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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**

**UNITED STATES OF AMERICA**

**3:16-CR-00051-BR**

**v.**

**GOVERNMENT'S RESPONSE TO  
DEFENDANT'S EMERGENCY MOTION  
TO DISMISS (#1248)**

**AMMON BUNDY, et al.,**

**Defendants.**

The United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and through Ethan D. Knight, Geoffrey A. Barrow, and Craig J. Gabriel, Assistant United States Attorneys, hereby responds to defendant Ammon Bundy's Emergency Motion to Enjoin Prosecution, Dismiss with Prejudice, and Other Relief (ECF No. 1248), filed on behalf of all defendants.

Ammon Bundy renews his Motion to Dismiss the Indictment (and other assorted relief), ECF No. 1155, based on the same adverse possession theories this Court has previously rejected.

He claims, however, that the situation has changed since the government filed the Houghton Declaration (ECF No. 1230). Like defendant Shawna Cox in her Motion for Judicial Notice (ECF No. 1245), Ammon Bundy also relies on Mr. McIntosh's Declaration (ECF No. 1252), which espouses the same faulty adverse possession theories.

Defendant Bundy also sees support in the Ninth Circuit's recent ruling that defendants prosecuted in states with medical marijuana laws are entitled to a pretrial hearing in which the government must establish that any charges are based on conduct exceeding that permitted under state law; the court's ruling is, however, strictly grounded in a Congressional Appropriations rider. *United States v. McIntosh*, No. 15–10117, et al., 2016 WL 4363168 (9th Cir. Aug. 16, 2016). Nothing comparable exists in this case, so *McIntosh* is inapposite.

This latest Motion goes even further by advancing the argument that defendants “acquired property rights by their actions.” (Def.'s Mem. 10). If true, this would mean that anyone who forcibly enters property—even a burglar—could acquire property rights by simply staking a claim. The law simply does not support this fanciful theory.

Defendant's renewed Motion to Dismiss (ECF No. 1248) should be denied.

Dated this 16th day of September 2016.

Respectfully submitted,

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