



File Code: 7700

Date: OCT 19 2009

Mr. Dan Wagman
3472 Research Parkway
Suite 104, PMB 513
Colorado Springs, CO 80920

Dear Mr. Wagman:

Thank you for your letter of August 21, 2009, to Congressman Doug Lamborn regarding road closures on the Pike and San Isabel National Forests, Cimarron and Comanche National Grasslands (PSICC). Congressman Lamborn has asked the Forest Service to respond to you directly.


We understand you believe that an environmental assessment under the National Environmental Policy Act (NEPA) should have been completed prior to closing a portion of Forest Road 371.


The Emerald Valley Road (Forest Route 371) is approximately 4.2 miles in length. From milepost 0.0 at Stage Coach Road to milepost 1.9, this route is Forest Development Road 371 and open to public travel. From milepost 1.9 to 4.2, where the road ends, the route was created and maintained (under permit requirements) by Colorado Springs Utilities (CSU) for the operation and maintenance of their water pipeline and is used for "administrative access" only. This section of the road has been under permit to CSU since 1932 and was never a public road. In November 2003, Colorado Springs Utilities requested the Forest Service to physically restrict (gate) access to the road because of vandalism that had occurred to the water line. Upon inspection of the area, the District Ranger found that a regional sensitive species was also present in the area and vulnerable to motorized access. Installation of a gate was approved by the District Ranger under his authority to manage the permit and protect resource damage.

Regarding NEPA, this is how the Forest complied with the process. The temporary closure that was put in place to close the road is categorically excluded from further analysis and documentation in an Environmental Impact Statement (EIS) or Environmental Analysis (EA). The category cited by the District Ranger is found in 36 Code of Federal Regulations (CFR) Part 220.6(d)(1), which states, "orders issued pursuant to 36 CFR part 261 – prohibitions to provide short-term resource protection or to protect public health and safety" do not require further analysis in an EIS or EA. The District Ranger notified the public via a sign posted at the approximate location of the gate in August, 2004. No comments were received.

The temporary closure was replaced by a permanent closure after the Forest completed the process of developing a Motor Vehicle Use Map as required by the Travel Management Rule (2005) found in 36 CFR Subpart B, 212.50.



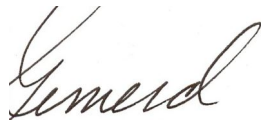
With regard to your concern about the Colorado Springs Utilities Special Use Authorization, CSU cannot prohibit public access to lands under their permit authority. However, Section F of the permit is a non-exclusive use clause to retain the government's ability to manage the area for uses beyond those which are authorized by the permit. The Forest Service reserves the right to specify other uses of the permitted area and to determine whether and how that use and access is allowed. The special use authorization to CSU was publicly scoped (notified and asked for comment) and reissued using the required NEPA process as stated in 36 CFR 220.6(e)(3) in August, 1996. 

You also expressed concerns about the closure of Forest Service Roads 322A and 300A. These roads were initially closed by a Forest Supervisor's order, and you are correct that these closures have expired. The Forest Supervisor Closure Orders have been replaced by the Motor Vehicle Use Map (MVUM) for the Pike National Forest, Pikes Peak Ranger District, and South Platte Ranger District. As stated above, this map was prepared using the procedures outlined in the Travel Management rule in 36 CFR Subpart B, 212.50. 

Both the Regional Office and Office of General Counsel in Denver reviewed the procedures used to develop the Motor Vehicle Use Maps (MVUMs) and found that applicable regulatory and policy procedures were followed.

We believe proper procedures were followed in these road closures on the Pike National Forest. Thank you for your interest in the management of your national forests.

Sincerely,



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yot Acting Director of Engineering

cc: Congressman Lamborn's WO