

/_RightsFights...The TRENCHES

[Short History & Close Perspectives:
[The Volunteer Campaign to Save
[Free Gatherings on Public Land

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{{ "THE FIGHT FOR PUBLIC LAND AND RIGHTS -- }}
{{ A YEAR OR SO IN THE TRENCHES" }}

-- scott addison, 7/21/94

Over the past 14 months, the Forest Service has proposed two
new
rules to amend Chapter 36 of the Code of Federal Regulations:

'Group Use' Rules	'Law Enforcement' Rules
36 CFR Parts 251, 261	36 CFR Parts 261, 262
FedReg. 58:86; 5/6/93	FedReg. 59:32; 2/18/94

Together, these measures threaten serious impacts on First Amendment
rights of assembly, expression, and belief, and on Fourth Amendment
protections of privacy and probable cause.

Since the early 1980's the Forest Service has tried several
times
to implement similar 'Group Use' regulations and suppress gatherings
in
the National Forests; twice these rules were tested in Federal
courts
and found unconstitutional:

-- U.S. v. Israel, No. Cr. 86-027-TUC-RMB, Dist. Ariz. May 1000,
1986

-- U.S. v. Rainbow Family, 695 F.Supp. 294, E.D. Tex. 1988

Yet they keep coming back, arbitrarily defining Public Assembly as a "Special Use" in the National Forests, and thereby subject to government authority to grant or deny a permit... a circular logic, somehow numb to the simple tenet that Citizens do not need permission from the Government to exercise Constitutional rights.

The 'Law Enforcement' rules appeared without notice this past February -- proposing sweeping enforcement powers over "public behavior", fast-track prosecutions without juries, and a new National police force empowered to override local authorities and lock down public lands.

This confirmed the sense that Reaganite/BushLeague holdovers in the U.S.F.S. bureaucracy were making a last-ditch effort to push dangerous precedents into Federal law. Apparently the political bet was that Bad Law could be made this way, low-profile in the obscurity of the Federal Register: Put a "benign" agency in front, use a guise of environmental protection, isolate the most marginal opposing 'crazies' in the most faraway places... and the public won't care until it's too late. The Rainbow Gatherings in the National Forests were the obvious target: "Smokey da Bear against dem Nasty Hippies."

No doubt the smokies didn't count on folks showing up in Washington in July '93 -- holding councils in front of the White House, landing hundreds of letters and thousands of petitioners in the formal comment record, occupying Forest Service headquarters, launching a Congressional lobby, carrying the issue to key committees, challenging agency officials, networking to media and organizations, and presenting serious critical analysis on these policies affecting the Constitution and the Land.

After the comment period closed, the Forest Service had planned to publish the final 'Group Use' rules in the Fall. The record showed 602 letters, two of them in support.

Some outreach paid off... 'Independent Voters of Illinois' came out in opposition, following the lead of the ACLU.

More info went out to Congressional staffs, set off some rumblings, then the campaign hit the top of the line of decision:

In October a big "Presentation Package" was delivered to the Asst. Secretary of Agriculture, Jim Lyons (with 'Issues Summary', press clippings, and all the copies available of comment letters & petitions -- just to make sure he got the full scent of the REAL response, not a diluted & sweetened recipe from the Bureau Epicurocrats...). Word came out that the final rules would be delayed until after Christmas.

More good news came in November:

-- USDA Secretary Mike Espy received a letter from the House Judiciary Committee (Rep. Don Edwards, Subcommittee Chair), advising that the proposed regulations infringed on the First Amendment and were unconstitutional.

-- The "Religious Freedom Restoration Act" (H.R. 1308) was enacted, restoring a stringent 'compelling interest' test on any government action that might restrict religious belief and expression... bolstering the First Amendment.

-- Reagan's appointed Forest Service Chief was FIRED: F. Dale Robertson was booted with top aide George Leonard, both at the source of environmental abuses, political scandals, and draconian policies toward public gatherings. Jack Ward Thomas was appointed shortly after, a real scientist and ecologist highly respected in environmental circles.

-- A public meeting was requested with Asst. Secretary Lyons to open serious dialogue on USFS policy; his office agreed, and it was set loosely for mid-December.

Apparently it was all BAD news for some attorneys in the USDA Office of General Counsel: Suddenly the big Package to Lyons was sequestered from his office, and they told his staff that they could NOT

talk to the public or receive input, on the grounds that such "EX PARTE" communications ('from one side') were "improper" during a rulemaking process. So, they stole the stuff and stopped the meeting. In other words, some govmt lawyers put a Gag Rule on citizen information to public officials, on an issue of Free Expression... get it?

The work went on, heating up the Congressional committees and presenting the much-debated "Legal & Land Use Review" in key places right after Christmas -- to put a strong, rigorous argument into the policy works. In early January '94 an inquiry was raised from the House Judiciary and Agriculture Committees, and the agency again delayed

publication of the revised rules. They targeted May so that the rules could be in effect for the Rainbow Gathering in July.

In February the proposed 'Law Enforcement' amendments were published in the Federal Register, without notification as promised. Half the comment period had passed when word came in mid-March. A crew assembled quickly in Madison and put out the now-famous "Son of FrankenRegs" piece -- the first interpretive info to hit the streets & NET and raise steam on this second rulemaking. Based on strong public demands, the comment period was extended to May 18.

Then opposition rose from both ends of the political spectrum, some Western Senators were in an uproar, and volunteers showed up at Forest Service 'TOWN HALL' meetings in Minnesota (4/30), Vermont (5/6), and DC (5/13) to put the Constitution on the agenda and talk directly to the new Chief, Jack Ward Thomas: He was told that all those populist ideas on "Reinventing the Forest Service" meant nothing if Constitutional rights were denied on public land.

Publication of the final Group Use rules was expected at about this time, but it never came: USFS staff announced that they would be delayed a third time, for a "few months". Then on May 18 the Chief announced that the 'Law Enforcement' proposal was being withdrawn due to overwhelming opposition, with apologies to the American public... Truly amazing... Maybe the efforts made a dent: Neither rule would take effect this summer as feared. The 23rd annual Rainbow Gathering of the Tribes would go to Wyoming, July 1-7 on the Land -- still free, unburdened by illegal regulation.

A pretty big win, for now.

The road to the Gathering wound westward through dry foothills into the south Tetons. On the morning of the 2nd, parking crew was out greeting arrivals and directing cars to a grassy field. Then an easy hike up the trail a couple of miles into the heart of the Gathering...

Welcome Home.

Something was different this year: The usual heavy police

presence was not around -- no roadblocks, searches & harassments, video surveillance, armed incursions and low overflights as in recent years... nothing like a year ago, when the cops set up a Command Post inside the Alabama gathering, and when a National Guard detachment was kept out of the Kentucky site by a bunch of young Post-Punkers, who sat down in the road in front of them! Aside from a few routine 'hippie-stops' out on the main roads and low-key Ranger patrols on horseback, things were very laid-back this year.

But there was another danger: FIRE.

On the afternoon of the 2nd and again the next morning, two small blazes were put out with buckets, and gatherers took stringent precautions; only properly-made kitchen and community fires were allowed, and never left untended. But on the afternoon of July 3rd events turned dramatic: The call of "Fire!" went up again and echoed around the valley, black smoke billowed from a remote ridgeline to the northwest, Council broke and people were moving everywhere -- some out of the woods, evacuating Kiddie Village, many hustling buckets to the springs and racing up the gap to the blaze, now crowning fifty feet over the treetops and blowing toward the forested west ridge, sitting there like a tinderbox.

Thousands rallied to form long bucket brigades and line crews with available shovels, axes, and bare hands. Rangers tried to wave them out of the area, they kept coming back. The winds turned around as if moved by common will. In a five-&-a-half hour firefight, the flames were brought down, perimeters were scoured for hotspots, root burns were dug & doused, the scorched forest floor stamped & cooled. The People saved Bridger National Forest from a major inferno... and they saved the Gathering.

On the Holy 4th, after the morning of silent peace-prayers and the Great Circle at High Noon around the meadow, about a half-mile across sunlit bright...
...A marriage ceremony commenced at the Peace Pole, the drums & feet

began beating, the people danced wild for fertile rain to cool the land,
the skies darkened and boiled clouds over the valley, and It Rained...
drums pummeled, the crowd howled and the newlyweds kissed in spattering
windblown mists.

It kept up all afternoon and into the evening, welcomed the stars,
then the rhythms went all frenzy and hoots rose around the valley as everyone out there greeted a UFO that came over the south ridge, hovered
high flashing luminous hues, then disappeared. It kept going all night,
the carnival of firesides alive with music, dance, & heartsongs. As first light reached over the mountains, the night-drummers at Main
Circle thumped in triumph and faded away; the day-drummers at Everybody's Kitchen beat greetings to the dawn.

Something important happened in Wyoming. Three Fed Firefighters
who worked alongside the Rainbows were amazed at the level of cooperation they saw, how determined Folks were, and how kind. Welcomed
into a circle after the fire, they offered high praise and thanks, and
were visibly moved.

A Forest Service 'Incident Commander' mused at the strange winds; he
acknowledged that it could have taken their crews a week to control this
fire, and that 10,000 acres of forest had been saved.

But beyond just stopping a fire, the Rainbow Family of Living Light seized the high ground in the whole debate on Rules & Rights in
the National Forests. With the stellar history of non-impacts and full
cleanups on their sites, the Gatherings never qualified as "land uses"
under environmental law. In fact the Forest Service has ignored its own
guidelines under 'NEPA' (National Environmental Policy Act) by defining
short-term "group events" in this way, to justify regulatory control.

Now events have forced a major paradigm shift:
The People 'Walked the Talk', demonstrating Public Stewardship on Public
Land as a working reality and a viable policy alternative, winning respect for tribal Consensus, and maybe sovereignty for their Gatherings. This touches many Big Things.

Politically, it's all problematic:
The process grinds on wheels of its own -- Publication of the revised
'Group Use' rules is still expected this Fall, and there is no indication of any real change of intent. Similarly, Chief Thomas promised a new 'Law Enforcement' proposal to come out around the same time, but his grand apology did not address the Fourth Amendment threats that really matter.

The serious policy issues remain.
The fact that a Cadre of Rulemakers within USDA has even TRIED to justify such extreme powers over Constitutional freedoms, and has proposed them as Law to be systematically applied -- this is cause enough for continuing alarm. Apparently they are still at work, writing rules, re-crafting the language to defuse mainstream opposition but leave the tilt of power intact. Senator Baucus (D-MT) called them "...a bunch of busybody Beltway Bureaucrats run amok...", but they're still getting paid for the job.

There is deep paradox in the politics: Gatherers again cooperated with the Rangers who care for the land, and got along just fine, same as it ever was. The official report on Wyoming should be very positive. And there are signs that a few officials 'high & inside' might be taking a hard second look at these rulemakings. Yet it cannot be assumed that any Fed-Libs have bought out of their blind belief in 'the right of the government to govern' -- they still think it's OK to require permits for the exercise of rights, and still seek a powerful police force with USFS badges.

Some kind of showdown will happen this Fall.

Much rides on Forest Service honchos, the play of recent events, & what they do now. There is a sober knowledge that if the rules are pushed into law, the Big War will rage for years with confrontations, arrests, litigations. The Gatherings will go on, upholding Rights and holding the line on the Land for all people, at all costs.

Yet there is also a sense that the campaign is no longer on the

defensive... That it can build a broad-based mandate for big changes in public land policy, that it must do this for the ancestors, the seventh generation to come, and "all our relations".

The Fight is on.

{{ SIDEBAR }}...

<<>><<>> A CALL FOR SUPPORT <<>><<>>

"P.C.U." works as an open Coalition of Volunteers, and there is much to be done.

By consensus on July 5, the fight will continue to stop the proposed 'Group Use' and 'Law Enforcement' rules, and secure Constitutional rights in the National Forests.

We have called for a new direction in USFS policy, and continue to seek public hearings.

We are launching a new letter & petition campaign, more pressure on Congress, and a broadened outreach to public interest organizations and media... NOW IS THE TIME.

Your ideas are welcome, and your help is needed.

If you want info or have inputs, let us hear from you. If you can move brochures and petitions or focalize public education and outreach in your area, we will send out a resource package to put tools in your hands.

Please get in touch.... Call the DC Office or the Chicago Hotline and leave word. Thanks for what you can do.

PCU // Freedom of Assembly Project

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For further information...

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