

U.S. COURTS

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Plaintiff, Appearing Pro Se

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

)	
)	Cause No. 4:01-cv-295 (BLW)
)	
)	
BARRY ADAMS,)	PLAINTIFF'S STATEMENT
Plaintiff, Pro Se,)	OF DISPUTED MATERIAL
)	FACTS
vs.)	
)	
UNITED STATES OF AMERICA, et al.,)	
Defendants.)	
)	

The following are the material facts, which are in dispute in this action:

1. Plaintiff was not notified by defendant concerning these material facts; except through Defendant's Statement of Undisputed Material Facts, filed August 21, 2001.

2 Under 36 CFR 251.54, a proposal can be made "in writing" or "presented orally". If made in writing, it must be denied in writing, specifying reasons for the denial. District Ranger Rogers sent a letter to Mr. Adams to 'acknowledge our receipt' and to state he found the "application was incomplete", not denied. See Complaint, Attachment 1.

Sec. 251.54 (b) Filing proposals. Proposals for special uses must be filed in writing with or presented orally to the District Ranger or Forest Supervisor having jurisdiction over the affected land" also (g)(3)(iii) If an authorized officer denies an application because it does

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not meet the criteria in paragraphs (g)(3)(ii)(A) through (g)(3)(ii)(H) of this section, the authorized officer shall notify the applicant in writing of the reasons for the denial. If an alternative time, place, or manner will allow the applicant to meet the eight evaluation criteria, an authorized officer shall offer that alternative.”

See 36 CFR 251.54.

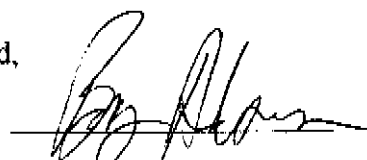
Plaintiff Adams had every expectation that any incompleteness would be covered through an “alternative”, as the regulation directs. Mr. Adams disputes the letter sent by Mr. Rogers to be a denial. See Complaint, Attachments 3, 6, 8; See also Plaintiff’s Response to Defendant’s Motion to Dismiss or... for Summary Judgement section III. Unsettled Controversies and Issues, pg. 7; also footnote 13, pg. 8 and footnote 14, pg. 10 also section B. Alternative Time, Place, and Manner at 1. Alternatives Exist, Ranger Havig’s testimony in U.S. v. Adams, (Dist. Montana 2000), see also Attachment G.

3. Alternatives exist, over the years, these have been used by the Forest Service, at their discretion, in different Forests and Regions, including Idaho Gathering 1982, and in Region four (4), this year with another non-member peaceable assembly, Earth First. See Response, Attachment D, also section III.B(1).

4. Mr. Adams, then, had rising expectations for the discretionary policies of the Forest Service to shift to cultural awareness and sensitivity, in light of Mr. Tunis communications with Mr. Rogers, as reported to Mr. Adams by Mr. Tunis, See Response, Attachment C. Dec’1 and Affidavit of Mr. Ed Tunis; see also Response, section III(1), section III(2); see also, USDA non-discrimination policy, footnote 29, pg. 18.

5. Mr. Adams disputes these “material facts” as presented by the government. See Response to Defendant’s Motion to Dismiss... Summary Judgement DATED THIS 8th of September, 2001.

Respectfully submitted,

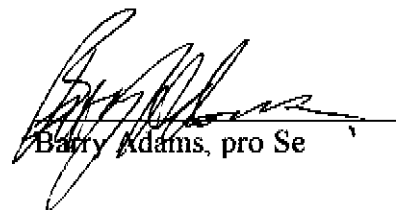

Barry Adams, pro Se

CERTIFICATE OF SERVICE

The undersigned Barry Adams, certifies that on the 8th day of September, 2001, I caused to be personally served via Postal Service, . . . a true copy of the foregoing: **PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS; SUMMARY JUDGEMENT; AND PLAINTIFF'S STATEMENT OF DISPUTED FACTS.**

upon:

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