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19 *Application to be Submitted*

20 **IN THE EIGHTH JUDICIAL DISTRICT OF THE STATE OF NEVADA**
21 **IN AND FOR CLARK COUNTY, NEVADA**

22 CLIVEN BUNDY, an Individual,

23 Petitioner

24 v.

25 STATE OF NEVADA, *ex rel*, and CLARK
26 COUNTY, a Subdivision of the State of
27 Nevada; DOES I-X; and ROE
28 CORPORATIONS XI -XX,

Respondents.

Case No. A-18-768422-P

Dept. No. Department 28

COMPLAINT REQUESTING
DECLARATORY AND INJUNCTIVE
RELIEF

*(Exempt From Arbitration, Declaratory
Relief Requested)*

Petitioner, Cliven Bundy, of his free own act and will, hereby makes verified complaint, upon sworn declaration, and hereby charges the Respondent of the following:

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I. INTRODUCTION

1. The United States of America claims to own at least 85% of all of the land commonly referred to as “Nevada” that is not owned by private citizens or private interests; and,

2. The “Nevada” land, during the process of formation, organization, and establishment of the Western states, was held temporarily as Territories of Nevada, Utah and Arizona, in a constitution administrative capacity, by the U.S. Government to be distributed to the citizens of Territories as new States; and

3. As prescribed by the US Constitution (Article 4, section 3) the land was disposed of by US Congress to the People of Territory of Nevada, forming the State of Nevada, admitted to the union of the United States in 1864, and later, portion of the Territories of Utah and Arizona was disposed of also to the State of Nevada as two separate Acts of US Congress in 1866.

4. As the U.S. Supreme Court explained in *Pollard v. Hagan*, 44 U.S. (3 How.) 212, 222 (1845) (emphasis added) regarding the establishment of “ceded lands” in the several States:

“... taking the legislative acts of the United States, and the states of Virginia and Georgia, and their deeds of cession to the United States, and giving to each separately, and all jointly, a fair interpretation, we must come to the conclusion that it was the intention of the parties to invest the United States with the eminent domain of the country ceded, both national and municipal, for the purposes of temporary government, and to hold it in trust for the performance of the stipulations and conditions expressed in the deeds of cession and the legislative acts connected with them”; and,

5. This describes the constitutional procedural growth pattern of the United States:

“More importantly, it [The Northwest Ordinance] established that the United States would not act as a colonizing agent of new lands but

1 would extend to those territories (after an orderly development of social,
2 legal, and political institutions) an invitation to join as equal partners in
3 union. The goal of the Ordinance, and of the founding generation that
4 enacted it, was to create an empire of liberty, a union of republican
5 states committed to the betterment of all citizens.”

6 Property and Republicanism in the Northwest Ordinance, 45 Ariz. St. L.J. 409, 462 (2013);
7 and,

8 6. Furthermore, the legislature of Nevada has never consented to allow the
9 U.S. Government to own at least 85% of the land within Nevada's borders; and,

10 7. The intent of the Territorial Legislature was not to cede the land to the US
11 Government “forever”, but to clear title of all unappropriated lands within the Territory so
12 U.S. Congress could dispose of the lands to the State of Nevada.

13 8. Additionally, Nevada legislature expressly repudiated federal ownership
14 of the subject land when it enacted a series of statutes declaring ownership of and control and
15 jurisdiction over all "public lands" within Nevada. See Nevada Revised Statutes §§ 321.596 -
16 321.599. See also *United States v. Gardner*, 107 F.3d 1314, 1320 (9th Cir. 1997); and,

17 9. The Treaty of Guadalupe Hidalgo prescribes that the protection of the
18 peoples rights be “incorporated into the Union of the United States, and be admitted at the
19 proper time (to be judged by the Congress of the Untied States) to the enjoyment of all the
20 rights of the citizens of the United States, according to the principles of the constitution; and
21 in the mean time shall be maintained and protect in the free enjoyment of liberty and
22 property, and secure in the free exercise of their religion without restriction.” Article IX,
23 Treaty of Guadalupe Hidalgo.

24 10. Petitioner asserts that in *United States v. Gardner*, 107 F.3d 1314 (9th Cir.
25 1997) (“*Gardner*”) the Court erred in distinguishing the establishment of the Western states
26 from the original thirteen Colonies; and,
27

28 11. On the contrary, the equality of treatment of all the States admitted to the

1 Union was and still is a bedrock principle of the union of the United States which cannot be
2 so easily discarded as a mere technicality; and,

3 12. There can be no greater or lesser States, only States; and,

4 13. There can be no legal inferiority of some States in comparison with
5 others; and,

6 14. Thus, the distinction in *Gardner* that the original thirteen Colonies be
7 analyzed differently legally from the later-admitted States is untenable and unsustainable in
8 constitutional law; and,

9 15. James Madison included provisions for equality in admission of the
10 Western states in the first draft of the Constitution: "If admission be consented to, new states
11 shall be admitted on the same terms with the original states." Madison insisted that "the
12 Western States neither would nor ought to submit to a union which degraded them from an
13 equal rank with the other States." 2 Madison, "Journal of the Debates in the Convention
14 which Framed the Constitution," 274 - Hunt's ed. 1908; and,

15 16. Finally, however, on May 5, 1866, the U.S. Congress approved "An Act
16 Concerning the Boundaries of the State of Nevada," which added additional territory to
17 Nevada, in redefining (via, boundary realignment) the boundaries of Arizona and Nevada
18 which erased any possible prior claim of the United States of America to the public lands
19 within Nevada's borders; and,

20 17. Pursuant to that Act, Congress granted the lands at issue in this case to the
21 State of Nevada, specifically indicating that the land "is hereby added to and made a part of
22 the state of Nevada" but including specifically "all that extent of territory lying within" the
23 boundaries discussed therein, which most notably includes The Bundy Ranch; and,

1 18. This transfer was conditioned on the acceptance of the land by the Nevada
2 Legislature, and also prohibited the Nevada Legislature from interfering with the possessory
3 rights acquired by the People, of the The United States of America, in certain mining claims
4 within the region, and reiterated that any such mining claims were possessory rights; and,
5

6 19. Relevant here, this transfer included the land South of the 37th parallel
7 and West of the Colorado River. Those lands include The Bundy Ranch on which
8 Petitioner's family has, for several generations, about 141 years to be exact, grazed its cattle;
9 and,
10

11 20. The land was accepted by Nevada's Legislature and in 1983 the Nevada
12 Constitution was amended to accurately reflect these boundaries at that time; and,
13

14 21. Just before leaving office, on December 28, 2016, President Barack
15 Obama designated by an executive order (the "Proclamation") a federal enclave, titled the
16 Gold Butte National Monument under the Antiquities Act of 1905, codified at 54 U.S.C. §
17 3203, consisting of 300,000 acres outside Las Vegas; and,
18

19 22. This new federal seizure of Nevada's land is as illegal as it is unlawful,
20 because the Antiquities Act of 1906 being invoked only applies when the federal government
21 owns the land on which a national monument is designated, as is admitted in the
22 Proclamation; and,
23

24 23. This designation includes land that makes up The Bundy Ranch; and,
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26 24. If left unchallenged, President Obama's designation would preclude the
27 Petitioner and The Bundy Ranch from continuing to function on the land, which it has used
28 for at least 141 years, as well as disrupt the operations of The Bundy Ranch and destroy the
Petitioner's livelihood; and,

1 25. The Petitioner has acquired and claims (perfected and recorded)
2 prescriptive rights, including water, grazing, and property rights, and a prescriptive easement
3 to use these specific “public lands”, owned by all the People of Nevada and its subdivision,
4 Clark County, for raising and grazing cattle, as well as operating as The Bundy Ranch; and,
5

6 26. The lands used by The Bundy Ranch belong to the People of Nevada and
7 Clark County, it’s subdivision, including but not limited to the Bundy Family; and,
8

9 27. Nevada owes a duty to vindicate and defend its rights, its People’s rights,
10 and the Petitioner’s right to the land, including Petitioner’s right of quiet enjoyment of
11 Nevada's land used lawfully by the Petitioner for grazing rights.

12 **II. PARTIES**

13 28. Petitioner, Cliven D Bundy, is one of the People who lives on the land
14 commonly referred to as Nevada. Petitioner is a rancher who raises livestock numbering at
15 various times around 1,000 head of cattle on approximately 160 acres of privately owned
16 land, and upon approximately 300,000 acres of unclaimed land belonging to the People of
17 Nevada and Clark County. Petitioner Bundy is a person within the meaning of **NRS 30.020**.
18

19 29. Respondent, Nevada, is a state of The United States of America,
20 sovereign outside of the limited authority granted to The United States of America and as
21 restricted by the U.S. Constitution. Nevada is brought in this action as the de jure protector
22 of Nevada's public lands whose failure to act has caused actual, significant harm and injury
23 to Petitioner, Cliven D Bundy, his descendants and the people of Nevada; and,
24

25 **III. STANDING**

26 30. Petitioner, Cliven Bundy and his family have an interest in this dispute
27 and standing to bring this cause because the The United States of America claimed, in short,
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1 that Cliven D Bundy conspired to interfere with, threatened, and assaulted agents of the
2 United States Federal Government in the course of their allegedly lawful duties upon lands
3 within the borders of Nevada; and,
4

5 **31. The lands in question belong to People of Nevada and Clark County**
6 **and neither the Federal Government nor any federal court or agency have jurisdiction**
7 **over the land; and,**

8 32. Petitioner, a private rancher, owns 160 private acres and co-owns all the
9 unclaimed land (public lands) along with all the People of Nevada and Clark County equally;
10 and,
11

12 33. The Bundy family has operated the same ranch on the same land for
13 generations, for at least 141 years; and,

14 34. Petitioner has acquired and claims (perfected and recorded) prescriptive
15 rights, including water, grazing, and property rights, and a prescriptive easement to use these
16 specific public lands owned by the State of Nevada for raising and grazing cattle, operating
17 as The Bundy Ranch; and,
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19 35. Further the federal government failed, at all material times, to inform
20 Bundy that the (common-law) common of pasture rights regarding use of the public land by
21 adjoining property owners with long standing rights promulgated in 43 C.F.R. §4130.5
22 provides further details:
23

24 “A free-use grazing permit shall be issued to any applicant whose
25 residence is adjacent to public lands within grazing districts and who
26 needs these public lands to support those domestic livestock owned by the
applicant.” Id. (emphasis added); and,

27 36. Recognizing that the land is not owned by The United States of America,
28 Petitioner has avoided erroneously giving money to an entity which does not actually own

1 the land and has been careful to not give money erroneously to a stranger to the land; and,

2 37. Thus, there is an actual, significant legal controversy of great
3 consequence not only to Petitioner in terms as to whom has ownership and jurisdiction of the
4 land but to People of Nevada and Clark County, the rightful owners of Nevada land; and,
5

6 38. Thus, in effect, Petitioner is in a position entitling Petitioner to declaratory
7 judgment; and,

8 39. Petitioner is affected by the controversy because he had been charged
9 with interfering with agents of the U.S. Government in the course of their allegedly lawful
10 duties in seeking to collect grazing fees on behalf of The United States of America as well as
11 had the subject land recently nationalized by former Present Barrack Obama during his last
12 days in office;
13

14 40. The U.S. Government's unlawful claims have taken away Petitioner's,
15 Cliven Bundy's right to ranch his cattle, as his family has done for the past 141 years; and,
16

17 41. As the result of the U.S. Government's unlawful claims, Petitioner has
18 suffered substantial injury, as his cattle are his only source of income; and,

19 42. The actions of the federal government with regard to The Bundy Ranch
20 and Petitioner are based upon the U.S. government's claim of ownership as the owner of the
21 land, and not in the more usual legislative or regulatory role of the U.S. Government; and,
22

23 43. However, The United States of America does not own the land; and,

24 44. Because The United States of America does not own the land in question,
25 the U.S. Government and its Federal Court's and law enforcement authorities lack
26 jurisdiction over that land as an owner; and,
27

28 45. As a consequence of this legal controversy, Petitioner has been subject to

1 adverse legal consequences, unlawful demands, and unlawful enforcement actions creating
2 an imminent and significant stake in the controversy and injury from the controversy; and,

3
4 46. Therefore, a resolution of the dispute by declaratory judgment is
5 warranted.

6 **IV. CAUSES OF ACTIONS**

7 **FIRST CAUSE OF ACTION**

8 **Actual Dispute of Ownership of Real Estate Affecting the Petitioner**

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10 47. Petitioner, Cliven D Bundy, repeats and re-declares all of the previous
11 declarations of the entirety of this Complaint, including, but not limited to, the Introduction,
12 with the same force and effect, as if fully set forth herein again at length; and,

13 48. The lands within Nevada State are the property of the People of Nevada
14 and Clark County, unencumbered and free of any claim by The United States of America, the
15 United States, or the U.S. Government, with the exception of any specific military base, U.S.
16 Government office building, or U.S. Government facility explicitly and unambiguously sold
17 or ceded by Act of the Nevada Legislature to the U.S. Government in pursuance of Article I
18 section 8 clause 17 of the Constitution for The United States of America; and,

19
20 49. Petitioner, as a man who has lawfully acquired grazing, water, and other
21 rights to the lands in question, is directly affected by the dispute and a conclusion of
22 ownership over the lands in question; and,

23
24 50. The State of Nevada and its subdivision , Clark County, and its People
25 have declared sovereignty, claim of sole ownership as sovereign of all of the lands within the
26 external boundaries of Nevada State by the 1983 Nevada Constitutional amendment and the
27 statutes of Nevada N.R.S. §§ 321.596 - 321.599, in direct contradiction to the claim of The
28 United States of America; and,

1 51. However, the government of the State of Nevada and its subdivision,
2 Clark County, have thereafter refused to enforce and vindicate the rights of Nevada, Clark
3 County and its People; and,

4 52. The claim of The United States of America¹, or the “United States”² is
5 purely in its role as a putative owner of real estate in a commercial capacity, and not in any
6 legislative or regulatory role; and,

7 53. Therefore, Petitioner is entitled to declaratory judgment that the lands
8 upon which he and his family have conducted its ranching, The Bundy Ranch, for
9 generations is property belonging to the People of Nevada and its subdivision, Clark County;
10 and,

11 54. Pursuant to Nevada's enactment of the Uniform Declaratory Judgments
12 Act. at Nevada Revised Statutes (N.R.S.) 30.010 through 30.160,

13 “Courts of record within their respective jurisdictions shall have power
14 to declare rights, status and other legal relations whether or not further
15 relief is or could be claimed. No action or proceeding shall be open to
16 objection on the ground that a declaratory judgment or decree is prayed
17 for. The declaration may be either affirmative or negative in form and
18 effect; and such declarations shall have the force and effect of a final

19 ¹ **United States of America.** The nation occupying the territory between British America [Canada] on the
20 north, Mexico on the south, the Atlantic Ocean and Gulf of Mexico on the east, and the Pacific Ocean on the
21 west; being the republic whose organic law is the constitution adopted by the people of the thirteen states which
22 declared their independence of the government of Great Britain on the fourth day of July, 1776. (A LAW
23 DICTIONARY, ADAPTED TO THE CONSTITUTION AND LAWS OF THE UNITED STATES OF
24 AMERICA AND OF THE Seberal States of the American Union: with reference to the Civil and other systems
25 of Foreign Law, By John Bouvier, 14th Ed. Revised and Greatly Enlarged. Vol. II, pg. 622. Col. 1) [Seberal
26 and old English font in original]

27 ² The term “**United States,**” as used in this title in a territorial sense, included all places and waters, continental
28 or insular, subject to the jurisdiction of the United States, except the Canal Zone. (Title 18 U.S.C. § 5; History
of 18 U.S.C. §5; June 25, 1948; P.L., 80-722, 62 Stat. 685.)

“The United States is located in the District of Columbia.” Uniform Commercial Code § 9-307(h)

The “United States” as defined in United States Code, Title 28 § 3002(15) means:

“United States” means—

(A) a Federal corporation;

(B) an agency, department, commission, board, or other entity of the United States; or (C) an instrumentality of the United States.

1 judgment or decree.”

2 N.R.S. 30.030; and,

3 55. Furthermore, the rights of "any person" who is "interested" in the actual
4 ownership of land as established by deed (land grant) or any statute

5 **NRS 30.060 “Declaration of rights in certain cases.**

6 1. Any person interested as or through an executor, administrator, trustee,
7 guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui
8 que trust, in the administration of a trust, or of the estate of a decedent, an infant,
lunatic or insolvent, may have a declaration of rights or legal relations in respect
thereto:

9 (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin
or others;

10 (b) To direct the executors, administrators or trustees to do or abstain from
doing any particular act in their fiduciary capacity”; and,

11 56. The Court's authority to conduct declaratory judgment proceedings and
12 enter judgment is broad:

13 **NRS 30.070 Enumeration not exclusive.** “The enumeration
14 in N.R.S. 30.040, 30.050 and 30.060 does not limit or restrict the
15 exercise of the general powers conferred in N.R.S. 30.030 in any
16 proceeding where declaratory relief is sought, in which a judgment or
decree will terminate the controversy or remove an uncertainty”; and,

17 57. The Court is also authorized to order additional relief supplemental to the
18 core declaration of rights and obligations under its declaratory judgment powers and decision
19 making authorities:

20 **NRS 30.100 Supplemental relief.**

21 “Further relief based on a declaratory judgment or decree may be
22 granted whenever necessary or proper. The application therefor shall be
23 by petition to a court having jurisdiction to grant relief. If the
24 application be deemed sufficient, the court shall, on reasonable notice,
require any adverse party whose rights have been adjudicated by the
declaratory judgment or decree, to show cause why further relief should
not be granted forthwith”; and,

25 58. Disputed facts may be tried and determined by a jury:

26 **NRS 30.110 Jury trial.** “When a proceeding under N.R.S.
27 30.010 to 30.160, inclusive, involves the determination of an issue of
28 fact, such issue may be tried and determined in the same manner as
issues of fact are tried and determined in other civil actions in the court
in which the proceeding is pending”; and,

1
2 **SECOND CAUSE OF ACTION**

3 **Neglect of Nevada to Enforce its Rights**

4 59. Petitioner, Cliven Bundy, repeats and re-declares all of the previous
5 declarations of the entirety of this Complaint, including, but not limited to, the Introduction,
6 with the same force and effect, as if fully set forth herein again at length; and,

7
8 60. As fully explained in Petitioner’s First Cause of Action, Nevada and its
9 People is entitled to and has declared its rights to sole ownership of all of the lands within its
10 borders; and,

11 61. However, the current leaders and government officials of the State of
12 Nevada and it’s subdivision, Clark County, refuse to defend its or the People’s rights to all
13 lands within Nevada’s and Clark County’s borders; and,

14
15 62. Petitioner is directly prejudiced and harmed by Nevada's and Clark
16 County’s incomplete assertion of its legal rights to the land and refusal to defend it; and,

17 63. Accordingly, Petitioner is entitled to declaratory judgment that pursuant
18 to the mandate of the 1983 Nevada Constitution and N.R.S. §§ 321.596 - 321.599 the
19 government of Nevada and its subdivision, Clark County, is obligated to and owes to the
20 Petitioner the duty to defend the interests of the 1983 Nevada Constitution and the statutes of
21 Nevada N.R.S. §§ 321.596 - 321.599 in claiming the public lands within the State as the
22 property of Nevada and its subdivision, Clark C ounty; and,

23
24 **THIRD CAUSE OF ACTION**

25 **Quiet Title of the Nevada State to Ownership of the Land**

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27 64. Petitioner, Cliven Bundy, repeats and re-declares all of the previous
28 declarations of the entirety of this Complaint, including, but not limited to, the Introduction,

1 with the same force and effect, as if fully set forth herein again at length; and,

2 65. As fully explained in Petitioner’s First Cause of Action, the State
3 of Nevada and its subdivision, Clark County, is entitled to and has declared its rights to sole
4 ownership of all of the public lands within its borders—in direct contradiction to the claim of
5 The United States of America— in the Nevada Constitution and the statutes of Nevada,
6 unencumbered and free of any claim by The United States of America, United States, or the
7 U.S. Government, with the exception of any specific military base, U.S. Government office
8 building, or U.S. Government facility explicitly and unambiguously sold or ceded by Act of
9 the Nevada Legislature to the U.S. Government; and,
10

11 66. Thus, Petitioner is compelled, in order to defend his own interests and
12 avoid harm and injury to his own interests and self as well as the People of Nevada and Clark
13 County, to assert for Nevada, the rights of Nevada and it’s People with regards to the land
14 upon which the Petitioner raises and grazes cattle; and,
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16 67. Nevada has a superior claim to title and actual ownership of all of the
17 public lands within Nevada and its subdivision, Clark County; and,
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19 68. Petitioner is dependent upon Nevada and its subdivision, Clark County,
20 defending for itself its own claim to the land, as one of the People of Nevada and its
21 subdivision, Clark County, who has acquired grazing, water, and other rights to the public
22 lands in question; and,
23

24 69. As a man who has lawfully acquired grazing, water, and other rights to
25 the Nevada and its subdivision, Clark County, public lands in question, and a man dependent
26 upon Nevada's and Clark County’s lawful rights to the land, Petitioner is entitled to an order
27 quieting title to Nevada and its subdivision, Clark County, in order to protect Petitioner and
28

1 The Bundy Ranch's rights to graze and water the cattle on the land of Nevada and its
2 subdivision, Clark County and its People , which is its true owner; and,

3
4 **V. REQUEST FOR RELIEF**

5 WHEREFORE, Petitioner request that this Court:

6 A) Issue a declaratory judgment that the Nevada public lands are
7 owned exclusively and solely by the People of Nevada and its
8 subdivision, Clark County; most specifically, the land upon which
9 the Petitioner and The Bundy Ranch graze and water the Bundy
10 cattle; and,

11
12 B) Issue a declaratory judgment that the State of Nevada and its
13 subdivision, Clark County, owes to Petitioner the duty to protect
14 the Petitioner’s equitable interests dependent upon Nevada's title
15 to the People of Nevada and its subdivisions, Clark County, lands
16 upon which the Petitioner and The Bundy Ranch graze and water
17 the cattle on the land of Nevada and its subdivision, Clark County;
18 and,

19
20 C) Declare quiet title of **all** the Nevada and Clark County’s People’s
21 public lands as owned exclusively and equally by Nevada and its
22 subdivision, Clark County, most specifically the land upon which
23 the Plaintiff and The Bundy Ranch conduct their cattle business;
24 and,

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D) Order the State of Nevada and its subdivision, Clark County, to enforce their right to land upon which the Plaintiff and The Bundy Ranch conduct their cattle business and protect Plaintiff's grazing, water, and other rights to the lands within Nevada's and Clark County's borders.

RESPECTFULLY SUBMITTED,

/s/ Kelsey Bernstein

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