

**FILED**

AUG 13 2015

Clerk, U S District Court  
District Of Montana  
Billings

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

JERRI JOETTE TILLET, CV 15-61-BLG-SPW  
Plaintiff,

vs.

OPINION AND ORDER

BUREAU OF LAND  
MANAGEMENT, INTERIOR  
BOARD OF LAND APPEALS, and  
DEPARTMENT OF INTERIOR,

Defendants.

Plaintiff Jerri Joette Tillett ("Tillett") filed this action seeking to stop "ongoing and routine systemic malfeasance" by Defendants with respect to the Pryor Mountain Horse Range ("Horse Range"). (Doc. 1 at 7). Tillett has moved for a preliminary injunction seeking an immediate stay of Defendants' actions on the Horse Range, (doc. 2), and for an "immediate temporary restraining order" to stop Defendants' gather of wild horses on the Horse Range. (Doc. 9)

On July 31, 2015, Magistrate Judge Carolyn Ostby issued her Findings and Recommendations recommending that this Court deny Tillett's motions. (Doc.

11). Tillett timely filed her Objections to the Findings and Recommendations and a

March 2016: Remember: the unnecessary + illegal 2015 (PMWHR) Gather started 7/20/2015 (and ended 9/19/2015). This ORDER is 8/13/2015 - it's not (yet) Moot !!!

①

“motion for an immediate ruling” on her motions on April 10, 2015. (Doc. 15).

Tillett is entitled to a de novo review of the findings and recommendations to which she objects. 28 U.S.C. § 636(b)(1).

## I. DISCUSSION

The background and history of the Pryor Mountain Wild Horse Range and the wild horse gather at issue in this case is thoroughly laid out in this court’s recent order in *Friends of Animals v. BLM, et al.* CV 15-59, (Doc. 18), and is incorporated herein by reference. In that case, decided just two weeks ago, the plaintiffs moved for a preliminary injunction on the same issue, and for essentially the same reasons, as Tillett. (*See gen id.*) Judge Ostby is correct that Tillett has not presented any evidence or persuasive argument that changes this Court’s assessment of the legality of the gather as analyzed previously in *Friends of Animals*.

Moreover, Tillett acknowledges that the wild horse gather to which she objects has already occurred. (Doc. 15 at 3 ) Accordingly, since the court cannot undo what has already been done, the action is moot and the claim challenging the gathers should be dismissed. *See Friends of The Earth, Inc. v. Bergland*, 576 F.2d 1377, 1379 (9th Cir. 1978) (Where the activities sought to be enjoined have already occurred, and the appellate courts cannot undo what has already been done, the action is moot); *see also Florida Wildlife Fed'n v. Goldschmidt*, 611 F.2d 547, 548

HAND DELIVERED TO THE CLERK OF COURT (BY ME) AND TO MS. FRANCIS:

FEB 16 2016

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

February 16<sup>th</sup>, 2016

PLAINTIFF: Jerri Tillett  
vs.

Cause Numbers: CV-15-48-BLG-SPW – (PZP).  
CV-15-61-BLG-SPW – (GATHER).

DEFENDANTS: Bureau of Land Management (BLM)  
Interior Board of Land Appeals (IBLA)  
Department of the Interior (DOI)

**[COURT ORDERED REWRITE OF REPLY BRIEFS (REPLACING DOC. #31 – ORIGINAL LEGAL BRIEF):]**

**DISPUTED FACTS BRIEF:**

DATA SETS (Administrative Record)

Ocular Reconnaissance vs. Key Forage Plant Method (Per Ms. Devlin):

\* [NOTE: Ms. Devlin's official title is Government Operations Consultant. Basically: A Compliance Officer.]

*"The 'Ocular Reconnaissance' fraud perpetuated on the Court: In its order dated July 30<sup>th</sup>, 2015, this Court relied on the Defendants' representation that they conducted an Ocular Reconnaissance Study of the Pryor Mountain Wild Horse Range. However, Defendants' representation was false. No Ocular Reconnaissance Study was conducted. Instead, the Defendants conducted routine ocular estimates, which are routine monitoring checks. Even that monitoring was fraudulent. ...*

*Well, how to OR and EIS compare with what the Defendants actually did? The Defendants used the Key Forage Plant (KFP) method and worksheet. ...*

*And what about that KFP data? One staff member – the wild Horse Specialist – signed off on the data sheet. Actually, he didn't collect data, he corrupted it. He disregarded all resident animal-species that use the range in significant numbers, including but not limited to trespass livestock, Bighorn sheep, jackrabbits, and grasshoppers. He rearranged the data to impute 100 percent of the range-use to the wild horses, even in areas where wild horses are seldom seen but where trespass livestock frequently graze, as witnessed by JT (a local landowner). The data was falsified to confirm the predetermined decision to contracept and cull the herd. Thus the data was fraudulent as well as useless.*

*Conclusions: The Defendants misrepresented an ocular estimate for Ocular Reconnaissance. The Defendants did not conduct Ocular Reconnaissance. Thus, Defendants perpetuated a fraud on this Court. Their monitoring data was falsified to invent a paper-trail to support a predetermined outcome. That was another fraud against this Court. For these reasons, the Defendants should lose both cases, combined herein. There must be consequences for conning the Court, and for betraying the Court's trust."*

If Judge Watters is actually interested in Ms. Devlin's important (& cautionary) statement "even that monitoring was fraudulent" – please review my Expose of the DATA SETS (Administrative Record) in the

Court ORDERED stricken Doc. #31 (pages 2-27). The **FRAUD** that was perpetuated upon this Court (and

subsequently suppressed by this Court – Doc.'s #32- #36) is delineated and exposed therein.

*Ms. Devlin's  
with [unclear]*

LEGAL RAMIFICATIONS:

The Legal Ramifications to this Court were exposed in Doc. #31, pages 27-41; and again subsequently suppressed by Judge Ostby and this Court: [As analyzed in Doc. #31.]

Due to the recent severe Court stipulated limitations of my Formal COMPLAINTS (Doc's #1 of both CV-15-48 & CV-15-61) my Court Case(s) has/ have been reduced to **ZERO SPACE** in which to articulate.

[As stated in Doc. #32, pages 2-3: "*Plaintiff has also attached exhibits (Dkt.s 31-2 (40 pages), 31-3 (40 pages), and 31-4 (85 pages), which to a significant extent consist of her own briefs filed before the Interior Board of Land Appeals over several years, and briefs of other parties challenging BLM decisions regarding the Pryor Mountain Wild Horse Range. These briefs contained in the exhibits are attached apparently to continue Plaintiff's legal arguments. Very few of the documents contain any reference to the Administrative Record page citations.*"

And Doc. #33, page 2 states: "*In addition, because the Exhibits themselves include additional briefs filed by Plaintiff, and other persons, in administrative appeals over the years.*" And page 4: "*Plaintiff refers to these briefs, filed before the IBLA, in her main brief as if it is additional legal argument. (See e.g. Dkt. 31-2 commencing on page 18 of 40; Dkt. 31-3, p. 1-7 of 40, P. 16-31 of 40).*" – (Bold is mine.) [Note: Doc. #31 included its Exhibits as they help to substantiate my arguments for both Doc.'s #1.]

THEREFORE: Indeed, I [the original moving party (Doc.'s #1 – CV-15-48 & 61)] have been Court ORDERED rendered UNABLE TO PRESENT MY LEGAL ARGUMENTS (both Doc.'s #1) IN THIS COURT! This is actively participating in another (ONGOING) EVASION(S) OF REVIEW OF CONSTITUTIONAL ISSUES (i.e.: Cover-Up's) with the Defendants.

This Court ORDERED (Doc.'s #32-#36) suppression is the third documented routine (ONGOING) EVASION OF REVIEW OF CONSTITUTIONAL ISSUES (i.e.: More Cover-Ups) of these two Court Cases, by this Court. I think the Court needs to be aware of its actions and seriously consider RECTIFYING these Court Cover-Up's as-soon-as-possible: As Accountability for all parties will prevail, in the long-term.

[And not just for me, as I seem to be the only one who's being held accountable here. I'm only seeking a STAY, INVESTIGATION & RESTITUTION (in abeyance) <sup>as an undetermined condition, per part of my complaint</sup> which is only reasonable considering the extensive corruption I have already exposed: "*Achieving a just result.*"

The first two Cover-Ups (Doc's; #5 of CV-48 & #17 of CV-61) could have been construed (at the time) as Judicial Error. Once they were pointed out to the Court and correction was requested, and the Court refused to RECTIFY its Judicial Error, they ceased to be just Judicial Error and became active Cover-Ups.

The same with this Court ORDERED third suppression of my legal arguments. Again it's Judicial Error of MY **WHOLE** (two) Court Case(s) — (two more Cover-Ups: One for each Court Case – CV-48 & CV-61). This Court ORDERED Cover-Up, which actively condones and protects corruption, of my **WHOLE COMBINED COURT CASES**, has very serious ramifications for this Court if not RECTIFIED immediately.

I, the Plaintiff – the moving party – should have been allowed by this Court to rewrite two Legal Briefs (one for CV-48 & one for CV-61) utilizing the Local Rules and allowed to delineate and argue my FORMAL COMPLAINTS (Doc.'s #1 of CV-48 & CV-61). I am, after all, the actual moving party, and somehow I have been forced into the Defendants traditional position as a reversal of proper perspective (i.e.: Context). [(Context) –I, the PLAINTIFF, as the original moving party get to articulate my arguments of Doc.'s #1 (CV-15-48 & 61) and this fact places Defendants (traditionally) in the REPLY position.] This has been totally ignored by this Court and actually reversed. The result is another Court ORDERED suppression of my **WHOLE** (two) Court Cases (CV-48 & CV-61). Judge Watters needs to seriously consider these very important factors when deciding this Summary Judgment: As it is the LAST TIME she has to RECTIFY this serious debacle of Justice.

[As Chief Justice John G. Roberts Jr. has recently stated (December 2015): “*An opportunity to help ensure that federal court litigation does not degenerate into wasteful clashes over matters that have little to do with **achieving a just result.***” – (Bold is mine.)]

Does this Court seriously believe that Cover-Up's (i.e.: malfeasance & corruption) by all parties are to be allowed, condoned, and encouraged? That condoning and supporting corruption is “***achieving a just result***”?

Judge Watters: Again please note that the Defendants have lied, deceived and perpetuated a FRAUD on this Court, if this Court seriously wants to look (the stricken Doc. #31). This Court has been condoning and encouraging this serious **CORRUPTION** by the Defendants (**ONGOING**). Is this wise? And does this Court want to continue and actively participate (again) in this routine trend?

-- Gather (CV-15-61) --

The Gather was **UNNECESSARY** and illegal. I've exposed extensive corruption by the Defendants, surrounding it (Doc. #31). The Gather was conducted between **7/20/2015 and 9/19/2015**, as analyzed in Doc. #31. It would be wise for Judge Watters to seriously consider the expose (i.e.: evidence and arguments) in the Court ORDERED suppressed Doc. #31, pages 28-32; while considering her Summary Judgment.

-- Fertility Control (CV-15-48) --

The Defendants already admit to violating their own Rules & Regulations (and thereby the CONSTITUTION of the United States) when the nine mares were illegally darted in the years between 2011-2015. This expose is extensively covered in the Court suppressed Doc. #31 (pages 32-35).

-- The Court --

If Judge Watters is interested in how serious this Court ORDERED suppression (i.e.: Cover-Up) actually is -- I'd advise Judge Watter's to read pages 27-39 of Doc. #31. The Court ORDERED suppression of felonious behaviors by the Defendants reflect poorly on this Court. [The Defendants mockery of this Court is covered in pages 35-39 of Doc. #31.]

THE WITHHOLDING OF EVIDENCE (Lack of Accountability)

My FOIA Response dated November 9<sup>th</sup>, 2015 states: "However, just so we're (very) clear about what I'm seeking in this second category: I'm seeking the following information, #1) I know that illegal livestock has been on the PMWHR last year and this year. I also know that you (BLM) know this as: (A) Bybee verbally confirmed this fact to me. (B) The following photograph was sent to me of an illegal trespass (dated 2015) -- during "Discovery": Enclosed. So I know you have the DATA that I'm seeking: And we both know that both you (BLM) & I are aware of the illegal trespasses: Just to be very clear on this ISSUE."

*I observed  
illegal  
livestock  
trespass  
to  
PMWHR*

November 3, 2015 (located in one of the BLM's FOIA Response letters) states: "The information that **HAS BEEN WITHHELD** under Exemption 6 ... Exemption 7: Exemption 7 protects from disclosure 'records or information compiled for law enforcement purposes' ... You may appeal this response to the Department's FOIA/ Privacy Act Appeals Officer." -- Which I did Appeal, in a timely manner, on November 9<sup>th</sup>, 2015.

To date, 2/16/2016 the Appeals Office has **NOT RESPONDED** to my FOIA APPEAL, in any manner: No letter, **NO** Case number. **NOTHING.**

The Defendants have an observed and documented Pattern of actively withholding of evidence of decades duration (**ONGOING**). This Court Case(s) being no exception. This is exposed in Doc. #31, pages 38-41. Judge Watter's would be advised to read the expose.

PERJURY (Bybee)

Page 4 of Jared Bybee's Declaration states: "Pursuant to 28 U.S.C. & 1746, I declare **under penalty of perjury that the foregoing is true and correct.**" – (Bold is mine.)

The First PERJURY

"#11. A bait and water trapping **GATHER OPERATION** was conducted between August 5, 2015 and August 24, 2015 in accordance with Decision Record for EA DOI-BLM-MT-0010-2015-0018-EA dated 6/15/2015."

That Decision Record (DR) states on page 7 (of 10): "**SET UP will begin on the range once environmental conditions allow the REMOVAL OPERATIONS WILL BEGIN 30 DAYS AFTER ISSUANCE OF THIS DECISION** and continue until management objectives are attained. ... Signed James M. Sparks, dated 6/16/15." – (Bold is mine.) – That's the definition of a Gather, if I ever heard one! The Gather was conducted between the dates of 7/20/15-9/19/15. Bybee **JUST PERJURED HIMSELF.** per JUROR

The Second PERJURY

(Page 2 of Jared Bybee's Declaration states: "#5: Application of fertility control through remote darting under the fertility control protocol DOI-BLM-MT-0010-2011-0004-EA in reference to this complaint had been used since 2011 and was **IN EFFECT until May 13, 2015.** The protocol identified mares ages 2, 3, and 11-20+ years for annual treatments ... Eight PZP doses on **SIX INDIVIDUAL MARES were incorrectly applied DURING THIS PERIOD.**" – (Bold is mine.)

And **NINE mares were illegally darted in this period:** Eight of which have been so acknowledged by the Defendants: As **NO mares** (of this age group) should have been darted. This also is **PERJURY #2.** I strongly suggest Judge Watter's check Doc. #31 (pages 41-45) to view the expose.

BLM's **ONGOING** PATTERN OF COVER-UPS (Comments)

The Defendants routinely Cover-Up all manner of things. These current Cover-Ups are no exception.

The Defendants take issue with my Comments that I didn't "Because the 8 instances of darting problems were not raised as a comment to the 2015 Fertility Control EA, BLM did not have an opportunity to respond to those comments in the EA". As already mentioned, this is just another ROUTINE Cover-Up, by the Defendants.

(1) I DIDN'T KNOW.

(2) FREEDOM OF SPEECH.

These are the main two topics listed, although SEVEN categories are covered and discussed in Doc. #31, pages 45-47. Again I strongly suggest that Judge Watter's read my Comment Section in Doc. #31 (pages 45-47). The Defendants are participating in an **ONGOING** Pattern of (routine) Cover-Ups. If this



isn't RECTIFIED by this Court now; this Court will again be actively participating with the Defendants pattern as well.

#### BLM's ROUTINE PATTERN OF ASSUMPTIONS

The Defendants base their Agenda's (including this **UNNECESSARY** & illegal Gather and the PZP: CV-15-48 & 61) on assumptions. Basically, they "count-their-chickens-before-they-hatch". As biologist Robert Bauer aptly stated (in the last illegal & **UNNECESSARY** 2012 Gather Cycle): "*A certain population growth cannot be guaranteed at all, for any given year, and it is foolish and UNSCIENTIFIC to assume so.*" – (Bold is mine.) Therefore: I again strongly suggest Judge Watters read page 47 in Doc. #31, prior to her Summary Judgment.

#### MORE LYING BY DEFENDANTS

Page 14 of Defendants Undisputed Facts Brief: "30. PZP contraception appears to be temporary (Kirkpatrick and Turner, 2002), does not appear to cause out-of-season birth (Kirkpatrick and Turner, 2003), and has no ill effects on ovarian function if contraception is not repeated for more than five consecutive years on a given mare. If mares are already pregnant, the PZP vaccine has not shown to affect normal development of the fetus or hormone health of the mare. Permanent sterility for mares treated consecutively for five to seven years was additionally verified (Nunez, et al., 2010)."

That's not the truth, the whole truth, and nothing but the truth: Far from it. This expose was addressed in Doc. #31, pages 48-50. Again, I'd advise Judge Watters to read it, before making her ORDER. (NOTE: Kirkpatrick has a severe **conflict of interest** here.)

#### VITUPERATIVE

If you catch your husband of 15 years in your bed lying on his back with a naked blond bouncing up and down on his pelvis and he says to you: "*Honey, it's not what it looks like.*" [But it **IS** what it looks like, and everyone knows this.] He may call your reaction vituperative. But after all is said and done, he's still the one lying naked under the blond bombshell. Sometimes the truth hurts; whatever "side" you view it from.

All the above are DISPUTED FACTS: Data Sets; The (illegal & **UNNECESSARY**) 2015 Gather; the PZP; The Legal Ramification/ Aspects; The Defendants routine (**ONGOING**) malfeasance (including the Felonious Behavior Patterns & Corruption); Vituperative (i.e.: Exposing truth), etc.