

12 June 2006

**National Lawyers Guild ~**

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Re: ***Rainbow Gathering in Colorado ~***  
**Advisory, Request for Cooperation**

Friends:

Over the years we have informed the Guild on the recurrent assembly rights crises affecting the 'Rainbow Gatherings' in the National Forests, and we have worked with affiliated attorneys on some projects. The saga still unfolds, with the annual Gathering about to land in Colorado:

*This goes out to apprise you of the escalating civil rights issues likely to emerge, and to engage your assistance in monitoring the situation and setting up legal supports.*

PCU\_/Free Assembly Project has been active in related policy and legal work since 1993, upholding public interests in the protection of First Amendment expression in public forums. With experience in these events and deep research on the cases, we are a prime source for attorneys who may be called upon. We've also learned the value of preparation, making sure that good lawyers in the region know the story in advance, and are ready.

It is a matter of due diligence and good sense to connect with NLG affiliates in the region. Among big rights advocates, National Lawyers Guild has done most to step up when crises arise. Your recent work with political mass actions (e.g., FTAA-Miami, RNC-New York) was invaluable... it also engaged hard lessons on dealing with large public assemblies in duress, and the difficulties faced by those who travel for expressive purposes. In this light, Guild lawyers & volunteers can appreciate the dynamics and logistics of these events, and the special problems of crisis response and legal support in the remote areas where Gatherings occur.

This weekend a preliminary council convened west of Steamboat Springs, and the selected site for the gathering may be announced in a few days – probably in Routt National Forest. Then the 'seed camp' phase begins, when early arrivals will move in to set up kitchens, latrines, water supplies, & other temporary facilities – and police actions will be stepped up.

Outlining the Problems --

The 'Rainbow' Gatherings have borne a legacy of spiritual & cultural pilgrimage to the National Forests since 1972, the purest exercise of open consensual assembly in our time. The annual 'Gathering of the Tribes' draws thousands over the first week of July, focusing on the 4th as a holy day of prayer for peace and freedom. In recent years small regional events in this mode have emerged, and such gatherings have taken place in many nations around the world.

There is also a loaded history of police harassment and targeted Forest Service policies to impede and disrupt these assemblies. Court battles have been fought around the country, with nothing resolved... the problems recur and intensify, '*capable of repetition yet evading review*':

~ The 'Group Use' permit (36 CFR 251.54) requires agent powers antithetical to a true assembly, imposes vicarious liabilities, and offers no means of personal compliance without felony fraud. The resultant 'Holder' is a legal fiction, incapable of protecting rights of unknown 'non-members'. If 'someone' does not sign, a gathering is declared "illegal", and ALL are subject to citation & arrest.

~ By Delegation of Authority from the Forest Supervisor, a FEMA-based 'Incident Command' team gets full powers over the site, putting Federal law enforcement in control of USFS policy as applied – overriding administrative law, the Forest Service's broader mandates, and its qualified personnel. State & local police are brought in under interagency pacts, and other regional agencies are put on the 'Team', allowing it to piggyback jurisdictions and expand the scope of enforcement.

~ Environmental & health restrictions are misused as arbitrary grounds for pretextual enforcement and exclusion from public land. Forest Closures have claimed the need of archeological protection, where the factual basis is concealed and evades First Amendment scrutiny. In recent years Incident Command has forbidden local Resource staff from direct contact with gatherers, and they are now accompanied by LEO's on-site – so that enforcement preempts cooperation.

~ Citations are issued selectively or en masse, as police tactics have escalated. Federal misdemeanor charges are used to burden and deter those who travel for expressive purposes, with no means of fair defense in a remote court. Roadblocks and 'gauntlets' are targeted on the site, with aggressive drug enforcement the usual theme. Police agencies throughout the region are notified by the Feds, and incoming 'Rainbow' traffic is subject to profiling & stops over a wide radius.

~ Events last year in West Virginia took a more ominous turn: LEO's seized extreme discretion in profiling people and presuming their affiliation as a "Group" (i.e., '*compelled association*'), issuing hundreds of citations. Moreover a special District Court venue was set up near the gathering site – *inside Incident Command headquarters* – where *pro se* defendants were denied due process rights and marched through closed tribunals in lieu of trials. The Federal Court colluded in targeting expression under FEMA authorities. PCU\_/FAP got Observers into the court, and was instrumental in launching 9 First Amendment Appeals, now pending in the Northern District of West Virginia.

### Setting up Solutions --

The intent here is to plan fitting steps to protect this assembly, and respond to civil rights abuses that will arise. This calls for foresight on circumstances to be expected, and collaboration between volunteers on-site and informed legal allies in the region.

- Cooperating lawyers will be needed in Denver for cases landing in the U.S. District Court there, and in counties around the site where state charges apply. Your personal interest and best referrals are welcome... feel free to forward this letter to other Guild members & concerned friends. It's best to contact me directly for further info and advance discussion, to establish their special skills, scope of interest, and preferred roles in assistance – and to do so right away.

*Ideally a stable of ready attorneys will be available for contact, strong on constitutional & criminal law, and including skills in federal administrative law. The modus operandi is to set up good cases for good lawyers, providing effective investigation & research in support.*

- PCU\_/FAP works in a critical niche – fielding observers and documenting incidents, turning rumors into real information. Without this gruntwork, there is no chance of fighting back. Our ability to pull in usable solid facts & witnesses makes it possible to defend bad charges and seek redress of harms, and plausible for lawyers to do their jobs – spared the onerous task of tracking down investigative evidence they could not otherwise find, or even look for.

*If NLG-Colorado has an active legal observer program, or willing volunteers among its members, it would be most helpful – and a significant presence at the gathering. I can coordinate with your people to cover different areas of the site and work in mutual support.*

- Pulling in documentation is most difficult in these circumstances, with risks to be controlled... to secure evidence with no lawyers yet involved, we have to affirm legal privilege *prospectively*. It's safest if a local attorney issues an authorizing letter in advance to cover observers, and agrees to receive such items and make them available for related cases as they arise.

*We need one local lawyer in this special role, and on-call for emergencies. It's essential to set up reliable communications, to watch events and coordinate with volunteers on the ground.*

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Appended and via tandem eMail are a few concise information docs on related issues and recent incidents. We also have deep archives of case files & policy research at your disposal, and ready contacts with key players around the country.

Concerned rights attorneys need to understand these issues, and draw upon our tough experiences on the land and in the courts. We call for proactive steps within your means.

I hope this is helpful & effective, keeping it simple... please call with questions & ideas.

Respects,



- scott addison, Coordinator  
St. Louis, MO

*Attachments (Summary to be provided):*

- Rights & Land (Summer 2000)
- Rainbow'05\_\_FedCourt Report (jy05)
- WVa'05\_Cranberry Case Appeals (au05)
- WVa Appeal Briefs Filed(v2) (my06)
- Routt NF- Observer Notice (10jn06)