



MEMORANDUM

Attn: Senator Heller

From: Stephen Sifuentes

Re: **U.S. OF AMERICA vs CLIVEN BUNDY**

**Information was taken from United States District Court of Nevada, Case No. 2: 12-cv-0804-LDG-GWF, Lloyd D. George, United States District Judge, 9th day of July, 2013*

BACKGROUND:

- May 14, 2012 – U.S. filed a complaint for injunctive relief to prevent Bundy’s alleged unauthorized and unlawful grazing of livestock on property owned by the U.S. and administered by the Secretary of the Interior, BLM and National Park Service, and for trespass damages
- November 3, 1998 – the court permanently enjoined Bundy from grazing his livestock within the Bunkerville Allotment and ordered Bundy to remove his livestock from the Allotment before Nov. 30 1998 (*U.S. v. Bundy*)
 - court ordered the U.S. was entitled to trespass damages from Bundy for livestock left on the Bunkerville Allotment
 - U.S. alleges that not only did Bundy fail to comply with court’s orders to remove his cattle and pay the financial penalties and are now trespassing on a broad swath of additional federal land (the New Trespass Lands)
 - Including public lands within the Gold Butte area that are administered by the BLM, and the NPS within the Overton Arm and Gold Butte areas of the Lake Mead National Recreation Area

SUMMARY:

- Bundy principally opposes the United States’ motion for summary judgment on the ground that the court lacks jurisdiction because the United States does not own the public lands
- As the court previously ruled in *United States v. Bundy* “the public lands in Nevada are the property of the United States because the United States has held title to those public lands since 1848, when Mexico ceded the land to the United States”
- Mr. Bundy is incorrect in claiming that the Disclaimer Clause of the Nevada Constitution carries no legal force, that the Property Clause of the United States Constitution applies only to federal lands outside the borders of states, that the United States’ exercise of

ownership over federal lands violates the Equal Footing Doctrine, that the United States is basing its authority to sanction Bundy for his unauthorized use of federal lands on the Endangered Species act as opposed to trespass, and that Nevada's "Open Range" statute excuses Bundy's trespass

- The U.S. has submitted Bundy's deposition excerpts indicating that Bundy has grazed livestock on the New Trespass Lands and further evidence of the trespass of Bundy's cattle in those areas
- Bundy has produced no valid law or specific facts raising a genuine issue of fact regarding federal ownership or management of public lands in Nevada, or that his cattle have not trespassed on the New Trespass Lands

INJUNCTIVE RELIEF

- The United States has demonstrated that the equities and the public interest strongly favor an injunction
- The public interest is best served by having the federal lands managed without the presence of trespassing cattle on lands that are closed to grazing
- The public interest is also best served by removal of trespassing cattle that cause harm to natural and cultural resources or pose a threat to the health and safety of member of the public who use the federal lands for recreation

**Information was taken from <http://www.breitbart.com/Big-Government/2014/04/12/The-Saga-of-Bundy-Ranch>*

TIMELINE:

- Bundy family claim to have enjoyed generations of grazing rights on federal land originating in the 1870s
- Bundy family battle with the federal government began in 1993 with the listing of a native tortoise incorporated under the Endangered Species Act
- U.S. Department of Interior's BLM informed grazing permit holders that cattle counts would need to be reduced to 150 head
- Bundy's permit was eligible in 1993 for renewal but was not executed
- Bundy's Permit was revoked in 1994 by the BLM for nonpayment on the renewal
- 1998 – Bundy family continued to graze livestock on their old Bunkerville Allotment without permit, the BLM sought an injunction in federal court
- Nov. 30, 1998 – court ordered the Bundy family to remove all non-permitted livestock or face fines of \$200 per head, per day
 - Bundy family appealed to the 9th Circuit Court – denied May 1999
- 2000 – 2011 – BLM performed a series of investigations with a variety of reconnaissance tactics to track the alleged trespass of cattle owned by the Bundy family
 - Court records show that federal agents noted increasing herd sizes on the land formerly allotted and adjacent tracts which were never permitted to private parties
 - Investigators noted that more than half of the cattle did not bear any brand but were confirmed to be the property of Bundy

- June 2011 – BLM sent a cease and desist order to impound stray cattle in July 2011
- Nov. 2011 – National Park Service sent a separate letter regarding alleged trespass on the two new tracts with a 45 day impound
- Court records show GLM claimed to have surveyed 600 head of cattle on New Trespass Lands (described as a nature preserve by the DOJ) in Feb. 2012
 - March 2012 – figure was officially revised upward to 790, accounting for recently born calves
- April 2012 – court records indicate that a final administrative effort was made on the part of the BLM to resolve the alleged trespass on the tracts
 - Fed. Agents attempted to broker a deal involving the Clark County Sherriff that would allow cattle to be wrangled and transports to a sales market of the Bundy family's choosing and allow the family to keep all proceeds
- May 2012 - U.S. Government filed a new civil lawsuit against the Bundy Family for specific alleged trespass on the New Trespass Lands and the Lake Mead recreational area
 - U.S. Government claimed that cattle on or near the two off-limits tracts posed a significant risk to public safety
- July 2013 – federal court granted the DOJ's motion for summary judgment in favor of the U.S. Government
 - Court reiterated its position that the public lands of NV are the property of the U.S. because the U.S. has held title to those public lands since 1848, when Mexico ceded the land to the U.S.
- Feb. 2014 – the 9th Circuit Court of Appeals again rejected Bundy's claims