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15 ATTORNEYS FOR THE UNITED STATES

16 **IN THE UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

19 UNITED STATES OF AMERICA,

No. 2:12-cv-804-LDG-GWF

20 Plaintiff,

**DISCOVERY PLAN AND SCHEDULING
ORDER**

21 v.

**SUBMITTED IN COMPLIANCE WITH
LR 26-1(e)**

22 CLIVEN BUNDY,

23 Defendant.

**SPECIAL SCHEDULING REVIEW
REQUESTED**

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1 On July 2, 2012, counsel for the United States conferred by telephone with *pro se*
2 defendant, Cliven Bundy, per Fed. R. Civ. P. 26(f) and LR 26-1. Participating in the conference
3 were Stephen R. Terrell, counsel for the United States, Gregory Lind and Nancy Zahedi of the
4 Department of the Interior's Office of the Solicitor, and Cliven Bundy, defendant. The parties
5 jointly report to the Court as follows:

6 **I. SETTLEMENT PROSPECTS**

7 Pursuant to Fed. R. Civ. P. 26(f)(2) the parties discussed the possibility of settling or
8 resolving this case without significant expenditure of the parties' or the Court's resources. The
9 parties believe that settlement is unlikely at this time and agree that litigation of this matter to
10 judgment should not presently be delayed or deferred to allow for settlement discussions.

11 **II. RULE 26(a)(1) INITIAL DISCLOSURES**

12 The parties will exchange initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) on, or
13 before, July 20, 2012. The parties require additional time to compile and produce information
14 relevant to the trespasses at issue in this case, which are alleged to have occurred over several
15 years and are ongoing.

16 **III. PRESERVATION OF EVIDENCE AND ELECTRONICALLY-STORED**
17 **INFORMATION**

18 The United States, through the Office of the Solicitor of the Department of the Interior,
19 has issued litigation holds to the Bureau of Land Management and the National Parks Service
20 with respect to the subject-matter of this litigation. The parties do not believe a separate or case-
21 specific document preservation order is necessary in this litigation.

22 Pursuant to Fed. R. Civ. P. 26(f)(3)(C) and Fed. R. Civ. P. 34(b)(2)(C) and (E), the
23 parties discussed electronically-stored information. The United States anticipates that any
24 relevant, potentially-responsive, electronically-stored information in its possession, custody, or
25 control, can be produced in paper format. To the extent defendant seeks access to "native
26 format" electronically-stored information (*e.g.*, Geographic Information System ("GIS") shape
27 files), the United States will confer with defendant and make non-privileged responsive
28 electronically-stored information available in an agreed-upon format.

1 **IV. ASSERTION OF PRIVILEGES**

2 The parties do not anticipate any issues with respect to claims of privilege or of
3 protection of trial-preparation materials. The parties will assert privileges by privilege logs or by
4 objection.

5 **V. DISCOVERY CUT-OFF DATE**

6 Defendant answered the United States' complaint on June 4, 2012. The parties request a
7 discovery cut-off date of December 3, 2012, 182 days from defendant's answer.

8 **VI. AMENDED PLEADINGS**

9 The United States may amend its pleadings to address additional or continuing trespasses
10 of defendant on federal land if information of additional trespasses is discovered during the
11 course of this litigation.

12 Absent order of the Court upon good cause shown, all requests to amend the pleadings
13 shall be made on, or before, September 4, 2012. The parties may amend up to judgment
14 pursuant to Fed. R. Civ. P. 15(b). The parties may file supplemental pleadings at any time, as
15 appropriate, pursuant to Fed. R. Civ. P. 15(d).

16 **VII. EXPERT DISCOVERY**

17 The United States does not presently anticipate the need for expert discovery in this
18 matter. Defendant reserves his right to seek to introduce expert opinion testimony. In the event
19 that either party anticipates expert witness testimony, all experts must be disclosed, in
20 accordance with Fed. R. Civ. P. 26(a)(2), no later than October 4, 2012.

21 Rebuttal experts, if any, must be disclosed, in accordance with Fed. R. Civ. P. 26(a)(2),
22 no later than November 5, 2012.

23 **VIII. DISPOSITIVE MOTIONS**

24 The United States anticipates filing one, or more, dispositive or partially-dispositive
25 motions. All pre-trial dispositive motions are due on, or before, January 2, 2013.

26 **IX. PRE-TRIAL ORDER AND PRE-TRIAL DISCLOSURES**

27 Absent further order of the Court, the parties will make pre-trial disclosures pursuant to
28 Fed. R. Civ. P. 26(b)(3) and (b)(4), and the parties will file a pre-trial order pursuant to LR 16-3

1 and 16-4.

2 Respectfully submitted July 16, 2012,

3 IGNACIA S. MORENO
4 Assistant Attorney General

5 /s/ Stephen R. Terrell

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26 OF COUNSEL:

27 NANCY ZAHEDI
28 GREGORY LIND
Department of the Interior
Office of the Solicitor

/s/ Cliven D. Bundy by
/s/ Stephen R. Terrell per e-mail authorization

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3315 Gold Butte Road
Bunkerville, NV 98007
Telephone: (702) 346-5564
Pro se

Defendant

29 **IT IS SO ORDERED.**

30 Dated: _____.

31 _____
32 UNITED STATES MAGISTRATE JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that, on July 16, 2012, I caused the attached document to be served by
U.S. Mail on the following:

Cliven D. Bundy
3315 Gold Butte Road
Bunkerville, NV 89007

Defendant

/s/ Stephen R. Terrell
STEPHEN R. TERRELL