

**TORT NOTICE OF CLAIM 41-4-16.**

Notice of Claims. A. Every person who claims damages from the state or any local public body under the Tort Claims Act {41-4-1 to 41-4-27 NMSA 1978} shall cause to be presented to the Risk Management Division for claims against the state, the mayor of the municipality for claims against the municipality, the superintendent of the school district for claims against the school district, the county clerk of a county for claims against the county, or to the administrative head of any other local public body for claims such local public body, within ninety days after an occurrence giving rise to a claim for which immunity has been waived under Tort Claims Act, a written notice stating the time, place and circumstances of the loss or injury.

DATE OF INCIDENT: March 30, 2023 but denied by the State Police, Governor Lujan Grisham et al. with refusal and denial repeatedly. The illegal incident was proven on May 21, 2023. This I both a Civil and Criminal case.

TIME OF INCIDENT: Approximately 7AM

STATE AGENCY INVOLVED:

- 1) New Mexico Livestock Board
- 2) Sandoval County
- 3) Sandoval County Sheriff
- 4) NM State Police
- 5) Governor Lujan Grisham

**CLAIMANT'S NAME & ADDRESS:**

1) Patience O'Dowd of Wild Horse Observers Association, PO Box 932 Placitas NM, 87043

PHONE #: 505-610-7644

2) Gary Miles of Sandoval County Watch Dog News Inc. PO Box 724, Placitas, NM 87043

PHONE #: 505-867-0004

**LOCATION OF ACCIDENT:**

Sandoval County the New Mexico Livestock Board were negligent in their duty to the state with regard to refusing to up hold the Wild Horse Law, the fence out law, and the animal cruelty law, and instead their agents willfully and negligently allowed Jerry Carroll of the La Madera Sandoval County Volunteer Fire Department, on an open fenced property contiguous to the Fire Department at 77 Via Entrada, of San Pedro Creek Estates, Sandia Park, NM to lure/capture/close the gate, and to contain wild horses on his

private property which belong to the state and usually roam the area to the west of the La Madera Fire Station.

NMLB et al. then allowed the captor Jerry Carrol to do whatever he wanted (outside the law) and utilize a known colleague who was also present, also from the La Madera Fire Sandoval County Department to haul these 4 wild horses to an unknown location under an illegal contract. After about 1 month and 3 weeks, one of these wild horses, a white face black and white mare with a Mexican Hat was located essentially at a kill buyer auction over the state line in Colorado at the Monte Vista Auction House. She was identified hours after she was SOLD.

The other three are gone to this day. Upon information and belief, these horses went to a ranch in Northern NM to hide, with the knowledge of the state police until the mare was transported to Colorado.

Upon information and belief, the NMLB willfully and negligently allowed a veterinarian to provide a Coggins Test for going over the state line. The three wild horses may be recoverable. If the mare was not sold to a kill buyer, she too may be recoverable (she may have been pregnant.)

**Please describe how the incident occurred and why you feel State Agency is at fault:**

Four wild horses were trapped by Jerry Carroll of the Sandoval County Fire Department and of San Pedro Creek Estates. He notified Sandoval County Sheriff's/Dispatch and told them he had 4 wild horses in his corral and that he had closed the gate on them. He stated that they were wild and agitated due to being locked in. He asked the county animal control dispatch the following: "... they are not going to stay in there long. I was wondering if there's something we can do about that?"

Mr. Carroll had also called the New Mexico Livestock Board first but they had not answered the phone yet.

The New Mexico Livestock Board officer Benjamin Gonzales came to Mr. Carroll's property at 77 Via Entrada in San Pedro Creek Estates and inspected the horses and took pictures of them (No body cam by inspection of public records request yet provided.). He determined that they were not livestock and were free roaming, meaning wild, but did not tell Jerry Carroll to release them though he had a duty to do so. He stated in various ways that he could not tell Mr. Carroll what to do with them, and/or that Mr. Carrol could do whatever he wanted with them.

Neither Mr. Gonzales of the NMLB nor Sandoval County Sheriff's informed Mr. Carol of the laws regarding wild horses, which was their duty. Mr. Carroll felt he was following some "procedure" and was apparently coached ahead of time.

These Agencies willfully and negligently caused a significant loss of genetic material/viability, loss of life, loss of roaming their normal range, allowance of cruelty, loss of their diversity, their biodiversity, and our ability to study them, observe their behavior, enjoy them and gain from their firefighting benefits in the Sandia neighborhoods and the wildlife corridor, their habitat, including the predators there, as well as the loss of aesthetic value and our peace of mind.

We know that one of these four went to a kill buyer auction. Upon information and belief, they went to a ranch to hide out in NM and after a time at least one with easily identifiable markings was sent over the Colorado Border to an auction house with known kill buyers.

When we found out about this, we attempted multiple times to file a state police report, however, neither the state police nor the Governor's Council would take the report or file the information. Upon information and belief, they and the Governor's office were also a party to these illegal events. Their willful negligence of following up on these issues endangered wild horses and wild horse advocates both, and the Pinto mare was lost largely because of this.

Through inspection of public records reports (IPRA's) we have also not found the shipping papers that would be required, Certificate of Veterinary Inspection (CVI), Equine Infectious Anemia (EIA) reports, Brand inspection forms, and proof of ownership would all be required to take this horse and any others over the border. NMLB cams have also been withheld or unlawfully not utilized, at the Via Entrada capture site as well as tampered with the police camera of Benjamin Gonzales.

Benjamin Gonzales of NMLB and his accomplices have attempted to hide the name of the hauler which would have this information along with Sandoval County. When Patience O'Dowd asked Benjamin Gonzales who called David Gonzales the alleged hauler upon information and belief, Benjamin Gonzales literally ran away and that part of his video/audio is effectively redacted with music over playing. We believe this is against the open records act as well as tampering with evidence.

Upon information and belief, the Hauler had a contract for \$2000 which he authorized to be ripped up as part of a cover up.

Relevantly, Jerry Carroll and the alleged hauler are both volunteers at the Sandoval County Fire Station contiguous with Jerry Carroll's property and the fencing is opened there back in the trees. Upon information and belief, volunteer fire fighters are paid by the hour during duty by Sandoval County.

We have signed statements regarding interviews of the parties involved including the Hauler. I and an interviewer of the Hauler travelled to the Sandoval County Fire Department back lot and called the state police and then waited hours. We did this twice and no result from the state police. We continued to call the police and others called the Secretary of Safety. And the chief counsel of Governor Lujan Grisham.

We did get calls back only to find out in what way they could reject our report/information. They did not want our written information, any of it.

Upon information and belief, the NM State Police have acted willfully and negligently and we believe that by not taking our complaint/information and/or investigating further that they both broke the law contributing to or causing the death of the Pinto Mare who was still alive at the time and have not brought the other three back to their range.

Sandoval County has also willfully refused to update their Sandoval County Ordinance to the existence of the STATE LAW NMSA 77-18-5 protecting these wild horses since 2007, has drafted an update in 2019 but again has not codified it and instead has completely ignored state law they knew or should have known.

In any case, Sandoval County must follow state law and to which it refers to NMSA 77-1-1 et seq. in its county Ordinance which does include the wild horses under general animals (rather than livestock). These horses were not released and broke yet another Sandoval County Ordinance of keeping an animal for over 24 hrs. Given that these animals were never again released upon information and belief, Sandoval County knew (Per their DRAFT Ordinance update in 2019) or should have known pursuant to County Animal Ordinance, Chapter 4.4 that these wild horses were illegally impounded.

As animal control officers as part of the Sandoval County Sheriff's department, they had a duty to inform Mr. Carrol when he asked his question. They did not.

**What are you making claim for: Please check one Bodily Injury Property Damage Please describe injury or property damage:**

Willful, retaliatory, and negligent loss of any protections from these agencies, making it dangerous for Wild Horse Advocates and Wild Horses.

Willful, retaliatory, and negligent loss of equal protections or any protections from these agencies, making it dangerous for Wild Horse Advocates

Denial of Open Records from these agencies making it dangerous for Wild Horse Advocates and Wild Horses.

Loss of diversity, bio-diversity and wild horse genetic material and bio diversity from our wildlife corridor in the USDA FS against the law, and the constitution of NM.

These horses were lured OFF the USDA FS and there was no DNA testing done.

Interagency and corporate collusion against Wild Horse Advocates and Wild Horses have and are making it dangerous for Wild Horse Advocates and Wild Horses.

Loss of wild horses from their normal range.

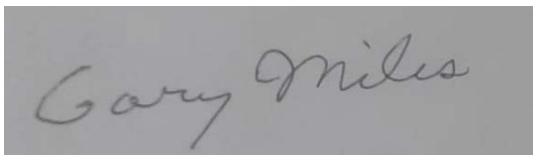
Illegal cruelty, there are diseases as well at the auction houses.

Our loss our ability to study them, observe their behavior, enjoy them a well as loss of aesthetic value and our peace of mind.

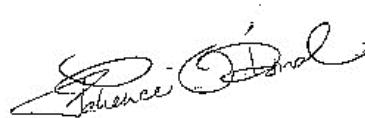
Loss of their fire-fighting benefits.

Endangerment of the local herd in consideration of the fact that they are being shot and killed and fenced away from water as well as being rounded up.

**Signature of Claimant or lawful representative Mail claim to:** Risk Management Division P.O. Box 6850 Santa Fe, NM 87502 Phone #: 827-0442 Fax #: 827-2969



Gary Miles 8/19/2023



Patience O'Dowd 8/19/2023