

9 May 2008

Hon. Mark Rey
USDA, Office of the Undersecretary
1400 Independence Avenue, SW
Washington, DC 20250

eM: Mark.Rey@usda.gov

Attn: Ms. Amanda Lockwood

Amanda.Lockwood@usda.gov

Re: Letter of Intent, 5/1/08

Dear Mr. Rey and Ms. Lockwood:

We seek clarification on recent communications from the Office of the Undersecretary to certain individuals, concerning the "2008 National Rainbow Family gathering in Wyoming". In particular, a few questions arise as to the "Letter of Intent" sent out on May 1:

It is apparently a statement of discretionary USDA policy toward the gathering from Mr. Rey, yet there is no letterhead, date, specified addressee, or signature to authenticate it or give it force. Seemingly the main 'intent' is to obligate the so-called "Rainbow Family" to a vested "process" for group compliance under Noncommercial Group Use authorities, in lieu of requiring a signed Permit. Without considering its further content, the nature and legal effect of this correspondence are unclear.

- The principal recipient was an Oregon attorney (OSB #92560), in response to his inquiries. The Letter was faxed to his office in a manner suggesting that he appears or purports to represent the "Rainbow Family", per se, or other clients acting in that capacity. Is it presumed that by conveyance to this lawyer, the "group" as a whole is served with official notice?
- Similarly, certain other individuals active in negotiations with USDA and other Federal officials are cc'd as well. Are they assumed or alleged to be de facto agents of the "Rainbow Family", or designated as such under the Agency's 'Group Use' authorities -- and are they now made responsible for disseminating and implementing this policy statement throughout the "group"?
- The recipients are instructed to circulate this Letter among "members of the Rainbow Family". However if such parties cannot be identified, nor any legal membership established, exactly who is being notified of these policies and made liable for group compliance?

The broad salutation "To All" suggests that any person who attends the gathering, or enters a National Forest in its vicinity, may be profiled and collaterally bound by this third-party "protocol", or prosecuted if it fails due to third-party actions, at the discretion of government officials. In fact this has been a core fallacy in the 'Group Use' enforcement scheme to date, which the present "accommodation" would perpetuate and cast in stone:

By the devices of naming the "Rainbow Family" as a group party to a sanctioned process and operating plan -- and inducing some individuals to answer and act in accord -- it is conjured and vested as a legal entity from thin air, enacted solely within this pact, just as in a signed permit. In particular, using an unwitting consenting attorney to effect general notice on the "group" would seem to lock in this legal fiction irrevocably, for future regulatory purposes.

Conversely, by virtue of personal rights at stake for gatherers at-large, these ex parte transactions between the Agency, attorney, and others can be seen as constructive fraud.

These questions go to the premises of "the Forest Service's approach to the 2008 Gathering"; in light of unfolding and imminent events, they call for timely consideration.

Your prompt response and remedies are appropriate, and most appreciated.

Respects,

Scott C. Addison

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Coordinator

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