

Without

FREEDOM OF ASSEMBLY...



...the Constitution is just pulp.

THE U.S. FOREST SERVICE IS PLAYING WITH FIRE!...

Two new administrative rules have been proposed to amend the Code of Federal Regulations --

'Group Use' Rules:

36 CFR Parts 251/261

'Law Enforcement' Rules:

36 CFR Parts 261/262

These amendments would empower the Government to curtail Constitutional freedoms in the National Forests:

- ☞ *If the free exercise of 1st Amendment rights is made a crime on Public Land, then where are rights assured?*
- ☞ *If USFS Police gain broad powers overriding local law and 4th Amendment protections, what is the purpose?*

THE PROPOSED RULES MUST BE STOPPED -- Here's Why:

There is an American legacy of Land and Liberty...

It goes way back -- from the millenia of the Red ancestors living in the Spirit of earth and sky, through the centuries of Whites and Colors who came to speak and pray as they believed.

The Landscapes and Freedoms of America are linked in the eyes of the world, in the hearts of the people. As the country grew & settled, the call rose to *preserve this heritage*. The National Forests were founded in that spirit -- as public lands in trust, where our Natural bounties and Constitutional rights would be protected.

Over the past 90 years, the Trustees have changed their tune: Mountainsides are stripped bare, the gifts of Nature sold & soils washed away -- and the Forest Service says *IT'S GOVERNMENT LAND, NOT PUBLIC*.

They have made policies to oppose free assembly, and now they want to be in the *Police Bizness, bigtime...*

The USFS has proposed two new regulations to amend the Federal Code: both are under review before enactment, and widely opposed...

'Group Use' Rules

36 CFR Parts 251 & 261

{Fed.Reg. 58:86; 5/6/93}

~ A Special Use permit would be required for 'group events' or 'distribution of printed material'. No environmental need has been shown for such restrictions on public lands, which Courts have found to *infringe on Constitutional freedoms...* and this proposal fails to address those rulings.

~ With vague permit criteria, USFS officials would hold broad authorities to deny citizen access, and unprecedented powers of "prior restraint" over protected rights. The rules violate the agency's own impact standards under NEPA (National Environmental Policy Act), and even sanction *U.S. military priority in the National Forests*.

~ The Government fails to justify any "compelling interest" in this rulemaking, and disregards known alternatives to regulation, which by law must be considered as "least restrictive means" to its ends. Determining that this is not a "major rule", they evade formal review of policy impacts.

OUR 1ST AMENDMENT RIGHTS ARE AT RISK:

THIS RULE WOULD LAY A SUBSTANTIAL BURDEN ON THE INALIENABLE FREEDOMS OF ASSEMBLY, EXPRESSION, AND BELIEF -- THE LEGACY OF NATURAL RIGHTS TO JOIN IN COMMUNION ON THE LAND -- BY DEFINING THE FREE EXERCISE OF THOSE RIGHTS AS A CRIMINAL VIOLATION.

'Law Enforcement' Rules

36 CFR Parts 261 & 262

{Fed. Reg. 59:32; 2/16/94}

~ The USFS would expand Federal jurisdiction and police powers on Public land, overriding local authorities. The rules subject "Public Behavior" to government scrutiny, with broad prohibitions and discretions; agents could impose 'Special Closures' without documenting reasons.

~ Offenses are redefined to undermine jury trial rights; possession need not be proved on drug charges, & *bribery for prosecution* is sanctioned. With funding control, 'FEMA' (Federal Emergency Management Act) powers to impose marshal law, and plans to combine Federal land agencies -- harsh authorities would apply widely.

~ A need for new authorities is asserted, yet no "significant interest" is shown -- beyond claims that the existing regulations are "inadequate... for conducting law enforcement activities", & that prosecution should "...be practical". They say it is not a "significant rule" to avoid OMB scrutiny.

THE 4TH AMENDMENT IMPACTS ARE SERIOUS:

A NEW NATIONAL POLICE FORCE WOULD BE BROADLY EMPOWERED TO CONTROL AND LOCK DOWN PUBLIC LANDS BY ADMINISTRATIVE WHIM; KEY 'DUE PROCESS' AND 'PROBABLE CAUSE' PROTECTIONS WOULD BE UNDERMINED IN THE NAME OF "PROACTIVE ENFORCEMENT".

**These rulemakings must be understood together, as key pieces in
a regulatory scheme that would deny the Bill of Rights on Public Lands.**

...The legacy lives on in our times.

In 1972 the ancient tradition was revived – *GATHERING IN COMMUNION AND CONSENSUS ON THE LAND*.

Every 4th of July since then, thousands have come in pilgrimage to a Gathering in the National Forest... joining in the Sanctuary of Nature to celebrate freedom & pray for peace, share heartsongs & care for the land. This new tradition fulfills Native American prophesies of a Rainbow Tribe of Many Colors that would arise and heal the Earth. And it is an historic experiment in Social Ecology and Consensus Democracy.

The Law shows up too... Gatherers cooperate with local Rangers and leave sites clean and restored, yet USFS officials maintain a policy of selective enforcement and harassment, in some cases severe.

And they have tried to take legal control over assembly on public land, and stop the Gatherings.

This is the third time since the early 1980's that the Forest Service has proposed rules restricting constitutional & civil rights.

- Both prior 'Group Use' measures (1984, 1988) were struck down in Federal Court tests:
 - "Such a regulation impermissibly singles out those who wish to gather in order to exercise their First Amendment rights... [and] is therefore UNCONSTITUTIONAL."
U.S. v. Israel, No. Cr.-86-027-TUC-RMB, Dist. Ariz. May 1000, 1986.
 - "...public Forest Service lands are the type of forum in which expressive activity has historically occurred, and in which public expression of views must be tolerated to a maximum extent."
U.S. v. Rainbow Family, 695 F.Supp. 294, E.D. Tex. 1988; at 308.
- USFS enforcement has been hostile and invasive: Peaceful assemblies have suffered illegal roadblocks, searches, surveillance, and *military incursions*. In 1991, Vermont locals complained of "...an unnecessary show of authority that turned their community into a police state".
U.S. Forest Service: 1991 Rainbow Gathering Report, pg. 26.

These policies are out of step with the times and spirit of America.

- The 'Group Use' rules face growing opposition, including the *ACLU*, *America the Beautiful Fund*, *Kentucky Resources Council*, *Independent Voters of Illinois*, and others.
- They are condemned by the House Judiciary Committee as "...the latest in a series of Forest Service actions that have threatened to infringe on the First Amendment". [Chn. Edwards, 11/1/93]
- The *Religious Freedom Restoration Act* was signed in November '93, restoring a stringent "compelling interest" test upon laws restraining spiritual belief and ritual; the *Native American Free Exercise of Religion Act* is now pending (S.1021), recognizing sacred gathering sites.
- The USFS has new leadership, with progressive ideas for National Forest environments...
IT'S TIME FOR PROGRESSIVE POLICIES ON CONSTITUTIONAL RIGHTS AS WELL, TO ALLY CITIZENS & PUBLIC SERVANTS IN COOPERATION AND SHARED STEWARDSHIP FOR LANDS IN THE COMMON TRUST.

The First Amendment:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The Fourth Amendment:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

-- KEYSTONES of the CONSTITUTION --

It's Time for a New Direction in National Forest Policy:

WE TOOK THESE ISSUES TO CONGRESS & THE WHITE HOUSE... THE WINDS ARE SHIFTING --

- ~ Final enactment of the revised '**Group Use**' Rules has been pushed back since Fall '93: In May, USFS lawyers revealed that they would *not publish* that month as planned, and now they have deferred action again for several months, backing off for the fourth time...
- ~ The '**Law Enforcement**' Rules met a deluge of public & Congressional opposition: The comment period was extended to May 18, when USFS Chief Thomas announced that this rulemaking was being dropped without final review, promising a new proposal this Fall. Both rules were stopped this summer... a big win for now, but the policy issues remain!
If they are kept from becoming Law, there is a chance to make some real changes ...

- **KEEP LETTERS COMING...** Build a strong mandate for the Bill of Rights:

Jim Lyons -- USDA Assistant Secretary
Adm'n Bldg, 217E • 14th & Independence SW
Washington, DC 20250

Carol Rasco -- Domestic Policy Advisor
The White House • 1600 Pennsylvania Ave.
Washington, DC 20250-0006

- **REQUEST PUBLIC HEARINGS...** The Agency is hiding behind obscure rulemaking procedures and ducking lawful review of policy impacts; USDA lawyers have obstructed information and stopped meetings with responsible public officials.
To preserve Constitutional liberties, these issues must come to an open public forum.
- **CONTACT MEMBERS OF CONGRESS...** Talk & write about the impacts of these Forest Service policies, speak your concerns for the Constitution and the Land. We have introduced the issues on Capitol Hill and called for responsible oversight:
Direct action to the Agriculture, Natural Resources, and Judiciary Committees of both the House and Senate, where formal inquiries have been requested in the subcommittees.
- **DO WHAT YOU CAN...**
 - *Inform* more people about these threats to Constitutional freedoms, and the need to preserve the Bill of Rights on Public Land; urge them to read and respond...
 - *Circulate* more petitions to supplement the formal record; show Congress and Officials that public concerns remain strong, and demands for change should be heard...
 - *Outreach* to public-interest organizations, get position statements endorsed in opposition; contact journals & media to get stories out and raise public awareness...

Efforts must carry on to stop both rules this Fall & open new dialogue on USFS policy. Send copies of letters, good feedback and \$-support so your views can keep working.

INQUIRIES ARE WELCOME, WE HAVE INFO AND IDEAS TO SHARE...

PEOPLE FOR COMPASSION AND UNDERSTANDING

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