

EXHIBIT 16

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN DEFENSE OF ANIMALS, a)
non-profit organization; the)
ANIMAL WELFARE INSTITUTE, a)
non-profit organization; and)
the INTERNATIONAL SOCIETY FOR)
THE PROTECTION OF MUSTANGS and)
BURROS, a non-profit)
organization; PATRICIA HAIGHT,)
an individual; RICHARD POTTS,)
an individual,)

Plaintiffs,)

vs.)

No. CV-05-2754-PHX-FJM

UNITED STATES GOVERNMENT)
DEPARTMENT OF AGRICULTURE, ANN)
M. VENEMAN as acting UNITED)
STATES SECRETARY OF)
AGRICULTURE; UNITED STATES)
FOREST SERVICE; ELAINE J.)
ZIEROTH as the acting UNITED)
STATES FOREST SUPERVISOR,)

Defendants.)

THE DEPOSITION OF DEBORAH BUMPUS

Phoenix, Arizona
October 13, 2006
1:06 p.m.

(COPY)

PREPARED FOR:

MR. ANTHONY W. MERRILL
Attorney at Law

REPORTED BY:

Marty Herder, CCR
Certified Court Reporter
CCR No. 50162

1 burro territory including map.

2 Ms. Bumpus, was this document part of the project
3 file?

4 A. It was not.

5 Q. Do you know why it was not?

6 A. It was not related to the Rodeo-Chediski fire
7 boundary and where we were wanting to gather the horses.

8 Q. Do you know if anybody relied on this document in
9 formulating the Forest Service's decision to remove the
10 horses?

11 A. No.

12 Q. No, you don't know, or, no, you don't think they
13 did?

14 A. No, I know we did not.

15 This is related -- I probably should know this.
16 This is related to wild horses. We felt all these horses
17 were feral horses from the reservation.

18 That's why we felt this was not in the gathering
19 contract for feral horses.

20 Q. What did you base that belief on?

21 A. The previous information from all the monitoring
22 that we have in this document, as I stated earlier.

23 Q. So would it be fair to say prior documents
24 reflected zero wild horses in the territory?

25 A. (Witness nods head.)

1 Q. Is that a yes?

2 A. Yes. Sorry.

3 Q. And then after the fire there were horses on the
4 territory; correct?

5 A. Correct.

6 Q. And is that the information upon which the Forest
7 Service relied to determine that these horses were escaped
8 Apache horses?

9 A. Yes.

10 Q. With respect to tab two, do you know how this
11 document was created?

12 A. I do not.

13 Q. Section -- excuse me, paragraph two states
14 estimated number of horses, December 1971, seven.

15 Do you know how that conclusion was reached?

16 A. Only through hearsay.

17 I mean, the information when the Wild Horse and
18 Burro Act was passed, the information that was sent out to
19 the Forest asking them for recommendations for territories.

20 That is what I assume that this was sent back for.

21 This is what the Forest supervisor at that time
22 sent back.

23 Seven horses, we've heard a multitude of horses
24 about what those seven horses were, and there's no way for
25 us to say one way or another.

1 Q. Okay. Fair enough.

2 Would you turn with me, please, to tab six of the
3 administrative record. Tab six is described on the index as
4 wild and free-roaming horses on public lands record.

5 Ms. Bumpus, was this document part of the project
6 file?

7 A. It was not.

8 Q. And would it be fair to say that this document was
9 not relied on in making the decision to remove the horses in
10 the summer of 2005?

11 A. You're correct.

12 Q. This document is from 1991.

13 If you go down to the middle of the page, it lists
14 a horse population of five; is that correct?

15 A. Yes.

16 Q. Do you know how that number was obtained?

17 A. I do not.

18 Q. If you could turn with me to Page 3, the last
19 paragraph states: Approximately five feral horses wander
20 along the Mogollon Rim back and forth from the White River
21 Apache Reservations. The Indians do not manage the horses,
22 neither does the Forest Service. Natural attrition will
23 eliminate the horses eventually.

24 Did I read that correctly?

25 A. You did.

1 Q. Do you know the reason for that last statement
2 that natural attrition will eliminate the horses?

3 A. Well, again, it's based upon old stories that
4 we've heard, but the stories that I have heard is that the
5 stud was sterile, and so natural attrition follows.

6 If you don't have a stud to breed with the mares,
7 you're not going to have any horses, unless you get them
8 coming in from other areas.

9 Q. And do you know how it was verified that the stud
10 was sterile?

11 A. No.

12 Q. Would you turn with me to tab nine?

13 Tab nine is described on the index as memo
14 territory withdraw recommendation.

15 It's a letter dated June 21st, 1993, to the forest
16 supervisor from Kate Klein, Heber district ranger.

17 Is Ms. Klein still employed at the Forest?

18 A. She is.

19 Q. Is she presently the district ranger for the Black
20 Mesa Ranger District?

21 A. She is.

22 Q. Was this document part of the project file?

23 A. No, it was not.

24 Q. Was this document relied on in formulating the
25 decision to remove the horses from the territory?

1 A. It was not.

2 Q. If you could turn with me, please, to tab 14.

3 Tab 14 is described as populations in 2004 of wild
4 horses in Heber territory.

5 Ms. Bumpus, is this information taken from the
6 I-Web database?

7 A. Yes, it is.

8 Q. Did you pull this information from the database or
9 did Mr. Hughes?

10 A. I did not.

11 Q. How do you know it's from the database?

12 A. Generally the information that they have here are
13 the same things that are in the database, the RMU, which is
14 the management unit, specific IDs, territory, all of that is
15 the same information that they ask us.

16 Q. And you referred earlier to a 2005 inventory. I
17 didn't see that in the record.

18 Could this be what you were talking about?

19 A. It could be.

20 We get asked every two years to do the reporting
21 for the biannual, two years prior to the actual report date
22 that comes out.

23 I believe that very easily have the dates confused
24 there.

25 Q. And in tab 14 of the administrative record, what

1 does it reflect the horse population to be?

2 A. Zero.

3 Q. And do you know how that number was obtained?

4 A. I do not.

5 Q. Do you know if -- there were horses on the forest
6 in 2004; correct?

7 A. Yes.

8 Q. Do you know if any of those horses happened to be
9 in the Heber horse territory?

10 A. Not to my knowledge.

11 Q. And do you know why those horses on the forest
12 were not listed in this report?

13 A. Because they're only asking for horses associated
14 with the territory, within the territory. Wild horses
15 within the territory.

16 Q. So if a horse was found in the territory, do you
17 know how whoever was gathering this information would make
18 the determination that it was wild or not?

19 A. I do not.

20 Q. Is it possible that this number is based on prior
21 data?

22 A. It could be. And it could be tied back to that
23 statement in the previous tab six, natural attrition from
24 1971 forward.

25 Q. Do you know if anybody actually went out in the

1 field to count horses to gather this information?

2 A. I do not.

3 Q. Is it possible that that didn't happen?

4 A. I have no knowledge to answer that question.

5 Q. Okay. Fair enough.

6 If you turn to tab 18 for me, please, in the
7 administrative record, this is an example of, I believe, the
8 Fish and Game surveys you were speaking about earlier; is
9 that correct?

10 A. It is.

11 Q. And the date on this is January 30th, 2005; is
12 that correct?

13 A. Yes.

14 Q. Does this document reflect a horse population in
15 the forest?

16 A. This actually says January the 13th.

17 Q. My apologies.

18 January the 13th?

19 A. Could you restate your question?

20 Q. Does this document reflect a horse population
21 within the forest?

22 A. It does.

23 Q. And how many horses does it reflect?

24 A. Twenty-three.

25 Q. And where are you getting that number from?

1 administrative record.

2 Tab 81 is entitled in the index Heber Territory
3 Horse Population Information, 1974 to 2004.

4 The first page is a fax cover sheet to Deb Bumpus
5 from Gene Onken.

6 Do you recall receiving this fax?

7 A. I do.

8 Q. And do you know why Mr. Onken provided you this
9 information?

10 A. I had requested Mr. Onken to go through the
11 regional office files to see if there were any documents
12 that they may have had in their files that we did not have,
13 which is what he sent to us.

14 Q. And was the information contained in tab 21 part
15 of the project file with respect to the decision to remove
16 the horses?

17 A. It no.

18 Q. And to your knowledge was the information
19 contained in this document relied on in making the decision
20 to remove horses?

21 A. No.

22 Q. Turn to the first page for me, please.

23 Entitled documented wild horse population numbers.

24 The second column on the left-hand side reflects
25 various numbers, seven one year, five one year, up to eight,

1 back to seven.

2 Are those numbers reported to Congress in the
3 biannual Wild Horse and Burro Act with respect to the Heber
4 territory?

5 A. Yes.

6 Q. Do you know how those numbers were obtained?

7 A. I do not.

8 Q. From 92 on there's an entry of zero; is that
9 correct?

10 A. Yes.

11 Q. Do you know why that is zero?

12 A. The implication is that this is an indication of
13 the population on the -- within the territory.

14 It has been reported by either the district or the
15 forest at that time.

16 Q. So once the population allegedly hit zero in '92,
17 do you know if in subsequent years anybody actually went out
18 and actually looked for horses or if they just, if it was
19 zero one year, it was zero the next year?

20 A. I do not know. I was not here.

21 Q. If you could turn to the next page for me, please.

22 Down near the bottom, the second column, there are two
23 entries for Heber horse territory.

24 Do you see that?

25 A. Yes.

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was
4 taken before me, Marty Herder, a Certified Court Reporter,
5 CCR No. 50162, State of Arizona; that the witness before
6 testifying was duly sworn by me to testify to the whole
7 truth; that the questions propounded to the witness and the
8 answers of the witness thereto were reduced to typewriting
9 under my direction; that the witness elected to read and
10 sign the deposition transcript; that the foregoing 74 pages
11 constitute a true and accurate transcript of all proceedings
12 had upon the taking of said deposition, all done to the best
13 of my skill and ability.

14 I FURTHER CERTIFY that I am in no way related to
15 any of the parties hereto, nor am I in any way interested in
16 the outcome hereof.

17 DATED at Chandler, Arizona, this _____ day of
18 October, 2006.

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C. Martin Herder, CCR
Certified Court Reporter
Certificate No. 50162