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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:16-CR-00051-BR

v.

AMMON BUNDY, et al.,

Defendants.

**GOVERNMENT'S RESPONSE TO
DEFENDANTS' MOTIONS FOR
SITE ACCESS**

Pursuant to the Court's February 12, 2016, Minute Order (ECF No. 146) and in response to defendants' Motions for Discovery Management, Preservation of Evidence, and Provision of Defendant Access to Crime Scenes (ECF Nos. 140, 141, and 144), the United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and Ethan D. Knight and Geoffrey A. Barrow, Assistant United States Attorneys, offers the following:

1. On January 2, 2016, several individuals, including defendants named herein, entered the Malheur National Wildlife Refuge (MNWR) in Burns, Oregon, carrying firearms and announcing their intention to occupy the land indefinitely.

2. On February 3, 2016, a Grand Jury in the District of Oregon returned a sealed indictment charging defendants herein with one count of conspiracy to impede officers of the United States from discharging their duties through the use of force, intimidation, or threats in violation of 18 U.S.C. § 372.

3. The armed occupation of the MNWR continued until February 11, 2016. Shortly thereafter, FBI tactical teams began to secure the MNWR.

4. The FBI Evidence Response Team (ERT) began processing crime scenes at the Malheur National Wildlife Refuge (MNWR) on February 13, 2016. The government estimates that it will take 21 days for ERT to complete this work. The government's estimate is subject to change. There are approximately 24 structures at the site that must be processed. Tactical teams responsible for initially securing the refuge reported significant amounts of human feces in and around an outdoor camping area. They also reported that living quarters appear to house large food stores that are spoiling. The outdoor camping area is adjacent to or on a particularly sensitive cultural site that may require extensive processing. Occupiers appear to have excavated two large trenches and an improvised road on or adjacent to grounds containing sensitive artifacts. At least one of these trenches contains human feces. The FBI Art Crimes Team (ACT) is processing these sites. Due to the size and nature of the trenches, equipment is being brought to the site to allow ACT to process these sites safely. Finally, firearms and explosive have been found on the site. There are numerous vehicles on the site and the FBI is concerned that vehicles and buildings may be booby trapped.

5. The government is willing to allow defense counsel and their investigators to access the MNWR crime scenes after the evidence has been collected, but before the site is

restored or opened to the public. Defense teams will be subject to a protocol designed to preserve the integrity of the investigation. Defense teams will be escorted by FBI personnel and will not be allowed to disturb or remove items from the scene. The government estimates that this can occur shortly after ERT has finished processing the crime scene.

6. The government will make all evidence seized in this investigation available for inspection at the FBI Field Office in Portland consistent with standard FBI evidence viewing protocols.

7. AUSA Geoffrey Barrow will serve as the government's representative for this issue. AUSA Barrow circulated the proposals set forth above to counsel for defendants herein. Thereafter, AUSA Barrow learned that defendants do not have a unified position on the government's proposal. There appear to be objections to some of the government's proposals by at least some defendants. Defendants have requested additional time to organize a response. The government is prepared to work with counsel for defendants on this issue.

Dated this 16th day of February 2016.

Respectfully submitted,

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s/ Geoffrey A. Barrow

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