

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRONT RANGE EQUINE RESCUE,
et al.,

Plaintiffs,

v.

Civ. No. 1:13-cv-00639-MCA-RHS

TOM VILSACK, Secretary,
U.S. Department of Agriculture, et al.,

Federal Defendants.

**DEFENDANT-INTERVENOR THE CONFEDERATED TRIBES AND
BANDS OF THE YAKAMA NATION'S RESPONSE TO PLAINTIFF'S
EMERGENCY MOTION TO MODIFY THE AMENDED TEMPORARY
RESTRAINING ORDER**

The Yakama Nation, by its counsel of record, responds as follows to Plaintiffs' Emergency Motion To Modify the Amended The Temporary Restraining Order:

The Yakama Nation opposes amending the Temporary Restraining order because it is *undisputed* that feral horses are devastating the Yakamas' tribal lands. See Declaration of James Stephenson (Docket #71), submitted in support of Yakama Nation's Motion to Intervene, and incorporated herein by reference. In his Declaration, at ¶ 16, Mr. Stephenson states that it is critical that horse slaughter facilities be available if the Yakama Nation is to address the problems associated with a massive excess of feral horses on its tribal range lands. *Id.*, ¶¶ 5 and 6 (lands can sustain 1,000 feral horses but 12,000 horses are there now and the population will double every four years). As Mr. Stephenson explains, the feral horses on Yakama lands have denuded much of the Nation's lands, thereby eliminated herds of elk and deer and seriously compromising streams because of silt runoff. *Id.*, ¶¶ 10 and 11. Plaintiffs have offered no evidence that contradicts any of these assertions. Rather, they have simply ignored them. The

Yakama Nation respectfully submits that these undisputed facts militate strongly against amending the TRO to include additional horse slaughter facilities that may become licensed and available to address the problems faced by the Yakama Nation's overpopulation of feral horses. These undisputed facts go directly to the balance of equities, the public interest, and the harm to the Yakama Nation intervenor in the Court's consideration of the pending Emergency Motion.

For these reasons, and for the reasons stated by other defendants-intervenors, the Yakama Nation respectfully requests that the Plaintiffs' Emergency Motion to Modify the Amended Temporary Restraining Order be denied.

Respectfully submitted,

FREEDMAN BOYD HOLLANDER
GOLDBERG URIAS & WARD, P.A.

/s/ John W. Boyd

John W. Boyd
David Urias
20 First Plaza, Suite 700
Albuquerque, NM 87102
Telephone: (505) 842-9960
Facsimile: (505) 842-0761
Email: jwb@fbdlaw.com
Email: dhu@fbdlaw.com

OFW LAW
Olsson Frank Weeda Terman Matz PC
Gary H. Baise
Stewart D. Fried
John G. Dillard
The Watergate
600 New Hampshire Ave., NW
Suite 500
Washington, D.C. 20037
Office: (202) 789-1212
Fax: (202) 234-3550
gbaise@ofwlaw.com
sfried@ofwlaw.com
jdillard@ofwlaw.com

*Attorneys for Defendant-Intervenor
Yakama Nation*

CERTIFICATE OF SERVICE

I CERTIFY that on the 20th day of September, 2013, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ John W. Boyd

John W. Boyd