

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS,

Plaintiff,

v.

FEDERAL BUREAU
OF INVESTIGATION, *et al.*,

Defendants.

Case 1:17-cv-01701-RC

DECLARATION OF DAVID G. BYARS

I, David G. Byars, declare as follows:

1. I am an independent documentary filmmaker. I have worked in the film industry since 2009. I am currently working as a producer and director of photography on the upcoming film *Massacre River*. I submit this declaration in support of Plaintiff's Opposition to Defendant's Motion for Summary Judgment and Plaintiff's Cross-Motion for Summary Judgment in the above-captioned case. I have personal knowledge of the matters stated in this declaration.

2. My documentary film, *No Man's Land*, premiered in April 2017. It was shown at a number of prominent film festivals in 2017 and 2018, and was nominated for Best Documentary Feature at the 2017 Tribeca Film Festival. *No Man's Land* won the following awards: Best Documentary Feature at the Gasparilla International Film Festival; Best Documentary Feature at the Port Townsend Film Festival; the Special Jury Prize at the Crested Butte Film Festival; the Big Sky Award at the Big Sky Documentary Film Festival; the Jury Award at the Wild & Scenic Film Festival; and was a finalist for the Maysles Brothers Award for

Best Documentary at the Denver Film Festival. It has been distributed and exhibited nationwide on PBS's weekly series *Independent Lens*. *No Man's Land* was my directorial debut.

3. *No Man's Land* documents the 41-day occupation of Oregon's Malheur National Wildlife Refuge in 2016 by a group of armed protestors. The film provides a detailed, on-the-ground account of the standoff between the group and federal authorities from its beginning to its end. The leader of the occupation was Ammon Bundy, who had previously participated in a 2014 standoff with federal authorities at the Nevada ranch owned by his father, Cliven D. Bundy.

4. During the occupation of the Malheur National Wildlife Refuge, I was granted significant access by the occupiers to shoot footage for the film. I was allowed to film with them in the occupied headquarters, gaining an inside view into the operations and mindset of those engaged in an armed occupation.

5. Obtaining that level of access was a time consuming and difficult process for me because the occupiers tended to be mistrustful of the media in general. I spent a lot of time with the occupiers both on and off camera, to help them understand that I was genuinely interested in telling the story of how the occupation unfolded and the motivations for it.

6. Given the nature of the occupation and the mindset of the occupiers, it was important to me to gain the occupiers' trust to get beyond the "canned" responses they were providing to other members of the media. This access allowed me to truly dig into their motivations and to get behind the media firewall to understand what would drive these protestors to engage in armed insurrection.

7. After I was done filming for *No Man's Land*, in or around May 2017, I learned from news reports that the FBI had impersonated documentary filmmakers and invented a fake documentary film company called "Longbow Productions" in order to obtain filmed statements

from individuals involved in the 2014 standoff at Cliven Bundy's ranch. I learned from those news reports that the FBI had, among other things, created fake credentials, business cards, and even a website for "Longbow Productions," so that the targets of the FBI's investigation would believe that they were a legitimate documentary film crew.

8. As an independent documentary filmmaker, I view the FBI's impersonation of documentary filmmakers as troubling and dangerous. By pretending to be a documentary film crew and creating a fake documentary film production company in order to convince targets of an investigation to give on-camera interviews, the FBI erodes trust in real documentary filmmakers, like me, and creates a more difficult environment for us to work in.

9. Had the subjects of *No Man's Land* known at the time of the occupation of the Malheur National Wildlife Refuge that the FBI impersonated documentary filmmakers to elicit statements from suspects connected to the 2014 Bundy standoff, I am certain that I would not have been given the same access to them that I was given to make *No Man's Land*. Put simply, had my subjects known then what they now know about the FBI's "Longbow Productions" documentary film front, I don't know if *No Man's Land* would have been made; it certainly would have been a different film.

10. I also believe that if individuals involved in or connected to the occupation of the Malheur National Wildlife Refuge in 2016 had believed that I was an undercover FBI operative only pretending to be a documentary filmmaker, it could have put me in physical danger.

11. After *No Man's Land* premiered, a comment was posted on the *Independent Lens* website for the film, available at <http://www.pbs.org/independentlens/films/no-mans-land/#viewcomments>, asking if "FBI Undercover agents help[ed] with this film?" A true and correct copy of a screenshot of this comment and my response is attached hereto as **Exhibit A**.

12. The FBI's impersonation of a documentary film crew to investigate individuals connected to the 2014 standoff at the Bundy ranch in Nevada will have longstanding, detrimental effects on the ability of real documentary filmmakers, like me, to obtain access to subjects and to get them to appear on camera. In my experience, if an individual cannot be certain if they are speaking with a legitimate documentary filmmaker—as opposed to an undercover FBI agent—they are less likely to speak candidly, and more likely to refuse to speak at all.

13. The chilling effect of the FBI's conduct is particularly felt by independent journalists and documentary filmmakers, like me, who are not affiliated with a large, well-known media entity. For example, because *No Man's Land* was my directorial debut my work was not known to my subjects, who were already wary of media generally; had they questioned whether or not I was a real documentary filmmaker, I would not have had other, prior films I could show them to prove to them that I was.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 10, 2018 in Venture CA.


David G. Byars

EXHIBIT A



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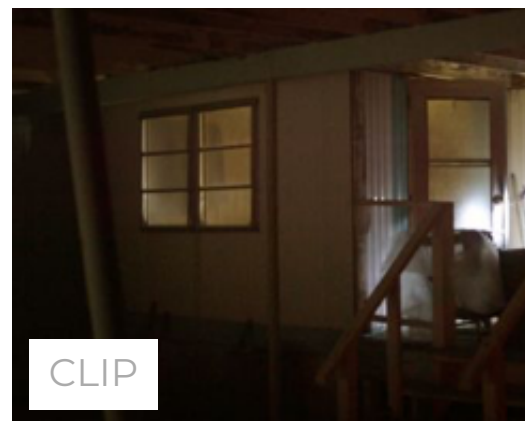
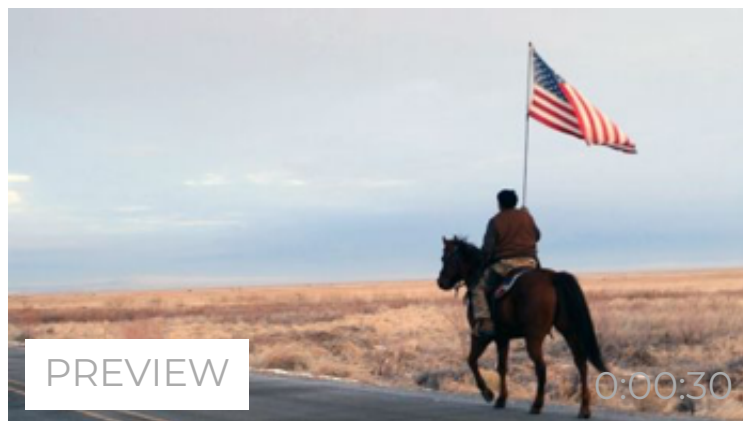
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NO MAN'S LAND

BY DAVID BYARS | IN [POLITICS & GOVERNMENT](#)

Premiered May 7, 2018

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No Man's Land – Trailer

No Man's Land covers with unfettered access 2016 takeover of Oregon's Malheur Wildlife Refuge by anti-government militia

No Man's Land – “A Fend Fed in the Darkness” –

Deep into their armed occupation lands in Oregon, an anti-government becomes increasingly paranoid.

About the Film

With unfettered access, filmmaker David Byars gives a detailed, on-the-ground account of the 2016 standoff between protesters occupying Oregon's Malheur National Wildlife Refuge and federal authorities during a 41-day siege. ***No Man's Land*** documents the occupation from inception to demise and tells the story of those on the inside of this movement, attempting to uncover what draws Americans — the ideologues, the disenfranchised, and the dangerously quixotic — to the edge of revolution. [MORE +](#)

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The militia who took over the Malheur Refuge believed taking up arms against the government wasn't an act of rebellion but

instead an act of patriotism. Do you agree with them, do you think they were within their rights to take this sort of stand? What did this film reveal to you that you didn't know about this movement and this event? What aspects were over-reported and what aspects were under-reported by the media?

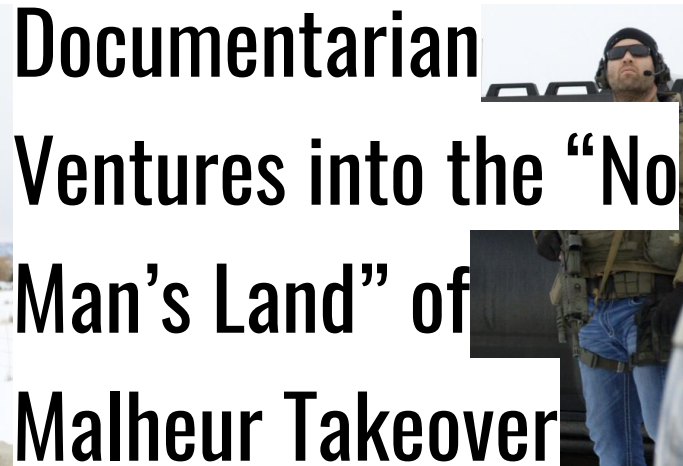
Takeovers and

COMMENT

12
BLOG



Occupations: A Survey of American Mini-Rebellions and Political Stands



Documentarian Ventures into the "No Man's Land" of Malheur Takeover

AWARDS

TRIBECA FILM FESTIVAL
Best Documentary Feature - Nominee

GASPARILLA INTERNATIONAL FILM FESTIVAL
Best Documentary Feature

BIG SKY DOCUMENTARY FILM FESTIVAL
Big Sky Award

DENVER FILM FESTIVAL
Maysles Brothers Award for Best Documentary - Finalist

PORT TOWNSEND FILM FESTIVAL
Best Documentary Feature

CRESTED BUTTE FILM FESTIVAL
Special Jury Prize

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Rodents of Unusual Size



The Cleaners

BY MORITZ RIESEWIECK AND HANS

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The militia who took over the Malheur Refuge believed taking up arms against the government wasn't an act of rebellion but instead an act of patriotism. Do you agree with them, do you think they were within their rights to take this sort of stand? What did this film reveal to you that you didn't know about this movement and this event? What aspects were over-reported and what aspects were under-reported by the media?

18 Comments

PBS - Independent Lens

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Cynthia Dixon • 4 months ago

Wonder what would have happened if the militia was comprised of black, Latino or another minority? Rhetorical question really. Wonder what would happen if this occurred during the

current administration? LaVoy Finicum made himself a martyr & that fits right into the 'narrative' that the occupiers are 'patriots' & the government & 'monied elite are the enemy. Seems like the mistrust & animosity was ratcheted up by outsiders in camouflage who like to shoot military-style weapons. The people who actually lived there just wanted their lives back. Looks like domestic terrorism to me, but most of the perps were acquitted. I guess that means they won.

4 ^ | v • Reply • Share ›



Les • 4 months ago

It was an act of armed terrorism. We have courts to determine problems with each other. What if folks armed themselves and refused to go court on traffic tickets? Same thing.

4 ^ | v • Reply • Share ›



Michael Owen ➔ Les • 4 months ago

Uhm, the courts set them FREE!

1 ^ | v • Reply • Share ›



MilagrosGV ➔ Les • 4 months ago

When the big stops lying taking the land from the rightful owners maybe then ppl will listen. Shame on you!! The courts??? Lmao duh!

1 ^ | v • Reply • Share ›



Bill Ludlow ➔ MilagrosGV • 4 months ago

The Bundys never owned the public land they use.

3 ^ | v • Reply • Share ›



Ken Medenbach ➔ Bill Ludlow • 3 months ago

Neither did the federal government. Public lands are to be owned by the states.

1 ^ | v • Reply • Share ›



Michael Owen ➔ Bill Ludlow • 4 months ago

Uhm, water RIGHTS!

1 ^ | v • Reply • Share ›



Jeffrey Powers ➔ Les • 14 days ago

Really? Lol! They were largely ignored! Their case would have been dismissed by the court because it involved the Federal 'agencies'. By the way, it wasn't an "act of terrorism". They responded in fear of what happened during the Sage Brush Rebellion and what happened in Texas. Many innocent Americans were killed by the FBI and their cohort "team", the so-called "hostage rescue team"

called a hostage rescue team.

^ | v • Reply • Share ›

**Roger Hane** • 4 months ago

What a superb documentary! We were unaware that there was so much footage that could delve into the event so intimately. And those on each side got to state their case fully and eloquently. In the end, we'll each decide for ourselves. Very thought provoking.

2 ^ | v • Reply • Share ›

**tcm66** → **Roger Hane** • 4 months ago

The problem is the documentary does not go far back enough to the Hammond case and the fight over the federal government taking of land and water from the rancher. That was the spark that starting this whole mess.

^ | v • Reply • Share ›

**Jeffrey Powers** • 4 months ago

PBS, you need to STOP your silly bias! Of course these guys are Patriots! They stood against a government that committed TYRANNY! They were NOT 'anti-government'! The Bureau of Land Management which is a Federal government agency, had overstepped their bounds! They believe that they have the ultimate control over the land, to what they know as the 'Federal land'. They WILL make anyone, even YOU, pay for the use of the land! How absurd is that??? The land does NOT belong to the Federal government! It belongs to the American citizens and to the States, known as the PUBLIC LAND to use FREELY! For generations, Ranchers have been raising their live stocks, that is cattle, to graze on land. It was not until the early 70's that the Bureau of Land Management came into existence. THEY had the audacity to ransack the land from Ranchers! Even an attempt to STEAL Ranchers' HOMESTEAD PROPERTIES! Most of these guys in this video, are members of the Militia Chapters, which is perfectly LEGAL in accordance to the U.S. Constitution. The Second Amendment which is the Right to Bear Arms is crucial for many American citizens to protect themselves from BOTH Foreign and Domestic intruders! If you have any doubts, READ THE CONSTITUTION AND THE BILL OF RIGHTS!!! These are what these guys followed! NO GOVERNMENT IS ABOVE THE CONSTITUTIONAL LAWS!!! For the rest of you who have commented with a negative tone, you need to do your research to better understand what exactly happened! We are on Facebook and you CAN learn a lot! PBS is part of the media, just like the news medias, but only offers bias that does NOT give you crystal clear information! Connect with us on Facebook and you will have the TRUE FACTS. P.S., These gentlemen, as well as the Bundy men, are NOT "domestic terrorists" by any definition! There is a tyrannical so-called "laws" that misplaced them as "domestic terrorists" and this so-called "law" was passed by the Obama Administration who committed tyranny! Again, YOU can learn more from us on Facebook.

1 ^ | v • Reply • Share ›

**Marcin Jeske** → **Jeffrey Powers** • 16 days ago



If any government agency oversteps their bounds, the proper venue to challenge that is in a court of law. These people came from other states with the intent to use armed force to terrorize the local population and the lawful authorities of the State of Oregon.

The video doesn't lie ... they trained to shoot law enforcement, they taunted law enforcement with threats, and while I was sympathetic to the unnecessary death of LeVoy before, seeing the video from inside the car ... where he is seen brandishing a weapon and repeatedly told law enforcement that they would have to shoot him ... my sympathy ebbed pretty quickly.

And if you have actually read the Constitution as you claim, you would know that the Executive branch doesn't pass law, Congress does. So any tyrannical laws you claim were passed in the past decade were passed by a Republican Congress.

^ | v • Reply • Share ›



Jeffrey Powers → Marcin Jeske • 14 days ago

Your comment is very taint that you still have NO idea what exactly happened. These Ranchers like the Hammonds were victimized by the tyrannical BLM (Bureau of Land Management) when they had to do a back burn in a safe manner. They did notify the Fire Department and the appropriate authorities that they planned to proceed with a back burn on the wild fire that was fast approaching their home. Their back burn nearly made it onto the "Federal land" to extinguish the wild fire. The Hammonds was later prosecuted under the unconstitutional "law" that states like wise that the Hammonds are "domestic terrorist". This is why the Bundy family took the stand against the tyrannical government who ignored their pleas for the Hammonds. The end result was to protest with others following. Lastly as you claimed that any such "laws" were "passed by the Republicans", you are flat-out wrong. Just remember, Obama and his regime took reign on the White House for 8 YEARS! They wrote that unconstitutional "laws:" to be passed by the Congress. Did I say that the video "lie"??? No, I did not. I SAID they were BIASED. What they claimed is NOT what exactly happened. Remember my dear 'friend', Those that came from other States that brought their guns was NOT to "terrorize" the local community. They were there to STOP the bloodshed from the bureaucratic BLM from killing innocent protestors. They feared that there would be a result of what happened during the Sagebrush Rebellion and the siege on the Texas missionary. Many innocent Americans were killed by the FBI and their so-called units known as the "hostage rescue team". This is why you are so wrong on the idea of armed men from other States to "terrorize". Who is the real terrorists??? THE FBI AND BLM! We would have had a horrible outcome that the Obama regime would be held accountable for their actions against our innocent Ranchers and protestors. Think about that!

^ | v • Reply • Share ›



Ellen Estrada • 4 months ago

Sorry they are colonizers the Indigenous Native Americans are true Americans

^ | v • Reply • Share ›



Lee Mulcahy • 7 months ago

Did FBI Undercover agents help with this film? Just wondering.

^ | v • Reply • Share ›



DGB Films → Lee Mulcahy • 5 months ago

I wish! I believe FBI-funded documentarians get way better benefits. Jokes aside, I believe you are referring to "Longbow Productions", the fake documentary team that was interviewing the Bundy's and supporters in Nevada trying to get them to incriminate themselves. Law enforcement posing as fake doc teams undermine the first amendment and the fourth estate in a way that is dangerous to democracy, no matter if you agree with their goals.

2 ^ | v • Reply • Share ›



MilagrosGV → DGB Films • 4 months ago

Agree100%

^ | v • Reply • Share ›



John O → Lee Mulcahy • 4 months ago

IS this the same Lee Mulcahy? If it is, sounds like ur just as nutz as the bundys.

<https://www.aspendailynews...>

1 ^ | v • Reply • Share ›

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