Erin Connelly/R3/USDAFS

07/06/2009 11:08 AM

To Karen M Carter/R3/USDAFS@FSNOTES, Laurie A Thorpe/R6/USDAFS@FSNOTES
cc Dolores Maese/R3/USDAFS@FSNOTES
Subject Fw: Questions from Staci Matlock

Hello Karen and Laurie...
We need some assistance. Most of the questions below are national in scope and I don't know the full picture. Dolores and I are thinking they would be better answered by a WO-level "expert" on the Rainbow Family....if we have one. Do you know who that might be?

Also, heads up.....Lisa is well-known and an activist so could likely have a long conversation with Staci.

PLEASE NOTE NEW OFFICE NUMBER BELOW.
Erin Connelly
Deputy Forest Supervisor
Santa Fe National Forest
(505) 438-5311 office (NEW!)
(505) 452-7578 (voice only-cell)
(505) 438-7834 (fax)
Executive Assistant: Barb Fuller (505) 438-5312 (NEW!)

----- Forwarded by Erin Connelly/R3/USDAFS on 07/06/2009 10:46 AM -----

Denise Ottaviano/WO/USDAFS

07/06/2009 10:33 AM

To Yvette M Ramirez/R3/USDAFS@FSNOTES
cc Erin Connelly/R3/USDAFS@FSNOTES, Dolores Maese/R3/USDAFS@FSNOTES, Lawrence M Lujan/R3/USDAFS@FSNOTES, Derek J Padilla/R3/USDAFS@FSNOTES
Subject Questions from Staci Matlock

Staci Matlock from the Santa Fe New Mexican called and asked several questions about the Noncommercial group use permit for an article she is currently working on. I mentioned this to Derek last week and he recommended that Erin help answer a lot of those controversial questions about the permit.

Here are the questions she was asking:

How did the origin of the noncommercial group use permit come about?
How is the Rainbow Gathering handled differently if they don't sign a permit?
An operating plan was used the past 2 years instead of making them sign a permit. Why can't you continue to do that instead of making them sign a permit?
Isn't the Forest Service infringing upon the Rainbow's rights by making them sign a permit?
Since the history of the permit requirement, how many years have the Rainbows signed a permit, and how

07/06/2009 12:39 PM Subject Re: Fw: Questions from Staci Matlock Link

I spoke with Laurie on her cel. She was going to give Jim Bedwell a call I believe...might want to call Laurie to see where she is headed.

Thanks for your help.

I did also speak with Staci since then. She'd like to be able to finish the article Wednesday so the earlier we can find a contact(s) the better.

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Karen M Carter/R3/USDAFS

To Judy Yandoh/R3/USDAFS@FSNOTES
cc Dolores Maese/R3/USDAFS@FSNOTES, Laurie A Thorpe/R6/USDAFS@FSNOTES, Erin Connelly/R3/USDAFS@FSNOTES

07/06/2009 11:50 AM Subject Re: Fw: Questions from Staci Matlock Link

Judy, I know Laurie is out today and was wondering who would be a good person in the WO that can handle a lot of permit questions. Do you know who a "rainbow expert" at the WO might be. Also, I think it would be good for the "expert" to touch base with Allison Stewart, WO Press Office, before calling the reporter back. Thanks...karen

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Karen M. Carter
Director, Public Affairs
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assembly, and religion. The regulation does not single out expressive conduct or treat it differently from other types of activity. The regulation established a single category, "noncommercial group uses," and applies the same evaluation criteria to all applications for noncommercial group uses regardless of whether they involve the expression of views. The evaluation criteria are specific and content-neutral and regulate the time, place, and manner for the proposed activities.

Twenty-four courts have upheld the constitutionality of the permit requirement.

5. Since the history of the permit requirement, how many years have the Rainbows signed a permit, and how many years did they not sign a permit?

   Several permits have been issued to the Rainbow Family since the permit requirement went into effect, including permits for the national gathering. **[I don't know for sure how many. I know several have been issued for the annual regional gathering in Florida. I believe at least 4 have been issued for the national gathering (Oregon, Missouri, Pennsylvania, and the current gathering). There may be more. You could check with LEI or RHVR. Carolyn and Gene?]**

6. If someone signs the permit, can they be held personally liable for anything that goes wrong at the Gathering?

   No. Clause 11 of the permit expressly states that persons who sign it are not subject to any individual liability as a result of their signature. They provide their name solely to allow notice of actions pertaining to the permit to be communicated to the holder and to give the permit legal effect.

From: Karen M Carter [mailto:kmcarter@fs.fed.us]
Sent: Monday, July 06, 2009 4:13 PM
To: HORNSTEIN, ELLEN R.
Cc: Dolores Maese; Judy Yandoh; Laurie A Thorpe; Erin Connelly
Subject: Rainbow Questions from Staci Matlock, Santa Fe New Mexican
Importance: High

Hi Ellen, I left you a long voice mail about the inquiry from a reporter with the Santa Fe New Mexican. I know you are "the One" with long-time experience on Rainbow gatherings. Please see the questions below from the reporter and I'm hoping that you would be okay with responding to some of these. I need to leave early today but please feel free to call me if you have any questions tomorrow. Thanks....karen

****

Karen M. Carter
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Erin Connelly/R3/USDAFS

To Karen M Carter/R3/USDAFS@FSNOTES
cc Dolores Maese/R3/USDAFS@FSNOTES, Judy Yandoh/R3/USDAFS@FSNOTES, Laurie A Thorpe/R6/USDAFS@FSNOTES

"HORNSTEIN, ELLEN R." <ELLEN.HORNSTEIN@OGC.USDA.GOV>
07/06/2009 03:37 PM

To "Karen M Carter" <kmcarter@fs.fed.us>, "Holbrook, Carolyn -FS" <Carolyn.Holbrook@usda.gov>, "Smithson, Gene -FS" <Gene.Smithson@usda.gov>.
cc "Dolores Maese" <dmaese@fs.fed.us>, "Judy Yandoh" <jyandoh@fs.fed.us>, "Laurie A Thorpe" <lathorpe@fs.fed.us>, "Erin Connelly"
bcc
Subject RE: Rainbow Questions from Staci Matlock, Santa Fe New Mexican

Use the attached as a guide.

Here are answers:

1. How did the origin of the noncommercial group use permit come about?

   As a steward of the National Forests, the Forest Service has a duty to minimize resource impacts on National Forest System lands. Large group gatherings in the National Forests have significant adverse impacts on Forest resources, public health and safety, and the agency's ability to allocate space in the face of increasing constraints on the use of National Forest System land. A permit system allows the agency to address these problems more expeditiously, more effectively, and more equitably. These adverse impacts include:

   -- The spread of disease;
   -- Pollution from inadequate site clean-up;
   -- Soil compaction from inadequate site restoration; Damage to archaeological sites; and
   -- Traffic congestion.

2. How is the Rainbow Gathering handled differently if they don't sign a permit?

   Rainbow Family gatherings, including the national gathering, is not handled differently from any other noncommercial gathering on National Forest System lands involving 75 or more people: a noncommercial group use permit is required.

3. An operating plan was used the past 2 years instead of making them sign a permit. Why can't you continue to do that instead of making them sign a permit?

   The past 2 years, the Department chose to exercise its law enforcement discretion not to enforce the permit requirement at the national Rainbow Family gathering, provided that certain conditions were met. The Department has chosen to enforce the permit requirement at this year's national Rainbow Family gathering.

4. Isn't the Forest Service infringing upon the Rainbow's rights by making them sign a permit?

   No. The Supreme Court has held that the government may enforce reasonable time, place, and manner restrictions on First Amendment activities as long as the restrictions are justified without regard to the content of the regulated speech, they are narrowly tailored to further a significant government interest, and they leave open ample alternative channels for communication of information.

   Permits are constitutional restrictions of time, place, and manner where narrow, objective standards guide the licensing authority. This rule ensures that authorization procedures for noncommercial group uses comply with First Amendment requirements of freedom of speech,

many years did they not sign a permit?
If someone signs the permit, and they held personally liable for anything that goes wrong at the Gathering?
Staci also said she wants to look into those court cases surrounding the whole permit issue.

She specifically wanted to know who signed the permit so I directed her to the Santa Fe National Forest Rainbow Gathering website. Although she has the right to publish those names in the article, I (off the record) suggested that she not use the names in the article because of potential retaliation against the signees by members of the Rainbow Family. She said she knows Lisa and is going to call her about the article she is working on. She is still debating whether or not to include the names.

I told Staci that Erin would be a good start to ask these questions but because of the nature of these questions, it's a good idea to contact the WO for guidance.

Let me know if you have any questions.

I can be reached at 505-438-5688 today.

Denise Ottaviano
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