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2013 FEB 22 P 2:55

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. CV 2:12-cv-00804-LDG-GWF

CLIVEN D. BUNDY

Defendant.

**DEFENDANT'S REPLY TO UNITED STATES'
OPPOSITION TO DEFENDANT'S REQUEST
FOR EVIDENTIARY HEARING**

This document is timely filed.

Plaintiff assets in part as follows:

In his reply in support of his cross-motion to dismiss for lack of subject-matter jurisdiction ("Bundy Reply," ECF No. 31), Defendant Bundy devotes the majority of his brief to rearguing points that were, or should have been, asserted in his opposition to the United States' motion for summary judgment. In addition, Defendant Bundy added to his reply brief the following:

"An Evidentiary Hearing on the Cross-Motion to Dismiss is now in order and is respectfully requested by Defendant to bring forth witnesses showing that Bundy is not the ilk of the community. Moreover, an Evidentiary Hearing is in order to allow Defendant to cross examine the government witnesses that filed all the affidavits as to where they found cattle and improvements allegedly placed on the "New Trespass Lands."

Id. at 7.

The United States interprets Defendant Bundy's request as a motion seeking two alternative forms of relief: a request to introduce evidence extraneous to the complaint in support of his Rule 12(b)(1) motion to dismiss; and a request for discovery in support of his opposition to the United States' motion for summary judgment pursuant to Rule 56(d). Both requests are without merit and should be denied.

Plaintiff is confused about what Defendant has brought forth in his final pleading and tries to mislead this Court into thinking that Defendant cannot challenge evidence or is foreclosed in cross examining evidence Plaintiff has put before the Court. Plaintiff says, we alleged it; therefore it is true, go sit in the truck, case closed. Defendant does not think that this Honorable Court will allow that.

Plaintiff in its last pleading tried to expand its relief request to a global application beyond the "New Trespass Lands" and that is what prompted Defendant to request an Evidentiary Hearing testing the facts offered in evidence by Plaintiff.

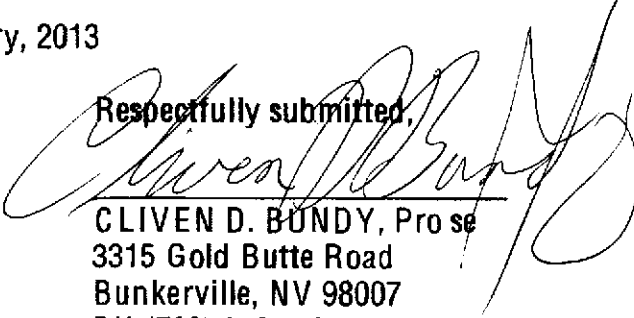
Moreover, there are many more affirmative defenses offered in this matter than the subject matter jurisdiction challenge (which Defendant understands may not survive) that this Honorable Court can address at this time or Order to be set aside for another time.

CONCLUSION

Therefore, Plaintiff's requests should be denied and Defendant's request for an Evidentiary Hearing be Granted.

DATED this 22 day of February, 2013

Respectfully submitted,


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PROOF OF SERVICE

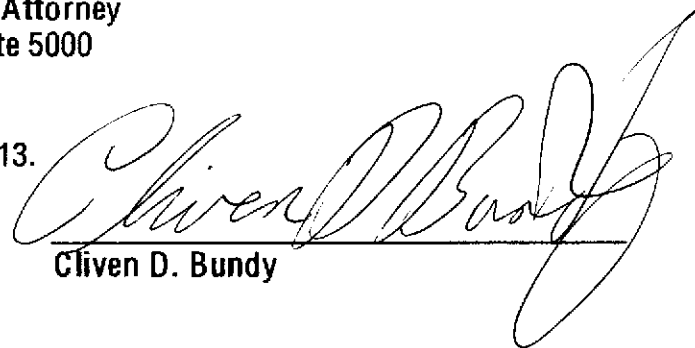
I, Cliven D. Bundy, certify that this document entitled **DEFENDANT'S REPLY TO UNITED STATES' OPPOSITION TO DEFENDANT'S REQUEST FOR EVIDENTIARY HEARING** was served upon Plaintiff on this date by the below identification method of service:

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Dated this 22 day of February, 2013.


Cliven D. Bundy