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May 4, 2009

Brent Botts
District Ranger
Pikes Peak Ranger District
601 S. Weber St.
Colorado Springs, CO 80903

Dear Mr. Botts:

I am in receipt of your writing dated April 14, 2009. I would like to thank you for your reply as it supports where this district of the Forest Service (FS) has violated federal law in closing the FSR's in question. I am, however, surprised that you did not attempt to prevaricate more skillfully as these violations impact not only a federal agency, but also highlight your personal responsibility and accountability in this regard. Indeed, your writing not only supports where federal laws were violated, but also highlights a new violation of federal law. I shall focus on FSR 371 as the other roads require no additional mention at this point. But first...

Considering that you were not able to adequately explain why the cited violations of federal law in my writing of March 25, 2009 do not apply, I am asking you again to reopen all of those roads, i.e., FSR's 300, 322A, and 371, until such time as the procedures under 36 CFR 220 et seq. have been properly observed and in doing so have provided you with the legal authority to close these roads.

Now, although you erroneously state that FSR 371 is not subject to federal law because it is not a "Forest Service system public road and thus not subject to those regulations," [besides this point regarding the application of federal law being complete nonsense (see 36 CFR 200 and 220), maps and signs on the ground and nearly all of the FS's communications indicate that this is indeed a FSR], you go on to explain that "public notice of this proposed action was posted..." This is puzzling. Either the road is or is not subject to federal law. Obviously it is, but also, since the requirement for public notice is based on 36 CFR 215 et seq., and you observed that step, an Environmental Assessment (EA) or Draft Environmental Impact Statement (DEIS) is required (36 CFR 215.3). Which leads me to the potentially new violation of federal law on part of the Forest Service, your district, and you, personally.

On multiple occasions I submitted FOIA's requesting "all records, in any format" regarding the closure of FSR 371. Although these requests have been answered, to date I have not received copies of an EA, DEIS, or public notice statement. On December 8, 2008 and on January 8, 2009 I submitted FOIA's regarding the closure of FSR 322A. Here, too, I requested a review and possible copying of "all records, in any format." In your response dated December 17, 2008, you state, "No such records exist." Yet in your most recent reply, you state that a Decision Memo regarding this road closure was signed on April 28, 2004. Do you not realize the disrepute you are bringing upon the Forest Service, this district, and yourself? Do you not realize that the closure you refer to as "temporary," by law, cannot exceed one year (36 CFR 220), yet this road has been closed for five years?

Based on the above, and in accordance with 7 CFR 1.5 and 36 CFR 200.7, I am submitting the attached FOIAs - again. You should also be aware that beyond the Congressional inquiry that was launched and which is on-going, many concerned citizens have also requested Governor Ritter to compel this district of the FS to comply with federal law. And considering all of the evidence you have provided that illustrates with specificity where federal law was violated, we are still considering legal action in federal court. Having said that, it would be in your and the FS's best interest to simply reopen these roads to the public and to then proceed to close them via those steps outlined in 36 CFR 220.

Sincerely,

Dan Wagman

CC: Bob Leaverton, Rick Cables, Abigail Kimbell