

Cliven Bundy walks

Judge dismisses 2014 standoff case for 'flagrant misconduct' by prosecutors

BY TAY WILES

On Jan. 8, U.S. District Court Judge Gloria Navarro dismissed all charges against Nevada rancher Cliven Bundy, his sons Ammon and Ryan, and Montana militiaman Ryan Payne, citing misconduct by prosecutors. The dismissal — the worst blow yet to the federal government in the saga, which has involved three Nevada trials since early 2017 — raises serious questions about the Bureau of Land Management's ability to enforce regulations on the public lands.

The case stemmed from a tense 2014 standoff near the Bundys' ranch in Bunkerville, Nevada. The family, backed by hundreds of supporters, including armed militia members, defied BLM and National Park Service staff attempting to impound their illegally grazing cattle.

The Bundys and their supporters see the dismissal as a vindication of their decades-long battle for states' rights. "My defense is a 15-second defense," Cliven Bundy said Monday after being released.

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"I graze my cattle only on Clark County, Nevada, land, and I have no contract with the federal government." Bundy cattle actually graze on BLM and Park Service lands, but the rancher insists that the U.S. government cannot legally own or administer public lands.

"I've put up with this court as a political prisoner for two years," Bundy said. He and his co-defendants had been in custody since their arrests in February 2016, facing charges including conspiracy against the United States and threatening federal officers.

The dismissal comes after a mistrial on Dec. 20, just five weeks into what was expected to be a four-month-long trial. "The court finds there has been flagrant prosecutorial misconduct," Navarro said, because evidence that could have helped the defense was withheld.

Navarro cited reports leading up to the impoundment from the FBI, BLM and other government agencies regarding just how much of a threat the Bundys would pose to law enforcement. U.S. attorneys did not provide most of these



reports to the defense, though the judge said they could have helped show that the Bundys were not that serious a threat. The government also failed to provide information about an FBI surveillance camera placed near the Bundy residence in April 2014.

When asked whether another standoff would happen if the BLM again attempted to impound the family's cattle — which are still illegally grazing federal land — Ammon Bundy said: "I don't know, you'd have to ask my dad. But I'm sure he's going to do whatever it takes." □

Cliven Bundy walks out of federal court with his wife, Carol, after a judge dismissed criminal charges against him and his sons. The Bundys were accused of leading an armed uprising against federal authorities in 2014.

K.M. CANNON/LAS VEGAS REVIEW-JOURNAL VIA AP

Read the full story: hcne.ws/bundys-walk

A precedent for species recovery?

Court decision may change grizzly protection

BY GLORIA DICKIE

In December, the U.S. Fish and Wildlife Service reopened public comment on its removal of the Greater Yellowstone grizzlies from the protection of the Endangered Species Act. The bruins, which range across 35,000 square miles of wild country in Montana, Wyoming and Idaho, had rebounded from some 300 at their original listing in 1975 to over 700 today. The agency declared the bears a "distinct population segment" in June, separate from other Lower 48 grizzlies, and at the same time took them off the endangered species list.

In the history of delisting decisions, seeking additional comment after the fact is exceedingly rare. The move was a nod to a recent court ruling on gray wolves, a species which the Fish and Wildlife Service had similarly broken into smaller

geographically defined groups, such as the Northern Rocky Mountains and Western Great Lakes, then removed from protection. "Specifically, the service is interested in public input on whether this court's opinion (on the gray wolf) affects the (Greater Yellowstone grizzly bear) final rule and what, if any, further evaluation the service should consider regarding the remaining grizzly bear populations in the Lower 48 states and their lost historical range," the agency stated. The comment period ended Jan. 5.

The gray wolf ruling came last August, when D.C. Circuit Judge Patricia Millett upheld a 2014 decision that the Western

Great Lakes subgroup of the gray wolf should not have lost Endangered Species Act protections. In order to remove federal protections from a subgroup initially listed as a larger population, Millett declared, the agency must consider the impacts of that particular delisting on remnant subgroups elsewhere, as well as on the species' recovery across its historic range.

Now, the precedent set by that case has many questioning the legality of breaking up grizzly bears by recovery areas and then removing their protections. "The ruling was significant because it called into question the service's standard blueprint for dealing with these large-scale listings of species like grizzly bears and wolves that were listed throughout the Lower 48 at one time," says Tim Preso, managing attorney of the Northern Rockies office at EarthJustice.

If the agency, or the pending environmental lawsuits over the Yellowstone grizzly, determine that the wolf case has little bearing on other species, the use of distinct population segments to remove species protections will likely be expanded beyond wolves and grizzlies. Next in line could be the greater sage grouse, since it's also a wide-ranging species. □

Read the full story: hcne.ws/piecemeal-approach

A grizzly bear stands on a bison carcass in the middle of the Yellowstone River in Yellowstone National Park.

JIM PEACO/NPS

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