 208-377-6438, @IDSbilld



# FROM SOUP TO NUTS

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