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Plaintiff, Appearing Pro Se

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

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	) Cause No. 4:01-cv-295 (BLW)
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BARRY ADAMS,	)
	)
Plaintiff, Pro Se,	)
	)
vs.	)
	)
UNITED STATES OF AMERICA, et al.,	)
	)
Defendants.	)
	)
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COMES NOW the Plaintiff, pro Se, with this Response in Opposition to Defendant's 'Motion for a Protective Order' to prevent Discovery prior to summary judgment by this Court.

In their Motion for a Protective Order, the government cites their three basic arguments concerning Mootness, Jurisdiction, and the Agency followed its regulations; and in addition promotes the arguments to this Court the subjects of Requests for Discovery and Admissions be proven to "exist", be "essential" and "relevant", and not place "undue burden or expense" on the defendants, or the courts.

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Plaintiff contends in this Response the subjects of the Requests for Discovery and Admissions “exist, are “essential” and “relevant” and without this Court denying defendant’s Motion for a protective order, this plaintiff will suffer “undue burden and expense”. Plaintiff contends through this Discovery and Admissions, this Court can expedite its judgment concerning defendant’s Motion for Summary Judgment and have clear information, very necessary criteria for making its decisions in this case, and in doing so, can save this Court, and courts all over the United States of North America time and expense.

Plaintiff’s Request for Discovery and Admissions, as attached to Defendant’s Motion, concerns various discussions engaged in by Defendants which are supposed to bring about a situation where Adams “will not receive further citations”. See at II, Defendant’s Memorandum in Support of Motion for Summary Judgment - (“In the instant case, the allegations of plaintiff’s complaint do not give rise to a reasonable expectation that he will be subject to the same alleged “injury” in the future. Inasmuch as another Rainbow family member (Jeff Kline) has demonstrated a willingness to sign permit applications on behalf of the group, it is possible that future Rainbow gatherings will proceed with valid permits or, at a minimum, that the signature requirement will not be placed in issue.”).

Defendants’ Motion for a Protective Order indicates they are still “engaged in discussion” with persons whom they consider to be “other Rainbow members.” In effect, the Forest Service is “negotiating” with other persons with Mr. Adams’ Rights on the table. Surely such discussions are relevant to Plaintiff’s Complaint if they stand to resolve the issues therein, as the government has alleged.

#### I.

Defendant’s case relies on its three point arguments, presented in defendant’s Motion for Summary Judgment, in this unusual legal move for a protective order to prevent a reply to Plaintiff’s request for Discovery and Admissions. Defendants have moved to dismiss plaintiff’s complaint on grounds that:

- (1) the complaint is moot because the gathering for which plaintiff sought a permit is over,
- (2) any challenge to the constitutionality of the noncommercial

group use regulation is barred by Ninth Circuit precedent, and (3) there can be no dispute that the Forest Service followed its regulation in denying plaintiff's permit application.

Plaintiff has challenged these arguments in his Complaint, and in his Response to Defendant's Motion for Summary Judgment; and Plaintiff challenges further in this Response relevant to this Motion for a Protective Order.

#### **A. Mootness**

1. The Idaho Gathering Incident is not over. Defendants contend, because the actual physical assembly which plaintiff applied to attend is over, therefore the situation and circumstances have passed and no longer "live". Plaintiff has answered in his Response to defendant's Motion for Summary Judgment, and adds additional "evidence", as defendant has requested in this Motion for Protective Order<sup>1</sup>.

In fact, the 2001 Gathering is still ongoing, however constrained at this point, in the form of administrative processing, i.e. final billing, Final Report, and year round monitoring to assure that seeding, road work, and other clean-up efforts are successful. These aspects of Forest Service involvement need completing before the entire "Rainbow Gathering Incident" process is truly over. This concurs with Forest Service procedure at other Gatherings, wherein a "Delegation of Authority" authorizing the Incident Team includes the directive to issue a Final Report. See Attachment A, Delegations of Authority for Shawnee 2001 and Pennsylvania 1999. In the current case, Idaho 2001, these administrative functions are not yet completed; thus, in a real sense, the Gathering Incident is not yet over.

In a recent phone conversation with Mary Strandberg, Forest Service personnel in the Lowman District Ranger's office, stated to Plaintiff that the final billing was yet to happen, and a final report was being completed; and that any questions on the billing should be directed to the Incident Command Team, which was handling the billing. Furthermore, the Lowman District's recent confirmation that the Incident Team is still involved, is a clear

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<sup>1</sup>See Footnote, defendant's Motion for Protective Order ( see ft.2 pg 5..)

indication that the "incident" is not closed. See Attachment B, Follow-up confirmation Fax to Mary Strandberg.

2. Adams could still be cited or billed and sued for this "Gathering". In February 2001, Adams was convicted of a citation, and when it came time for sentencing, the U.S. Attorney's sought to bill Adams, but the Court ruled that Adams was not liable in that circumstance. But even after the Magistrate's pronouncement, the Forest Service nevertheless persisted and issued Adams the bill for the 2000 gathering<sup>2</sup>. Only after several letters by Adams, and Attorney Brian Michaels, acting on behalf of Adams in that instance, did the Forest Service retract that bill, but still indicated an intent to re-issue a revised bill. Adams is still in legal "liability" danger from that event until the billing is complete. See Attachment C, pg 2, 3 - Letters between Ranger Havig and Adams concerning billing.

The same sort of circumstance applies in this case in Idaho Gathering 2001, wherein Mr. Adams could be still cited for participation and/or could still be subject to billing and possible Forest Service suit against him. If the Forest Service were to bill Mr. Adams, and Mr. Adams refuses to pay, then the Forest Service could determine, by their discrimination and discretion, to pursue a suit against Mr. Adams. In this potential circumstance, the final billing procedure could continue, as in Montana, for a long time. Thus Adams is not out of legal danger in this case in Idaho 2001 until a Final Report is written assessing all the circumstances. Because Adams filed an application and because he has continued his involvement through this case, in effect, he has been participating in this Gathering, and this participation continues today; anyone who is a spectator or participant is liable for citation.

3. Application for event included clean-up/restoration. In addition, it is clear from Plaintiff's application, that the permit sought was intended to include the completion of restoration. See Complaint, Attachment No. 6, Plaintiff's Application, pg.3 ("End: July 7, 2001 plus cleanup/restoration"). The event in question extends until the cleanup/restoration is

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<sup>2</sup>See Attachment C, pg 1, Bill - Letters between Ranger Havig and Adams concerning billing.

completed, only after which the final bill and Final report can be completed. This could be years away, in consideration of any further restoration costs. Whether Adams gets any of this “billing”, the Timeline of the Gathering extends until the Final Report is produced.

Therefore, these issues are not moot, relevant to Discovery and Admissions, from these aspects, as well as arguments presented in plaintiff’s Complaint and Response to defendant’s Motion for Summary Judgment.

**B. Jurisdiction.**

Defendant’s Motion for Protective Order, denies this court has jurisdiction. This court clearly has Jurisdiction as being the first Federal Court to ever take up the issue of the “as applied” challenge of this regulation. There is no “Ninth Circuit precedence” concerning the “Constitutional application” of this Regulation, by Forest Service, See Black v. Arthur, 18 F. Supp. 2d 1127 (D.Or.1998), aff’d, 201 F.3d 1120 (9th Cir. 2000), at 1548 III,

We emphasize that no specific application of the challenged regulation is before us here. This case does not present, and we do not decide, whether the Forest Service’s group permitting process has been or will be unconstitutionally applied to the Rainbow Family.

See also Plaintiff’s Response to Defendants’ Motion to Dismiss or For Summary Judgment, pg. 3, 5, 12.

Issues of *Applied* Constitutionality were brought up in U.S. v. Adams in Montana 2000, by defendant Adams, pro Se, but were not addressed by the Court, as the Magistrate chose to rule on only three prime issues; (1) was Adams present on national forest, (2) were there more than 74 persons present, and (3) was a permit granted. see U.S. v. Adams, Mt. Dist. (2001).

This Federal Court is the first Court to undertake “Judicial Review” of an Application. In Montana 2000, Adams was the first person to apply and be refused under this regulation, in the entire Forest system. Mr. Adams year 2000 application was in regards to a similar “Rainbow-style” Gathering, but was denied as “not valid”. In 2001 in Idaho, “Electric Ed” Tunis, and Mr. Adams were the second and third applications ever denied by declaring them

“incomplete”<sup>3</sup>. Mr. Kline’s application, “on behalf of his group” also was denied. Electric Ed and Mr. Kline declined to challenge the Forest Service decisions.

It is significant that Mr. Adams is the only person ever to file for judicial review of his application. And Mr. Adams petitions for redress of grievance have been ignored and not considered, in fact, deliberately ignored by Forest Service, even though the ideas and “alternatives” brought up in the phone conference are ideas and ‘alternatives’ suggested by Mr. Adams in his petitions to the Forest Service. Denial of access to this agency of Mr. Adams petitions is a subversion of his civil rights to petition. See White v. Lee (9th Cir. Sept. 27, 2000) (“The First Amendment also guarantees the right “to petition the Government for a redress of grievances.””).

This court also has Jurisdiction in review of agency processes, in Civil Rights, See 42 U.S.C. Section 21, Section 1483 - Civil action for deprivation of rights, See also 42 U.S.C. 21, Section 1981 - Equal rights under the law.

This court has jurisdiction to determine if Forest Service’s failed in its duty to ensure Adams received due process and whether Forest Service acted “in accordance with the law.” or whether Forest Service acted in “arbitrarily in a constitutional sense”. See County of Sacramento et al v. Lewis, \_\_\_ U.S. \_\_\_ (1998), No. 96-1337.

We have emphasized time and again that “[t]he touchstone of due process is protection of the individual against arbitrary action of government,” Wolff v. McDonnell, 418 U.S. 539, 558 (1974), whether the fault lies in a denial of fundamental procedural fairness, see, e.g., Fuentes v. Shevin, 407 U.S. 67, 82 (1972)

Similar issues were dealt with in Hell’s Canyon, Robertson et al v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989).

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<sup>3</sup>Electric Ed has yet to receive formal notice on his application’s status - See “Electric Ed” Affidavit, pg 2, Attachment C, - Plaintiff’s Response to defendant’s Motion for Summary Judgment.

"arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." *Morongo Band of Mission Indians v. Federal Aviation Admin.*, 161 F.3d 569, 573 (9th Cir. 1998) (quoting 5 U.S.C. § 706(2)(A)).

This Court clearly has jurisdiction to obtain Discovery that will elucidate Plaintiff's claims concerning the agency's abuse of discretion.

Furthermore, the breadth of Discovery is addressed in Herbert v. Lando, 441 153, 177 (1979):

The Court has more than once declared that the deposition-discovery rules are to be accorded a broad and liberal treatment to effect their purpose of adequately informing the litigants in civil trials. *Schlagenhauf v. Holder*, 379 U.S. 104, 114 -115 (1964); *Hickman v. Taylor*, 329 U.S. 495, 501 , 507 (1947). But the discovery provisions, like all of the Federal Rules of Civil Procedure, are subject to the injunction of Rule 1 that they "be construed to secure the just, speedy, and inexpensive determination of every action."

And, the "religious liberty" involved in Plaintiff's proposed use, is further cause to examine the government's actions in this matter. See Thomas v. Review Board of Indiana Employment Security Div., 450 U.S. 707, 717 -718 (1981) (citing *Sherbert v. Verner*, 374 U.S., at 404 ); [476 U.S. 693, 707]:

"A governmental burden on religious liberty is not insulated from review simply because it is indirect."..(emphasis added)

This is further supported by Supreme Court rulings in Bowen v. Roy, 476 U.S. 693 (1986) and Lyng v. Northwest Indian Cemetery Prot. Assn., 485 U.S. 439 (1988).

Standards of Review for this case, and for this Court to determine whether this Discovery and Admissions, is "essential" and 'relevant' and whether it could help settle issues concerning defendant's motion for summary judgment, can also be found in Bowen v. Roy, 476 U.S. 693 (1986): ("The "good cause" standard created a mechanism for individualized exemptions. If a state creates such a mechanism, its refusal to extend an exemption to an instance of religious hardship suggests a discriminatory intent. Thus, as was urged in *Thomas*, to consider a religiously motivated resignation to be "without good cause" tends to exhibit hostility, not neutrality, towards religion.", "Thomas and *Sherbert* may be viewed "as a protection against unequal treatment rather than a grant of favored treatment for the members

of the religious sect"). In those cases, therefore, it was appropriate to require the State to demonstrate a compelling reason for denying the requested exemption."").

Standards of Review, cases and civil rights statutes give this court clear jurisdiction in deciding for plaintiff's right to discovery and request for admissions.

**C. Plaintiff disputes that Forest Service followed its regulation.**

In their Motion, Defendants' claim "there can be no dispute that the Forest Service followed its regulation in denying plaintiff's permit application." However, the opposite is true, and this Discovery and Admissions will bring clarity for this Court.

In following "its regulation", the Forest Service follows a trail from the First Amendment of the Constitution, various Civil Rights Acts and Regulation, to the Federal Land Management Act of 1976, a number of other acts and laws, directives and policies of the Secretary of Agriculture<sup>4</sup>, et. al., and finally to this Regulation 36 CFR 251.

Courts have been clear that, as long as no "radical" actions have to be taken by the governmental agency, then, persons requiring access (in this case) to national forest lands should be granted access like every other citizen, even if an "exemption" or "accommodation" is required to facilitate this. Even the Regulation in question, appears to acknowledge this by including in its language the directive that Forest Service officials "shall offer an alternative".

Moreover, Courts are particularly clear that if such "exemptions" are granted to one religion, or those persons of one sect within a religion, then similar "exemptions" should be granted to all others, including "non-members". See Perry v. LAPD, 9th Cir. No. 9655545 (1997), *See also*, Plaintiff's Response to Defendants' Motion for Summary Judgment, pg. 4,

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<sup>4</sup>See Attachment D, Secretary Veneman's recent Civil Rights policy statement, quoted in part: "USDA employees are among the finest public servants, committed to ensuring that every customer and colleague is treated with fairness, equality, and respect. As your Secretary, I am firmly committed to ensuring USDA's compliance with civil rights and equal employment opportunity for everyone regardless of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. There is no principle more important. We must comply with every aspect of our Nation's civil rights laws. To do otherwise is simply not acceptable and will not be tolerated."



footnote 8, and pg., 14, footnote 24. The failure to similarly extend such exemptions, or accommodations, to various sects, and various sects within religions, or in this case, various individuals and groups within the “umbrella name”, “Rainbow Family”, is a failure of due process.

Plaintiff's Request for Discovery and Admissions is required to elucidate the Agency's unequal treatment of similarly situated individuals, i.e., various ‘attendees’ at Rainbow-style Gatherings, and other similarly situated assemblies i.e. Earth First etc.. The government has offered an “alternative” or “accommodation” to some individuals, whom it regards as “members” of “Rainbow Family” (a different set or sects), so they may access national forest for ‘religious liberty’, but at the same time has denied a similar “accommodation” to the Plaintiff Adams. This is a denial of Due Process based on an ‘arbitrary action’, upon the part of Forest Service to prevent Adams from expressing his “viewpoint’ and ‘religious liberty” on national forest land.

This Request for Discovery and Admissions can open the door for this Court to see that Forest Service had access to a readily available “alternative”, at the time of Adams’ application, that would have “accommodated” Adams’ access to national forest lands, in accordance with his Creed and in accordance with Forest Service regulations and policies.

The discovery and admissions will reveal that the Forest Service has offered such an ‘alternative’ to persons who have been similarly cited like Adams, namely, Ms. Joanne Freedom, AKA Kalb, and Mr. Garrick Beck.<sup>5</sup> In fact, this “alternative” has been readily available since the induction of this version of this Regulation in 1995. This ‘alternative’ has been withheld from Adams, even while being “offered’ and used by Forest Service in other situations where similarly situated individuals as Adams have assembled on national forest land. See Plaintiff's Response to Motion for Summary Judgment, Attachments D, E, F.

Defendants, in their Reply to plaintiff's Response to defendant's Motion for Summary

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<sup>5</sup>Also forest service has offered “self-designated contact” to another Circle of Individuals called ThanksGiving Council, another “set” or ‘sect’ - Rainbow Family. See Attachment G, pg 10, para. 2.

Judgment, objected to the use of a newspaper exhibit (Attachment B), concerning Tribal Elders appearing at the Gathering, with Federal Mediator Doug McConaughy, to Council with Rainbow Gathering attendees, including Adams. Defendants called this newspaper exhibit "hearsay". On a video tape of this same circumstance, this Federal Mediator states clearly that he has come to the Gathering to speak to the gathered peoples, and that he was "authorized by the Forest Service", to reach an 'accord'. See Attachment H, Cold Mountain, Cold Rivers, - Videotape of Shoshone-Bannock Mediation (June 27, 2001). He was to return the following Friday to continue discussions<sup>6</sup>. When Plaintiff brought this up, during the phone hearing before this Court on June 29, 2001, the government attorneys replied that they knew nothing concerning Mr. McConaughy. This effort to mediate an 'accord', could have been another way to "offer" an 'alternative', or "accommodation", to the Circle of Gathering Attendees, and to Mr. Adams as an individual present at this Circle. However, when this *offer of mediation* was not acknowledged, in effect denied, by the Defense Attorneys on June 29th, 2001, Adams was denied another alternative, the opportunity to reach 'an accord' concerning his application.

Clearly, only Adams is selectively being deprived of an equal opportunity. Plaintiff respectfully requests this Court review this video tape, to witness this negotiator offering an 'accord', a potential "exemption", however, it was never offered by the only "authorized officer" capable of making an offer, due to the Delegation of Authority: Incident Commander Jowers.

## II. DISCOVERY and REQUESTS FOR ADMISSIONS

The government contends further that Plaintiff must "show that the evidence sought exists" and that it is "relevant" and "essential" to the Motion for Summary Judgment. See footnote 2, Memorandum in Support of Defendants Motion..., (Nov. 14, 2001), p. 5.

### A. "Evidence" "exists"

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<sup>6</sup> The same day as the phone hearing, June 29, 2001.

In their Motion for a protective order, Defendants admit that “the Forest Service has continued to engage in discussions with other Rainbow Family members..”, the subject of Adams request for Admissions and Discovery. This admission supports the fact that the sought after evidence ‘exists’.

The existence of this evidence is further established by affidavits from two individuals who have been involved in said “discussions”, Mr. Beck and Ms. Freedom AKA Kalb.<sup>7</sup> See Attachment E Affidavit, Notes of Garrick Beck, and Attachment E, Affidavit of Joanee Freedom (AKA Kalb).

“On this call were John Watts, Counsel, Senate Committee on Energy and Natural Resources, majority staff; Frank Gladics, Professional Staff, Senate Committee on Energy and Natural Resources, minority staff; Calli Daly, Legislative Assistant to Sen. Larry Craig, (R) Idaho; Kira Finkler, Counsel, Senate Committee on Energy and Natural Resources, majority staff; Tina Terrell, Legislative Affairs Specialist, U. S. Forest Service; Malcolm Jowers, Incident Commander, Law Enforcement, U.S. Forest Service; Anne Melle, Assistant Director for Law Enforcement, U.S. Forest Service; and eight individuals who attend Rainbow Gatherings.”

The existence and continuation of these discussions is additionally supported by reference in recent Internet communications by Forest Service special agent, Ann Melle, of the Washington Office and “Non-Commercial Group Use Committee”. See Attachment I, Anne Melle e-mail (Nov. 7, 2001) Melle’s statements corroborate the phone conference reported in the Beck and Freedom affidavits. Special Agent Ann Melle is the “supervisor” of Non-Commercial Group Use Coordinator, Malcolm Jowers, who is a named Defendant in this case.

Also, on submitted Video Tape<sup>8</sup>, Mr. McConnaughey confirms he had been in discussions with Jeff Kline, Garrick Beck, others, confirming the ‘existence’ of these discussions going on prior to the Hearing on the 29th; and presumably continuing today.

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<sup>7</sup> Beck and Freedom identify themselves not as “members” or as “representatives” of “Rainbow Family”, but rather as “individuals who attend Rainbow Gatherings.”. See Affidavits - Attachment E & F.

<sup>8</sup>See Attachment H

**1. Timeline exists.** These “negotiations”, i.e. discussions, have taken place, primarily from November 2000, continuing throughout the Gathering in question, and continuing today, with an appearance by Ann Melle and Carolyn Squires at ThanksGiving Council, on November 24, 2001<sup>9</sup>.

Plaintiff considers these conferences a form of ‘negotiations’. After all the government has indicated that “other persons” will sign permits and this will clear the way legally for Adams to access the national forest without citation; if true, this legal arrangement has been made in relative “secret”, and without Adams consent, will or representation. See, at II, County of Sacramento et al. v. Lewis et al (1998) U.S.S.C. No. 96-1337. (“[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law,”).

**B. Discovery is “Essential” and “Relevant”.**

Cases, to be settled by Courts, must be seen in the “light”<sup>10</sup>. Agency must give to courts the best and latest information, and to the public. Adams and similarly situated individuals, those of similar Creed to Adams, should have the same civil rights as any other persons.<sup>11</sup> Adams, as an individual should have equal right for his petition to be heard,

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<sup>9</sup>See Attachment G, pg 10, para. 2, “Gonzo” Affidavit, concerning “self-designated contact” - “the FS is willing to accept a self-designated signer in full realization that the whole group has not designated them as an authorized representative;”

<sup>10</sup> “The generation that made the nation thought secrecy in government one of the instruments of Old World tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted [489 U.S. 749, 773] to know what their government is up to.” *Id.*, at 105 (quoting from *The New York Review of Books*, Oct. 5, 1972, p. 7) (See U.S. Dept. of Justice v. Reporters Comm., 489 U.S. 749, 771 -72 (1989).)

<sup>11</sup>The Civil Rights statute itself contains words plaintiff finds repugnant; and should be changed by some Court, however, as it reads, Adams has as much rights as any “white citizen” - 42 U.S.C. Section 1981 (01/05/99) - Equal rights under the law: (a) Statement of equal rights All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by *white citizens*, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.(emphasis added).

without necessity of being part of any "organization", non-profit or otherwise, or part of any "group" (at [13] - Perry v. LAPD, 9th Cir. No. 9655545 (1997))

Adams should have his civil rights. See USC 42, Chapter 21, Section 1983.

Plaintiff reminds the Court, he has submitted various affidavits and documents where similar situated individuals, engaged in peaceable assembly for purposes of expression, were granted a permit without a designated signer, or any signer other than the issuing District Ranger (see Response to Motion for Summary Judgement, Attachment D, Earth First permit, etc.). Plaintiff has submitted other evidence of assemblies of 75 or more persons have been granted 'accommodation', an 'alternative' or "exemption"; e.g., permits signed by persons "under duress" or with other disclaimers, which the Forest Service accepted despite their knowledge concerning the nature of "Rainbow Gatherings", that "no one can act as an agent or representative", and their specific knowledge that the signers in question were in no way "designated to sign on behalf of" those gatherings.

The government, then, has excluded Adams and those of a similar Creed, from the benefits available to all; they have refused to 'accommodate' Adams to exercise his Creed in the national forests. Regardless of whether Adams is or is not considered a "member" of the "Rainbow Family", the government has offered an exemption to some attendees (certain "sects" or 'adherents'; i.e. Jeff Kline, Garrick Beck, and ThanksGiving Circle) while denying the same to Adams. This is a violation of due process. See Perry v. LAPD, 9th Cir. No. 9655545 (1997) at [13]: ("government regulation may not favor one speaker over another." "The government's argument that prohibition of expressive speech can turn on a person's membership in a non-profit organization fails.").

The requested discovery and admissions will substantiate Plaintiff's claims concerning his inequitable treatment under the regulations, and will establish the existence and availability of an "alternative" that would have easily accommodated his "religious liberty" and expressive activity.

**C. "Undue burden and expense".**

It is Plaintiff, not Defendants, who has endured an "undue burden and expense" in this case. This is a case of "religious hardship" imposed on this plaintiff for many years, without "good cause". Adams has engaged in a costly legal struggle for many years, and has endured being discriminated against, labeled as an "outlaw" (his spiritual Creed being declared "illegal"), his actions, seeking a "law unto himself".

The Discovery etc., requested by Adams, if it supports what Mr. Beck and Ms. Freedom, and others have stated in their "affidavits", then this will establish that the Forest Service has offered an 'alternative' or "exemption" to others, which shows that it exists. By reason of due process, what is available to one person should be made available to all.

Employment Div., Dept. of Human Resources of Oregon v. Smith, 494 U.S., at 884. As we noted in Smith, in circumstances in which individualized exemptions from a general requirement are available, the government "may not refuse to extend that system to cases of 'religious hardship' without compelling reason." *ibid.* quoting *Bowen v. Roy*, 476 U.S., at 708 (opinion of Burger, C.J.). "Thus, religious practice is being singled out for discriminatory treatment. See *Bowen v. Roy*, 476 U.S., at 722."

**1. This Request for Discovery and Admissions will reveal the Forest Service could have legally followed its Regulation through offering an 'alternative' or "accommodation".**

Rainbow-style Gathering, as co-conceived through practice by Adams and other similarly situated individuals who attend, i.e. gather, at the Gathering, are special and unique. According to Adams' Creed, he enters national forest, finds a "reasonably remote" area, to peaceably assemble with other individuals, in a place called "Home", a "sacred place", wherein a spiritual "family", like a rainbow of many colors, races and cultures, can mix and mingle in prayer, worship, expression. Adams, in applying, is seeking access to reserve a site for purposes of a peaceable assembly; entirely reserved for purposes of specific expression, worship and petition, even though it is open to the public, on national forest land, i.e. Rainbow-style Gathering according to Adams viewpoint.

See *U.S.A. v. McIver*, (9th Cir., No. 9830145):

"We are mindful that a person can have a reasonable expectation of privacy in a hotel room, a cabin, or an enclosed tent on public lands. See, e.g., *United States v. Gooch*, 6 F.3d 673, 677 (9th Cir. 1993) (holding that a person has a reasonable expectation of privacy in a tent pitched in a public camp-ground). In *Katz v. United States*, 389 U.S. 347, 351-52 (1967), the Supreme Court explained that what a citizen "*seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.*" (emphasis added)

This does not interfere with the Government stewardship of these public lands. Nothing can be more private than spiritual, religious worship, and an assembly for same, like any other "church" i.e. "spiritual family" or "friendship" i.e. "fellowship" "even in an area accessible to the public", "may be constitutionally protected".

After over 30 years of legal struggle, an "accommodation" could be made, an "alternative" offered, that is both acceptable to Adams (i.e., within the constraints of his Creed), and acceptable to the Forest Service (i.e., would not create havoc or 'radically alter' agency Regulation or Policy). See also *Bowen v. Roy*, 476 U.S. 693 (1986). See *Lyng v. Northwest Indian Cemetery Prot. Assn.*, 485 U.S. 439 (1988), concerning protections afforded to Individuals under the Free Exercise Clause (quoting *United States v. Lee*);

Religious beliefs can be accommodated, but there is a point at which accommodation would 'radically restrict the operating latitude of the legislature.'" 455 U.S., at 259. [476 U.S. 693, 703] (emphasis added)

This Discovery and Admissions, will reveal this "accommodation" requires no "radical" change in the application of this Regulation, nor in a re-interpretation of the Regulation, as in *U.S. v. Linnick*, 9th Cir., (1998).

This accommodation has always been available and has always been part of the "written record"; it has always been available for the authorized officer or District Ranger to "offer", however, it was not offered in the present case, merely on the discretion of the 'authorized officer', Special Agent Malcolm Jowers. The Government must now provide "good cause" for Adams, within his Creed, not receiving an "exemption".

Further guidance is provided in *Lyng v. Northwest Indian Cemetery Prot. Assn.*, 485 U.S. 439 (1988), at III:

We conclude then that government regulation that indirectly and incidentally calls for a choice between securing a governmental benefit and adherence to religious beliefs is wholly different from *governmental action or legislation that criminalizes religiously inspired activity or inescapably compels conduct that some find objectionable for religious reasons.* " (emphasis added)

The Constitution does not permit government to *discriminate against religions that treat particular physical sites as sacred*, and a law prohibiting the Indian respondents from *visiting the Chimney Rock area would raise a different set of constitutional questions.* Cf. *Bowen v. Roy*, 476 U.S., at 724 (emphasis added)

Nothing in our opinion should be read to encourage governmental insensitivity to the religious needs of any citizen. [485 U.S. 439, 454] The Government's rights to the use of its own land, for example, need not and *should not discourage it from accommodating religious practices like those engaged in by the Indian respondents.* Cf. *Sherbert*, 374 U.S., at 422 -423. (emphasis added)

"see post, at 475, .... that some sincerely held religious beliefs and practices are not "central" to certain religions,"... the dissent's approach would [485 U.S. 439, 458] require us to rule that some religious adherents misunderstand their own religious beliefs. We think such an approach cannot be squared with the Constitution or with our precedents, and that it would cast the Judiciary in a role that we were never intended to play."

The District Court Opinion, in *U.S. v. Kalb* noted the "Rainbow Family" is similar to Native Americans<sup>12</sup>. In fact, there are many similarities and dis-similarities<sup>13</sup> to many cultures: Irish, Hebrew, Hindu, African, Moslem, Christian, Pagans, etc., however, under due process and non-discrimination, this "Tribe" of Adams' Creed, should have equal protection and rights, the government could easily be "solicitous" toward Rainbow Gatherers.<sup>14</sup>

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<sup>12</sup>"The Rainbow Family appears to base much of its organization and activities on the ways of the American Indians or Native Americans as they are sometimes called." See Opinion, U.S. v. Kalb, Beck and Sedlacko, Crim. No(s) 99-0074ME, 99-0075ME and 99-0076ME (W.D. Penn. 2000)

<sup>13</sup>See Video Attachment H, plaintiff has submitted the entire Council, if the Court watches, it can discern "similarities and differences" between three distinct cultures, Indigenous Americans, Rainbow Gatherers, and Forest Service.

<sup>14</sup> See *Bowen v. Roy*, 476 U.S. 693 (1986): "It is difficult to see how the Government could have been more solicitous. Such solicitude accords with "the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions [485 U.S. 439, 455] of the American Indian . . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." American Indian Religious Freedom Act (AIRFA), Pub. L. 95-341, 92 Stat. 469, 42 U.S.C. 1996."



Adams has been subjected to years of “prior restraint”, with years of “abusive egregious official conduct”, which can be said to be “arbitrary in the constitutional sense”. The Forest Service has used this Regulation and others in a scheme for years in depriving Adams of a simple exemption within this regulation, in its application, which would have ceased hundreds of court cases, thousands of dollars of court costs, an “undue burden” on courts, the Government and to various Defendants and Plaintiffs.

This Court can stop the Forest Service (“from abusing [their] power, or employing it as an instrument of oppression.”) Adams has been “violated by executive action”, and these Forest Service discretionary policy decisions concerning not ‘accommodating’ Adams those of a Creed similar to Adams, with a simple change in application of the regulation; these actions by this agency (“can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense.”) See County of Sacramento et al. v. Lewis et al. (1998) U.S.S.C. No. 96-1337

Plaintiff Adams, another individual, whether he considers himself not a “member” or not, should not be denied being offered an “alternative”. See Bowen v. Roy, 476 U.S. 693 (1986) at footnote 19.

“An exemption adopted by Congress to accommodate religious beliefs such as appellees' would not violate the First Amendment's Establishment Clause. See Sherbert v. Verner, 374 U.S. 398, 409 -410 (1963).”

## CONCLUSION

Plaintiff asks the Court to direct the defendants to answer the Request for Discovery and Admissions, based on these arguments, to allow Plaintiff the opportunity to become fully apprised of how his rights may or may not be effected through said “discussions”. This information is “essential” and “relevant” to settling these issues, brought forth by plaintiff, and necessary to be brought into the “light” for this Court, to decide, apart from the “dark”. (Schlagenhauf v. Holder, 379 U.S. 104 (1964), at IV, - (“that the deposition-discovery rules are to be accorded a broad and liberal treatment,” Hickman [379 U.S. 104, 115] v. Taylor,

supra, at 507, to effectuate their purpose that "civil trials in the federal courts no longer need be carried on in the dark." *Id.*, at 501.").

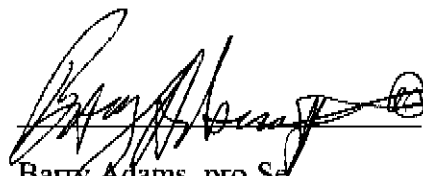
Your Honor, this Plaintiff respectfully requests this court deny Defendant's Motion for a Protective Order. Prevent further harm to Adams's reputation and suppression of his rights, use this Discovery to bring to light the Forest Service's application of this regulation on Adams and these Gatherings of those persons similar situated to Adams and those of his Creed i.e. Rainbow Family-style Gatherings" and then Rule in plaintiff's favor in issue of the issue of defendant's Motion to Dismiss, or, in the Alternative, for Summary Judgment.

Also concerning Court Notice to pro Se Litigant, which plaintiff did not receive from Court at first mailing. On November 7th, 2001, This Court sent this Notice, to Adams via mail. Adams received this letter on November 13, 2001, Notice to pro Se Litigants, as required by Ninth Circuit. Defendant's have stated they have no objection to plaintiff filing "supplement his response to defendants' dispositive motion."

Plaintiff respectfully requests this Court accept plaintiff's "Supplemental Response to Defendants' Motion for Summary Judgment", See separate "Supplemental Response". Plaintiff also confirms to this Court per defendants' request, if this Court denies defendants' Motion for Protective Order, he has no problem with defendants' requested "thirty days" extension for response to Request for Discovery and Admissions.

Respectfully submitted,

DATED THIS November 30, 2001.

  
Barry Adams, pro Se

## TABLE OF CITATIONS

<u>Black v. Arthur</u> , 18 F. Supp. 2d 1127 (D.Or.1998), <u>aff'd</u> , 201 F. 3d 1120 (9th Cir. 2000), at 1548 III	pg 5
<u>Bowen v. Roy</u> , 476 U.S. 693 (1986)	pg 7, 14 , 15, 16, 17
<u>County of Sacramento et al v. Lewis et al</u> (1998) U.S.S.C. No. 96-1337	pg 6, 12, 17
<u>Hell's Canyon, Robertson et al v. Methow Valley Citizens Council</u> , 490 U.S. 332, 349 (1989)	pg 6
<u>Herbert v. Lando</u> , 441 153, 177 (1979)	pg 7
<u>Lyng v. Northwest Indian Cemetery Prot. Assn.</u> , 485 U.S. 439 (1988)	pg 7, 15
<u>Perry v. LAPD</u> , 9th Cir. No. 9655545 (1997)	pg 8, 13
<u>Thomas v. Review Board of Indiana Employment Security Div.</u> , 450 U.S. 707, 717 -718 (1981)	pg 7
<u>U.S. v. Adams</u> , No. CR-00-5037-GF-RFC (D. Mon. Feb. 9, 2001)	pg. 5
<u>U.S. Dept. of Justice v. Reporters Comm.</u> , 489 U.S. 749, 771 -72 (1989.)	pg 12
<u>U.S. v. Kalb, Beck and Sedlako</u> , Crim. No(s) 99-0074ME, 99-0075ME and 99-0076ME (W.D. Penn. 2000)	pg 16
<u>U.S.A. v. McIver</u> , (9th Cir., No. 9830145)	pg 14
<u>White v. Lee</u> (9th Cir. Sept. 27, 2000)	pg 6

## CODES AND REGULATIONS

36 CFR 251 - non-commercial "group" use regulation	pg 8
42 U.S.C. Section 21, Section 1483 - Civil Action for Deprivation of Rights	pg 6, 13
42 U.S.C. 21, Section 1981 - Equal Rights under the Law	pg 6, 12

## ATTACHMENTS

- A. - Delegations of Authority for Shawnee and Pennsylvania pg 3
- B. - Follow-up confirmation Fax to Mary Strandberg. pg 4
- C. - Montana gathering bill & Letters between District Ranger Havig and Adams concerning billing. pg. 4
- D. - Secretary Veneman's recent Civil Rights policy statement pg 8
- E. - Affidavit, Notes of Garrick Beck pg 11
- F. - Affidavit of Joanee Freedom (AKA Kalb). pg 11
- G. - "Gonzo" Affidavit pg 9, 12
- H. - Cold Mountain, Cold Rivers videotape of Shoshone-Bannock Mediation (June 27, 2001). pg 10, 11, 16  
Also, Sue Bradford affidavit authenticating videotape.
- I. - Anne Melle e-mail (Nov. 7, 2001) pg 12



United States  
Department of  
Agriculture

Forest  
Service

Shawnee  
National  
Forest

50 Hwy 145 South  
Harrisburg, IL 62946  
618-253-7114  
TTY 618-253-1070

File Code: 1230

Date: September 21, 2001

Route To:

Subject: Delegation of Authority

To: Malcolm Jowers, Incident Commander, National Incident Team

You are delegated authority to manage the Rainbow Family Regional Gathering, which will occur on the Shawnee National Forest during September thru October 2001. You have the authority and responsibility to prepare for and manage this event within the framework and guidelines of the law and Forest Service policy and direction set forth in this letter. Additional information will be made available as needed to further clarify your authority and responsibilities. You and your team are authorized to begin working on the event immediately.

Your primary performance objectives and guidelines are as follows:

**Event Management** – Manage this event proactively as a noncommercial group use activity under special use authorities and the Noncommercial Group Use regulations. Mobilize the needed resources to manage the event effectively and efficiently. Pursue a Noncommercial Group Use permit with an operating plan. Internal and external relationships and communications are extremely critical and will have to be established and maintained throughout the course of the event, including key Forest Service personnel, cooperating Federal, State, and local agencies, as well as members of the Rainbow Family. All actions must be well documented and a final report will be required.

**Human Resources** – Ensure that the safety of employees, assigned personnel, the public, and event participants are considered throughout the course of the event. Incident personnel will follow established Department of Agriculture guidelines regarding Civil Rights.

**Information** – Provide for internal and external information exchange through the implementation of a communication plan. Ensure that agency cooperators, local officials, and the public are kept informed on the progress of the event. Manage media contacts within the framework of established agency policy.

**Community Relations** – Establish and maintain strong community relations. Private landowners, permittees, businesses and the local community are of special concern due to their proximity to the Gathering and their potential for being impacted. I expect your team to work with the community and to identify their potential issues and concerns. You should work with the leaders of the Gathering to minimize social impacts. This event is taking place in a rural sparsely populated area of Illinois. Limited law enforcement and emergency services pose special challenges. Consider these factors as you plan for the event. Avoid imposing agency red tape on our neighbors and cooperators whenever possible. Consult with key contacts at the Ranger District and the Supervisor's Office; we have a long-standing relationship with the



Community and may be able to help in many situations. It is also expected that the Team will cooperate with State, county and local agencies and organizations in managing the event.

**Resource Protection** – We will provide your team with the expertise of resource specialists and coordinate with representatives of the Rainbow Family to develop an operating plan and a rehabilitation plan that is intended to provide protection of sensitive sites during the Gathering and the rehabilitation of the site when it is concluded.

Resource concerns related to this gathering are as follows:

**Water Quality** – All waste pits, latrines, kitchen structures, or other improvements must be approved in advance by the District Ranger or Acting.

**Natural Areas and Botanical Resources** – Leisure City Barrens Natural Area is approximately one mile south of the gathering site. This area is closed to camping, equestrian use and fires.

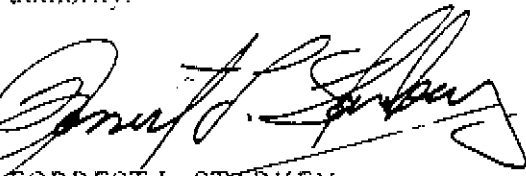
**Vehicle use** – Vehicle use is regulated by Forest Order 08-01. copy attached.

**Costs** – Manage the event within the established Program of Work. Ensure that all operations are cost-effective, efficient and justifiable. Forest personnel working in support of the incident will apply charged-as-worked principles and use job code RWSU08 set up by the Shawnee National Forest. Forest personnel assigned to the Incident will require pre-approval by the Incident Commander or the Forest Supervisor before charging the Incident job code.

The 2001 Rainbow family Gathering will likely bring between 700-1200 visitors to our general area. It is critical that the Team be proactive working with Rainbows, other local, State and Federal Agencies, and the local community.

The Team's assignment will last until mid-October 2001. During this period, your Incident management Team will be unavailable for other assignments. You are not responsible for initial attack fire incidents.

The location of this event at this time is One Horse Gap Lake on the Elizabethtown Ranger District. During the event, you will report directly to me. If I am unavailable, my normal acting schedule will be used for this event. Nick Giannettino, District Ranger on the Elizabethtown Ranger District will be the Forest liaison assigned to the Team. The Team's performance rating will be based on adherence to the accomplishment of the direction set forth in the delegation of authority.



FORREST L. STARKEY  
Forest Supervisor



United States  
Department of  
Agriculture

Forest  
Service

Allegheny National  
Forest

P.O. Box 847  
222 Liberty Street  
Warren, PA 16365  
(814) 723-5150; FAX (814) 726-1465

File Code: 2700/5300/1230

Date: June 10, 1999

Route to:

Subject: Delegation of Authority, 1999 Rainbow Family Gathering, R-9

To: William C. Fox, Incident Commander, National Incident Command Team

You are hereby delegated authority to manage the 1999 Rainbow Family National Gathering, which will occur on the Allegheny National Forest during June and July of 1999. You have the authority and responsibility to prepare for and manage this event within the framework and guidelines of the law, Forest Service policy and direction set forth in this letter. Additional information will be made available as needed to further clarify your authority and responsibilities. You and your team are authorized to begin working on the event (gathering) immediately.

Your primary performance objectives and guidelines are as follows:

1. Event Management - Manage this event proactively as a noncommercial group use activity under special use authorities and the Noncommercial Group Use regulations. Mobilize the needed resources to manage the event effectively and efficiently. Pursue a Noncommercial Group Use Permit with an operating plan. Internal and external relationships and communications are extremely critical and will have to be established and maintained throughout the course of the event, including key Forest Service personnel, cooperating Federal, State and local agencies, as well as members of the Rainbow Family. All actions must be well documented and a final documentation package, including recommendations for management of future Rainbow Family National Gatherings, will be necessary.
2. Human Resources - Ensure that the safety of employees, assigned personnel, the public, and event participants are considered throughout the course of the gathering. Incident personnel will follow established Department of Agriculture guidelines regarding Civil Rights.
3. Information - Provide for internal and external information exchange through the implementation of a communication plan. Ensure that the agency cooperators, local officials and the public are kept informed on the progress of the event. Manage media contacts within the framework of established agency policy.
4. Community Relations - Establish and maintain strong community relations. Private landowners, permittees, concessionaires and the local community are of special concern due to their proximity to the Gathering and their potential for being impacted. I expect your team to work with the community and to identify their potential issues and concerns. You should work with the leaders of the Gathering to minimize social impacts. Consult with key contacts at the Ranger District and in the Supervisor's Office; we have a long-standing relationship with the community and may be able to help in many situations. It is also expected of the Team to cooperate with State, county and local agencies and organizations in managing the event.



Attachment A

## Delegation of Authority

Page 2.


5. Resource Protection - We will provide your team with the expertise of resource specialists and coordinate with representatives of the Rainbow Family, to develop an operating plan and a rehabilitation plan that will provide for protection of sensitive sites during the Gathering, and of the rehabilitation of the site when it is concluded. I have particular concern for management of water quality, archeologic and historic resources, litter, garbage, human wastes, fire prevention and wildlife resources. The Forest will gather needed surface water quality samples taken pre-, during and post event.

6. Costs - Manage the event within the established Program of Work. Any adjustments to the POW will be agreed upon in advance. Ensure that all operations are cost-effective, efficient and justifiable. Forest personnel working in support of the incident will apply charged-as-worked principles and use the Incident NFS Management code. Forest personnel assigned to the Incident will require pre-approval by the Incident Commander before charging to the Incident management code.

- The 1999 Rainbow Family National Gathering will likely bring between 15,000 and 25,000 visitors to our general area. It is critical that the Team be proactive in working with the Rainbows, other local, State and Federal agencies, and the local community.

The Team's assignment will last until mid July. During this time period, your Incident Management Team will be unavailable for other assignments. You are not responsible for initial attack fire incidents.

The location of the event is at Bear Creek on the Marienville Ranger District. During the event, you will report directly to me. If I am unavailable, Dale Dumshic, will serve as my Acting. The Team's performance rating will be based on adherence to and accomplishment of the direction set forth in this delegation of authority.

  
JOHN E. PALMER  
Forest Supervisor

Date 6/10/99



peaceway

---

**From:** peaceway  
**Sent:** 20 November 2001 11:26  
**To:** 'District Ranger Walter Rogers'; 'Boise N.F., Forest Supervisor'  
**Subject:** Howdy re Information 2001 "Annual Rainbow Gathering"

November 20, 2001  
Barry Adams, pro Se  
Box 8574  
Msls. Mt. 59807  
msg/fax 406 825 0044

District Ranger Walt Rogers,  
Lowman District  
Boise National Forest

Howdy Ranger Rogers,

I contacted Boise national Forest information and "Cliff" said to call your office. This date in a phone conversation, Mary Strandberg, of your office, upon my requests, informed me that you are in the process of completing a Report on this year's Annual "Rainbow Gathering" or as your website states "2001 Rainbow Family National Gathering". Mary said I would have no problem requesting and receiving a copy of this Report upon its completion. I am now requesting for same, and I much appreciate the "no hassle" request and receive process.

When I asked concerning the Restoration work i.e. seeding and other work and the billing for such, she said this is also in process and the Incident Command Team is handling the billing, and I would have to contact the I.C. Team for this information.

This continued involvement of the I.C. Team seems to be a departure from other year's involvement in the process. Usually the District Ranger handles the Restoration, and the Billing process.

I would certainly would like to have the information as to who on the I.C. Team specifically I should contact. As you can see I have cc this to Incident Commander of this year's Gathering and National Non-Commercial Group Use Co-ordinator Malcolm Jowers.

This ThanksGiving Weekend, Forest Service, Mr. Jowers representative Ann Melle and Carolyn Squires of Region 9 office are intending to meet with persons, potential attendees of "Gathering 2002" to take place in the Great Lakes Region.

Mr. Jowers has offered "self-designated contacts" can apply for special use for assemblies of 75 or more on national forest lands. This is the process Electric Ed Tunis and "Marken" met in your office on June 12, discussed and offered "orally" to volunteer to be for the 2001 Gathering. Electric Ed and myself, then in "writing" applied in this same manner.

Marken has regularly contacted you and you have kept him informed as to the process of the Restoration and Clean-up; in effect continuing to act as a 'self--designated contact'.

My understanding, from Marken, is the bill for Seeding amounted to \$184, which has been paid by a check from some volunteer individual from Boise. Marken also has informed me that your office performed other work on Restoration and a bill is in the works from some outfit your office contracted with; and a bill is forthcoming.

Please keep me informed, I certainly appreciate it, and I am looking forward to reading and commenting upon the Final Report. I would hope the Report would include the reporting of some of the effects caused by the pumper truck pumping water by the thousands of gallons from Bear Creek nearest to the Gathering Site, and the Forest Service riding their horses up and down in the streams and through these streams.

The effect of pumping thousands of gallons of water out of Bear Creek, the protected habitat of the Wild Salmon, so as to place water on the road to keep the dust down certainly had to be environmentally destructive. I would hope your report would include reasons why the pumping had to be done at all, let alone right at and on this protected Creek, so sensitive. The horses being ridden in the streams, which has been recorded, also was environmentally destructive. It would have seemed a sign lowering the speed limit would have help keep the dust down, and waterways were available some distance from Bear Creek, less sensitive, if such were needed.

Thank you for information you are sending, please keep me informed.

Attachment B - 2 PAGES

in respect,  
Barry Adams

cc (email) to Malcolm Jowers



United States  
Department of  
Agriculture

Forest  
Service

Beaverhead-Deerlodge  
National Forest  
Wisdom Ranger District

P.O. Box 238  
Wisdom, MT 59761  
(406) 689-3243

File Code: 6570

Date: March 5, 2001

Barry Adams  
P.O. Box 8574  
Missoula, MT 59807

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
RRR# 7099 3220 0004 01936 2647

Dear Barry;

Please find enclosed a Bill for collection issued to the Rainbow Family. This bill represents the following expenses:

- \$1639.39- work done by the Beaverhead-Deerlodge National Forest road crew. None of the roadwork as specified within the rehabilitation plan given to you on July 6, 2000 was completed at either the Saginaw or Miner Creek sites.
- \$5,890 - Invasive weed monitoring cost over the period 2000-2004. This will include monitoring the parking sites associated with the Rainbow Gathering. This extra monitoring work will occur whether or not we have to actually treat any new weed infestations so this cost is a guaranteed extra expense to the district.

Worksheets showing how we arrived at the costs are attached.

Please send your remittance in the enclosed envelope to the San Francisco address by the due date.

If you have any questions, please give me a call at (406) 689-3243.

Sincerely,

*A. Scott Lutz*

for DENNIS HAVIG  
District Ranger

CC: Janette Kaiser - Beaverhead-Deerlodge S.O.  
Bill Fox - RO

Enclosures

(406) 689-3243  
(FOX)

ATTACHMENT C





United States  
Department of  
Agriculture

Forest  
Service

Beaverhead-Deerlodge  
National Forest  
Wisdom Ranger District

P.O. Box 238  
Wisdom, MT 59761  
406 689-3243

File Code: 6530-1

Date: March 26, 2001

Mr. Barry Adams  
P.O. Box 8574  
Missoula, MT 59801

Mr. Brian Michaels  
Attorney at Law  
259 E. Fifth  
Eugene, OR 97401

Gentlemen,

I am writing in regard to a Bill for Collection dated 2/5/2001, number AB01020310008, for roadwork done by the Beaverhead-Deerlodge National Forest and for future invasive weed monitoring. The amount of the bill was \$7,529.39 the cover letter was signed by Mr. Scott Lentz.

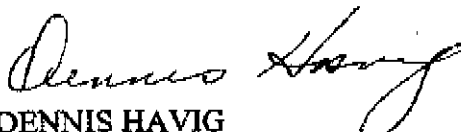
On February 27, 2001 Barry Adams called my office in Wisdom and pointed out several concerns with the Bill for Collection.

Mr. Adams asked if the contract number on the bill indicated the existence of a contract. Mr. Adams was concerned with the due date of the bill and he stated that he should not be given the bill since he was not an agent or representative for the Rainbow Family.

I did some further checking on February 27, and determined that a mistake had been made on the Bill for Collection. No contract existed; the contract number on the bill was from the Madison District and that placing a contract number on the bill was done in error. Further, Mr. Adams was to receive a full 30 days to pay the bill. I called Mr. Adams on February 27 to tell him that the bill described above was void, and that a corrected bill would be sent.

Please consider this a formal written notice that bill number AB01020310008 has been cancelled. In addition, please be advised that I am preparing a response to your March 8, 2001, letter.

Sincerely,

  
DENNIS HAVIG  
District Ranger

Attachment C

19.3

<http://www.usda.gov/da/CRPolicy.htm>

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20250

### Civil Rights Policy Statement

President Abraham Lincoln founded the United States Department of Agriculture in 1862 to serve the people of this Nation. Today, nearly 150 years later, USDA employees are among the finest public servants, committed to ensuring that every customer and colleague is treated with fairness, equality, and respect.

As your Secretary, I am firmly committed to ensuring USDA's compliance with civil rights and equal employment opportunity for everyone regardless of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information.

There is no principle more important. We must comply with every aspect of our Nation's civil rights laws. To do otherwise is simply not acceptable and will not be tolerated.

As public servants, we cannot be effective without being fair. We cannot be responsive without being respectful. We cannot deliver programs and services without being sensitive to the human issues that are so much a part of our work.

Our adherence to these principles also requires a swift, reasonable, and credible process for addressing and remedying deficiencies. It must also include consistent education and outreach to ensure civil rights are protected, our laws are enforced, and discrimination in any form is prevented.

This must be our passion and our vision. We must continue to strive for a workplace and society that are inclusive and respectful of differences, while working toward unity and harmony. Our actions must always speak louder than words.

Attachment D

2/10/02

With your help and commitment, and using our collective best efforts across every agency and every office, we can reach new heights. Together, we can create a better workplace for all employees, and a Department that delivers programs and services to all people fairly and with integrity and equality.

I look forward to fulfilling this vision -our goals -together.

/s/Ann M. Veneman

Ann M. Veneman  
Secretary

AN EQUAL OPPORTUNITY EMPLOYER

--- Restore the Earth! Restore the People! ---

**Garrick Beck**

930 Bacon Street # 10  
Santa Fe, NM 87501  
Ph./Fx.: 505-820-7764

November 14, 2001

**To Whom it May Concern:**

I, Garrick Beck, make the following declaration and declare under penalty of perjury that this declaration is true and correct.

I have been an attendee at annual "Rainbow Gatherings" held on National Forest System lands since 1972, attending all but two of the annual events.

I have participated in detailed discussions concerning the operating logistics of these events with Forest Service officers in eighteen of these annual gatherings, and numerous smaller regional gatherings.

I gave testimony during the 1986 trial (US v. Israel, Arizona) through which regulations introducing a permit process for such assemblies were found unconstitutional.

I served as a legal research assistant during the 1988 trial (US v. Rainbow, Texas) through which another set of regulations introducing a permit process for such assemblies was also found unconstitutional.

I attended two meetings at the U.S. Forest Service Headquarters (September 1983 and April 1989) between USFS officials and Rainbow attendees where alternative forms of regulatory processes were the primary agenda focus, to discuss what types of process would satisfy essential governmental concerns and at the same time not interfere with the fundamental Constitutionally protected rights of individuals' assembly.

In 1995 the Dept. of Agriculture introduced another set of regulations for "Non-commercial Group Use" on U.S.F.S. system lands which has since been the subject of numerous Federal Court cases.

I have continued steadfastly to seek resolution of this impasse through discussion and conference with U.S. Forest Service administrators. These discussions have included meetings with the Forest Service's Incident Commander (New Mexico, May 1998), with representatives from the Incident Command and F.S. Law Enforcement (Montana, June 2000), with members of the Forest Service Region Five Headquarters (Utah, June 2001) and with the F.S. Incident Commander and a representative from the Forest Service's Non-Commercial Group Use Committee (Idaho, June 2001.)

Attachment

Attachment E,

At all of these meetings I, or other gathering attendees, specifically brought up the option that the Forest Service could, at its discretion, as described in the regulations (36CFR 251.54 (h) (2)) "offer an alternative" to the designated signature requirement.

By way of brief explanation, the regulations seem to require that a group of individuals in order to acquire a permit for non-commercial assembly must organize a process by which to designate a signer who will represent them on the permit. Insofar as certain groups might choose to assemble to demonstrate, in part, that human society can peaceably and reasonably exist without any internal "official" processes, this would seem to preclude any such groups from ever obtaining a permit without fundamentally altering their chosen creed.

Therefore, we (myself and other attendees) offered the proposal that an individual citizen volunteer could - as an individual, not necessarily designated by the group - come forward and fill out the application paperwork as a contact person, thereby fulfilling the Forest Service's "reservation desk" need for someone to reserve the space for a particular event, and also fulfilling the Forest Service's significant need to have a way to contact both the group and individuals within the group who were taking responsibility for processes relating to public health or safety (i.e. water systems, traffic and parking, healthcare, cleanup and rehab, etc.).

Most importantly, the Forest Service and Rainbow Gathering participants set up a meeting in Santa Fe, New Mexico in November 2000 where representatives from F.S. Law Enforcement, Administration and the Incident Commander met with eight Rainbow attendees to discuss compromise alternatives to the unresolved situations both in the courts and in the field. At that meeting also, very specifically the above suggestion was again tendered as a solution by the Rainbow participants.

In all of these meetings that alternative was verbally rejected by the attending Forest Service members.

In June of 2001, in Idaho, preceding the annual Rainbow Gathering there, Barry Adams and Ed Tunis submitted to the U.S. Forest Service applications for a permit, which used the Individual Contact Person alternative described above. They told me they did this in the hope that the Forest Service would accept this alternative version of the regulation's process, and believing that the Forest Service officers, under the terms of the regulation had the discretion to do so.

These applications were rejected - not because of public health, safety or environmental concerns - but because they were deemed incomplete.

Mr. Adams has sought judicial review for the rejection of his application.

On October 5, 2001 I was a participant in a teleconference call at the request of several Senate Staffers to the Senate Energy and Natural Resources Committee, Subcommittee for Public Lands and Forests. The teleconference included John Watts, Counsel, Senate Committee on Energy and Natural Resources, majority staff; Frank Gladics, Professional Staff, Senate Committee on Energy and Natural



Resources, minority staff; Calli Daly, Legislative Assistant to Sen. Larry Craig, (R) Idaho; Kira Finkler, Counsel, Senate Committee on Energy and Natural Resources, majority staff; and Tina Terrell, Legislative Affairs Specialist, U. S. Forest Service. On the call as well were the U.S. forest Service Incident Commander, Malcolm Jowers and the U.S. Forest Service Assistant Director for Law Enforcement, Anne Melle and eight Rainbow participants.

The purpose of the call, as I understood it, was to seek resolution to the ongoing conflicts between the Forest Service and Rainbow participants, and especially to seek and discuss "common ground" where the objectives of everyone could be met. The Staffers had all been briefed extensively on the background of the situation by both the Forest Service and Rainbow participants.

Of all the various hopeful ideas presented during the almost-two-hour-call, the single most central suggestion was that the Forest Service would now accept that a "Self Designated Contact Person" could submit a valid application; that a permit could be issued to "Individuals Assembling at such-and-such Event" - not to only an organization, but to the "individuals;" and that a "Self Designated Contact Person (or persons)" could be the signer on an actual permit itself, along with the appropriate Forest Service officer.

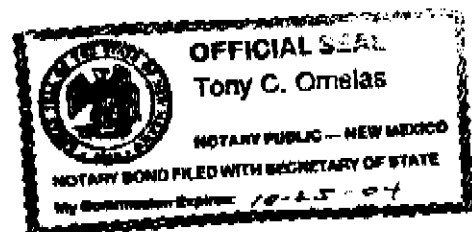
This is very possibly where Rainbows and Forest Service administrators will come to common ground in the future, but it stems directly from Barry Adams and Ed Tunis's submitted application for Special Use Authorization in June of 2001, and it indicates that the Forest Service has had and does have the discretion to grant a permit given an application of that sort.

I would be available to expand on any of the events I have outlined here, or to provide further detailed information on any of these described meetings or conference calls.

I thank you for your time in reading this.

Garrick Beck  
Santa Fe, New Mexico

State of New Mexico ) ss.  
County of Santa Fe )  
The foregoing instrument was acknowledged  
before me this 14 day of November 2001  
by GARRICK BECK  
Tony C. Omelas  
Notary Public



Courts to Conference to Council

The Continuing struggle between the New World Order and the New World Culture

**"The times are changin' and if we change with the times, we will succeed."**

**Since the** installation of the "Rainbow Regs" in 1995 there have been numerous disputes-at-law (court cases) over the validity of the regulations, and over many of the regulations' particular demands, and over many of the regulations' lack of proper safeguards for public rights.

In three instances the courts or the US Attorneys have given or conceded positions in favor of the peoples' rights. And there are a dozen or more "occupancy and use" cases currently pending all over the country, including one on appeal to the US Supreme Court, and while any of these might result in an overturning of the regs' constitutionality, as of yet all the lower courts have held the regs valid—given the three improvements or re-interpretations we have won in certain circuits (regions) in the course of these cases.

Specifically these small victories have been: 1. In US v. Linick the courts ruled that the Forest Service cannot just add terms and conditions in the vague "public interest" to any group use permit. 2. In Black v. Arthur the government proclaimed that the regs did protect individual's liability because signers or holders could not incur any liabilities beyond their own actions. 3. In US v. Kalb the government conceded that there was access to the courts for judicial review of both outright permit denials and contested permit conditions; altho the regs were unclear about this, the gov't. position is now that judicial review exists at both levels.

Still these same courts and others have so far held that the process of the regulations are valid. As a result the rainbow assemblies (gatherings) are declared illegal events and authority for managing -from the public officials' perspective - is shifted from resource and recreation administration to the law enforcement division. In recent years the Forest Service has established a Group Use Group (Non-commercial Group Use Committee) to head up their operations.

Because of the events' "illegality" this enforcement division has had increasing ability and support to impose "occupancy and use" tickets, "infrastructure" (building or constructing any temporary facilities) tickets, traffic and parking tickets, checkpoints, roadblocks, searches, property impoundment, and - for those bold enuf to speak up about the unfairness of this - "interfering" tickets.

I believe that it is reasonable to assume that this enforcement division has had - or still has - more forceful measures in mind than those listed above if the courts continue to support the regs, and the rainbows continue to refuse to comply with them.

GARRICK BECK-

(Notes)

sometimes they have figured it out and understood us.

In any case, here we are again for the umpteenth time at the roundtable trying to come up with some sort of way that we can be us, and the gov't. be who they are.

Here are the current suggestions from the recent conference. Personally I think we did pretty well finding ground where we can be ourselves, keeping to our beliefs and non-structured nature, and still land within what the government considers legal standing.

One. The fs accepts that someone can sign an application or permit as a "Self Designated Contact Person" and not as an agent for a group, or a selected representative of a group. Just as a citizen volunteering to work as a contact for the fs to introduce them to people who might be working on parking, or medical, or cleanup, or water use, or any of the numerous other jobs that come with large public assemblage.

This is the offering of an alternative — which the regulations indicate the fs should offer — but which up until now they have steadfastly refused to consider.

Two. The fs agrees that the contact person(s) has no liability other than for acts they themselves might personally commit. So while a Self Designated Contact Person does have a responsibility to serve as a contact between the fs and other people, he or she or they incur no additional liability nor do the individuals of the group create a representative or agent relationship with that person(s).

Three. The fs agrees that the "Holder" named on the permit may be listed as "Individuals Assembling At Such-or-Other Event" or "Individuals Who Gather in such and Such Meadow Over the Fourth of July," or "Individuals Attending Such-or-Other Event," and not an organization or group that exists anytime before or after the assembly takes place. Meaning, in our case that a permit would not be made out to "Rainbow Family" or any such non-organization.

Four. The fs will look into ways to do their funding process without utilizing a "Declaration of Emergency" which has every time aroused fear and trembling in the local regions where gatherings have occurred. Maybe they can do this. They couldn't promise so, but they did say they understood how that declaration aroused public fears.

Five. It was requested that the fs cease poisoning the press and media with outrageous claims about gatherers — and that both sides cooperate at public and town meetings to reduce fear and rumors in local areas.

Six. The fs agrees and understands that it must work with the people, starting in the region and then, after a site is selected with the people actually on the land from seed to cleanup...and not with some people far away by telephone or however else: that it is the circle of people on the land who are the responsible individuals with which the fs must co-ordinate.

Twelve. Good Luck. The Senate Staffers wished us all that. And they noted that they thought there was a lot a talk going in the right direction toward a common ground where conflicts of the past could be avoided. But they did say clearly to both sides that if these processes got off track and folks on either side felt that the others weren't doing their part of the process that they would want to hear about it.

To me that means that if we can live with and work with the process as we were talking about it, and if the fs continues its brand of harassment and intimidation that we will have an open ear with the Senate Committee who might then decide to take any number of actions on our behalf, possibly including budgetary review, or issuing directives to the fs, or eventually even holding formal public hearings.

There were actually a number of considerations brought up: there was talk from the fs about opening a link with a.g.r. for communications between rainbows and fs — or some other method perhaps; there was a discussion about C.A.L.M. working with State and local health officials and fs law enforcement being less involved in this area; there was a suggestion by the fs that applications for site(s) be given to the fs as early as Dec. 1<sup>st</sup> and that an application could be for an area, or region and not necessarily for a single specific site— this was responded to by the rainbow participants who indicated that this kind of discussion was entirely in the hands of the people who would be at TG council, and the folks who would be working with the site selection and scouting process after that.

My own overview is that between the concessions we have won in court and the concessions granted in discussion we have come a long way from the miserable way the regs were written. And I don't think we are going to wind up in a better situation than this unless the U.S. Supreme Court decides to rule ultimately in our favor—but even if that were to happen, it ain't going to happen fast, certainly not before July 2002. And without some sort of compromise we are going to face much more aggressive enforcement than we have seen before. This is as good a resolution as we are likely to get. There are a lot of unspecified details—which is good, because it means we are going to have to work out a lot of this on the land with the people really involved on a day-to-day basis.

I have no doubt that even if this course succeeds that we are going to face endless disagreements over particulars of land use and activities, but that has ever been so, that people and authority are in some degree of push and pull between them. I am not naive enuf to believe that simply coming to common ground is going to resolve all our difficulties with the fs, but I do believe that this route is far better than the escalating conflict in which we have been holding our own for many years, but in which we stand a great chance of losing very badly.

Anyone acquainted with the situation knows that there are people within the gov't. hierarchies who would like to see us trashed, "driven into the sea," run off the map, roads closed, court orders for site closure, evacuation, large scale arrests, property impounded, families separated, etc. Don't anyone be naive enuf to think that there

aren't arguments being put forth in the corridors of power for that kind of imperial approach to our gatherings.

Similarly, anyone acquainted with the situation knows that there are people within the gov't. hierarchies who support our gathering assemblies, admire our land use and cleanups, defend our rights to assemble and who believe that we offer an excellent educational opportunity for young people, especially, to come to know and appreciate our public forest lands.

There has been an ongoing debate between these sides within the offices of officialdom. But the overall court rulings upholding the regs have set the stage for the enforcement side to rule the day, and get their way fully and forcefully, unless some other program or process steers a course toward some other direction.

Our mission is to hold open the door to the mountains so the people can come to the Circle, the Community, the Fourth of July Silence, and the Celebrations. If we come to believe that we are meant to fight a battle with the feds we will get diverted from making all the good things that the gathering is about. We need to be able to put our efforts toward making the positive things of the gathering come true...that's where our power lies, not in spending more and more of our time and effort sustaining a conflict with a powerful, and sometimes very violent force. Ours, ultimately is the peaceful way. That's the way we can best preserve our own culture. There are forces outside us that very much want us to continue the conflict, because that may be the very best way to change and destroy us. By coming to a workable livable compromise situation we diffuse those powers and we gain a continuity of our own culture and the ability to grow, expand and gather in harmony and peace.

I realize we have covered a lot of murky and difficult ground, but there is a way out of the swamp...and it is going to depend on the people at thanksgiving council, and the process that continues on from there. God Bless, and....Good Luck.

Garrick  
October 2001

State of New Mexico

County of Santa Fe

The foregoing instrument was acknowledged

before me this 16 day of November, 2001

by Linda Medrano

My Commission Expires: 8/13/2002

Notary Public



November 6, 2001

To whom it May Concern:

I, Joanee Freedom, make the following declaration that I have voluntarily attended two meetings with the Forest Service in concern for the permit process and declare that this declaration is true and correct.

In November 2000 a meeting was set up between the Forest Service and individuals who attend Rainbow Gatherings. This meeting was held in Santa Fe, New Mexico where Forest Service representatives Robin Pogue, Law Enforcement, U.S. Forest Service; John Twiss, U.S. Forest Service Administration; and Bill Fox, Incident Commander, Law Enforcement, U.S. Forest Service sat down with people who attend Rainbow Gatherings to discuss the permit issue. I was one of those people.

At this sit-down we discussed alternatives to the F.S. permit process. The permit requirement forces the gathering to become something it is not by insisting upon a group-designated signer to represent all. Rainbow Gatherings are not hierarchal and have no leaders so no one can be designated to sign a permit to represent everyone. The permit process, as it stands, finds us in legal situations both in the courts and on the land. The Forest Service can offer an alternative if the user does not fall into the standard category. They have the option to do this as described in their regulations (36CFR 251.54 (h) (2)) "offer an alternative" to the designated signature requirement.

At the Santa Fe meeting the Rainbow Gathering attendees offered alternatives that can work. A reservation desk system with a contact person alternative was one of the solutions. The attending Forest Service members said they would take this information back to D.C. and see what they could do as they did not want to rewrite their regulations.

To find a solution to this problem for the 2001 Idaho Rainbow Gathering Barry Adams and Electric Ed Tunis, prior to the gathering, filed applications for a permit to the U. S. Forest Service using the individual Contact Person alternative. In accordance with the F.S. option to offer an alternative both applications were submitted and hope was the F.S. would accept them. Both these applications were rejected because of the signature and Mr. Adams is seeking judicial review of the rejection of his application.

Since the gathering in Idaho the situation has been brought to the attention of the Senate Agriculture and Natural Resources Committee. A teleconference call, at the request of several Senate Staffers to this committee, was held on October 5, 2001.

On this call were John Watts, Counsel, Senate Committee on Energy and Natural Resources, majority staff; Frank Gladics, Professional Staff, Senate Committee on Energy and Natural Resources, minority staff; Calli Daly, Legislative Assistant to Sen. Larry Craig, (R) Idaho; Kira Finkler, Counsel, Senate Committee on Energy and Natural Resources, majority staff; Tina Terrell, Legislative Affairs Specialist, U. S. Forest Service; Malcolm Jowers, Incident Commander, Law Enforcement, U.S. Forest Service; Anne Melle, Assistant Director for Law Enforcement, U.S. Forest Service; and eight individuals who attend Rainbow Gatherings.

This call was the latest meeting to find a resolution to the permit conflicts between the Forest Service and the Rainbow Gathering, to find a workable solution. Both the Forest Service and some Gathering participants had briefed all the Staffers extensively on the background of the situation.

Attachment F

1 of 2 pages

Stephen Johgart  
106 Worden Ave.  
Ann Arbor, MI 48103-4032  
734-761-4243

November 29, 2001

To Whom It May Concern:


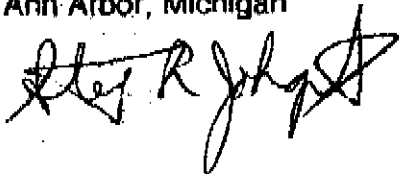
I, Stephen Johgart (a.k.a. Gonzo), make the following declaration and declare under penalty of perjury that this declaration is true and correct.

On Friday, November 23 and Saturday, November 24, 2001 I was an attendee at the activity referred to as the Rainbow Family Thanksgiving Council. I volunteered to take notes as the people in attendance sat in circle and discussed issues relating to Rainbow Gatherings, and in particular the Rainbow Family of Living Light World Peace and Healing Gathering 2002.

Ann Melle and Carolyn Williams took part in the Saturday circle, representing the U.S. Forest Service.

The 10 pages of notes are exactly the words I typed during the Council circles; they have not been edited. They represent my summary of many hours of statements and verbal interchange; they are as accurate as I could make them under the circumstances.

Stephen Johgart  
Ann Arbor, Michigan



ROBERTA A. PAQUETTE  
Notary Public, Wayne Co., MI  
Acting In ~~Wayne~~ Co., MI  
My Commission Expires June 19, 2006

1 Attachment G

**Friday, November 23, 2001**

The Spirit who brought us together was asked to help guide us, and thanks were offered to the Mother Earth who provides us with life.

**Agenda:**

- Banking Council
- P.O. Box
- "Office"
- Seed camp supplies
- Phone and/or info line
- Computer Issues
- Spring Council
- Scout Council
- Scouting
- Love
- Forest Service discussion
- Permit Issue
- Shitters - Alternatives to slit trenches
- What is Thanksgiving Council?
- Shanti Sana

Banking Council - Three Wisconsin individuals have been doing Wisconsin bank toward the Annual Gathering, per consensus at Wisconsin Regional. \$100 designated for Thanksgiving Council (which is to decide its use). \$144 designated for scouting. \$156 remains for other use, i.e. Office, Howdy Folks. Consensus reached that the same 3 individuals serve as banking council for the Annual Gathering, until Spring Council only. Consensus that P.O. Box 3213, Madison, WI 53704 be the Annual Gathering P.O. box, under the name Rainbow Family of Living Light World Peace and Healing Gathering 2002.

Spring Council - Scouts generally decide Spring Council site. Public land is preferred, but not mandatory. Discussion revolves around dates of 2nd or 3rd weekend in June (June 7 - 9 or June 14 - 16). Dates discussion tabled until Saturday.

Scouts are allegedly meeting April 15 at the USGS map library in Stevens Point. There was much discussion of whether to agree to meeting at Stevens Point or whether to leave the site TBA. Discussion of setting up a scout "base camp" a few days ahead of the 15th. Vehicles are in short supply in Madison; folks with vehicles, with or without scout experience, are sought. Consensus reaffirms the date of April 15.

Consensus that Thanksgiving Council would like to see a Web site established which is specifically designated Rainbow Gathering 2002. This Web site, if established, should maintain its Web presence after the Gathering. Since no one at this council volunteered to be a webmaster of this site, this consensus is only as a desire to see such a Web site established if someone is willing to do it.

Forest Service attendance discussion. Statement that we need to be aware that the bureaucracy would like to see us never have a Gathering again; although it is fine to try to be cooperative and avoid antagonism, we need to remember that basic fact. Statement that the government works for us, and we need to work toward making things work that way. There are things the Forest Service could do with us, if we could work that out. However, even those who would like to work with us work for the bureaucracy which would like to wipe us out.

Although Ann Mella will represent the government bureaucracy, it is very important that we remember that we at Thanksgiving Council do not represent anyone else; we represent only ourselves as individuals in council.



A list of questions was posted on the Internet which were suggestions for what we might want to ask Ann Melle when she arrives. The list of questions was read aloud for discussion. Problems were raised with the wording regarding "legalizing the Gathering" and with issues the Forest Service might like to discuss with "the Rainbow Family", as opposed to with those of us attending Thanksgiving Council. Problems were raised with the negative tone of the questions, and a suggestion was made to include some positive questions regarding what the FS can do to assist in, for example, site selection.

The letter from Ann Melle to Thanksgiving Council attendees (posted to the Web) was read aloud.

Dinner was announced.

Statement that in consideration of the new issues the government has to deal with in the wake of September 11, it should be clear that we should be at the bottom of the list of issues the government has to worry about.

**Saturday, November 24, 2001**

Feather passed - attempt at summary of some of the comments:

Statement that it is important to be aware of language as a medium of communication. When language becomes abusive and confrontational, communication ceases.

Discussion of tape recording. Request for notification if anyone is recording, and for consensus that recording is OK. Consensus blocked. Comments that recordings and videotaping is dangerous. Need for recording questioned. There will be no taping.

Thanks given to the Spirit for bringing us together. Invocation of the Spirit to join us here. Thanks to brothers and sisters for being here. Keep in mind that words are only words; we need to seek the meaning. Arguments can get to become about the argument and not the issue. This is to be our vision of what can happen to the family. Let's keep the spirit of peace and cooperation, and keep our discussion positive.

Comment on the feather. We can all speak on each issue if the feather dances around and doesn't become a lead balloon.

Carolyn, the Forest Service resource person, states that she hopes we trust that she will keep things real. She is here to try to make the Gathering a positive event.

Heartsong. More heartsong.

Concern for the way the media initially addresses the issue. Desire expressed for unbiased media reporting. Concern also expressed over the general stewardship of forests.

Importance of respect for the feather was stressed, to avoid the loudest voices dominating the circle.

More heartsong.

Long experience with Gatherings and regionals and relations with the Forest Service has shown that the vast majority of Forest Service agents have been good to work with. The lack of differentiation among many Rainbows between "Forest Service" and "law enforcement" was stressed; the Forest Service is not synonymous with law enforcement. Forest Service law enforcement has been experienced as harrasing; past preference for working with sheriff is expressed, because FS LEOs don't take crimes at Rainbow seriously.

It is a good sign that the FS Law Enforcement has sent a representative to meet with us here, and that they are willing to subject themselves to whatever might occur here. The fact that they have agreed to meet with us without weapons shows deep respect for us.

Hope that everyone can converse in a respectful and civil tone. Thus, this is the way to do things.

More heartsong.

Rainbow is just a bunch of individuals. All of us could be arrested and Rainbow would still happen. We are all here to try to preserve what makes the land such a jewel. The other jewel is that we have the right to free speech, free assembly, and the right to express our religions as we see fit. Desire to work together with other communities and members of our larger community. The Bill of Rights gives us freedom of assembly. We need to show the world what freedom of assembly means.

There are two basic truths found in attending Rainbow Gatherings: Freedom of speech/assembly and freedom to express religion. One of the great lessons of Rainbow is the variety of religions and how they all draw from the power of myth. Description of the magic of July 4 at a Gathering. Our family will be coming together in the Western Great Lakes region, and may we attempt to make this as free from impediments as possible, and that we take care of necessities appropriately.

Coffee grinding reflection on eloquence.

Reflection from a Christian perspective of what it will mean when this world passes away and Heaven is manifested on the Earth. Rainbow is the best representation of the harmony and peace that this may mean. The big struggle coming may be between the "public interest" and "special interests". Can we as Rainbow be an instrument of taking the government, the public servants, to serve the public?

The United Nations Declaration of Rights, Article 19, also affirms freedom of assembly.

A majority of us under Rainbow try to manifest the rights of peaceable assembly delineated by Amendment 1, Article 1. Rainbows are all about respecting the forest; we gather on land that has already been logged and/or settled, we would never gather on land where our being there would cause a permanent negative impact. The Gathering is a religious experience in that we all can go there to reconnect with whatever spirituality we seek. As in any group of 20,000, there are some problems, but the number is low in comparison with other groups of similar size. Discomfort expressed with Forest Service being part of inner circle.

Feather process addressed; please respect the feather and more important, the person holding the feather.

Question about what is the big deal about an individual signing a permit as an individual, so long as it is specifically as an individual. Forest Service overwhelmingly deals with people that abuses the land; some distinction must be made between those people and people who gather with respect for the forest. Hope expressed that the Gathering become a partnership instead of a power struggle.

More heartsong.

Comment regarding the nature of Rainbow being individuals each taking responsibility for himself and herself. That is what makes Rainbow unique. It is not due to antipathy toward the Forest Service that we do not sign a permit; it is due to what makes Rainbow valuable to those who gather making designating someone who represents each of us, and thus implicitly makes the group responsible for the individuals, is not possible without changing the core of what we are doing. Comment about freedom of peaceable assembly not only meaning peaceable to each other, but to the Mother Earth as well.

The majority of reports locally from Rainbow are positive regarding the experience that has occurred. We care for the Earth and do a good job of it.

From July 1 - July 7, one thing is certain: there will be a Rainbow Gathering. The Forest Service and Law Enforcement will be there. This is a given. Some of us Rainbows are embarrassing and some are not. Acknowledgement that Forest Service reps are doing their jobs; desire expressed for them to perform their job with as little trouble as possible, and without harassment from the individual speaking. We will not be free of conflict; no human congregation is free of conflict, nor should that be striven for...conflict produces growth. But we can strive to minimize any destructiveness of that conflict. We "are" all related, whether we like it or not.

Appreciation expressed for the Earth from the perspective of First Nations, those who were here before the European forefathers. The permit is a big issue; no matter how long we council, speaker will not be in agreement with the permit process or signature on permit.

Stretch break.

Ann Melle made her presentation.

Ann gave some background of her position. She manages the Uniform Officer Patrol Program. First Gathering was Nevada, then returned for Oregon and has worked the rest since then. Was involved with formation of the Incident Command Team. She is here to share some first-hand information with this group, some of who may be participating in the National Gathering. She and Carolyn are here representing the Forest Service, and is here to present the Forest Service position.

Request made for Ann's personal heartsong regarding Rainbow. She personally believes that a solution can be achieved relating to this impasse. One reason she asks to attend Rainbow Gatherings is that she has so much fun. She believes Gatherings should go on, and that there are many good things that happen at Gatherings. She went on to share some of the "ugly underbelly" of Rainbow. She spends a lot of time talking with people at Gatherings. More and more, people she talks to don't like the direction Gatherings are going, due to various disrespectful and irresponsible acts by some individuals who are attending the Gatherings. She believes the Forest Service has attended enough Gatherings to know what the Rainbow attendees can and cannot do. She has heard from many people that they are glad Law Enforcement is there. As public servants, FS Law Enforcement is responsible for representing the whole public. Their job is to balance everyone's interests. Nobody who is involved with the forests thinks the FS is doing everything right.

Copies of the permit application and regulation were passed out. She went over the permit in detail. There tends to be confusion over what parts of the regulation applies to noncommercial uses vs. commercial uses. Only noncommercial use applies to Rainbow. There have been over 500 noncommercial permits issued, including 5 or more to Rainbow Family events. Other groups include family reunions, weddings, church groups, Boy Scouts, etc. Regulations have been in effect since 1985.

Early proposal (Sec. 251.54), written or oral, is required. Concern expressed regarding announcing the site early leading a lot of folks to show up earlier than is healthy for the forest. It probably, according to Ann, is best to do the early proposal process orally, so that it can be done in a low-key way. Contact person's name is required, including name of person who will sign permit. Once this proposal is received, FS will get back with info on why the site may or may not be appropriate. Specific site not necessary; several potential sites would be fine, or even a state or region.

Once feedback has been received, the written application can be submitted. Once written application is received, FS has 48 hours to respond (including weekends). Application must be received at least 72 hours prior to the event.

If the application is accepted, a permit is issued. The permit will be to the group, which can be the specific event and all the individuals on the land, not to a specific individual.

**Liability:** The signer does not have legal liability as an individual. Permit does not have legal effect until both the holder and the FS sign the permit.

**Confidentiality:** Regulations allow confidentiality of information during preapplication process. Problem in Rainbow is that applicants are everybody; how is information kept confidential from the applicants themselves?

Under the regulations, since we are gathering as individuals, each person as an individual is liable to a citation for gathering on Forest Service land in a group of >74 without special use authorization.

**Constitutionality:** There are 3 branches of government, those who make the laws, those who administer the laws, and those who interpret the laws. The Supreme Court has established that the government may control the time, place, and manner of protected activities. Many Rainbow attendees who have been cited and who have gone before the courts have challenged, along with their own citations, the constitutionality of the regulation. The courts have upheld the regulation. The regulation is not going to go away; the Gathering will be required to have a permit.

Since 1996, the Chief of the Forest Service has established the Recreational Group Use Committee to oversee activities falling under the regulation. Last year, due to continued noncompliance by people who attend Rainbow Gatherings, the Forest Service decided they need people who understand how Rainbow Gatherings work to oversee managing the Gatherings. The Incident Command Team was established, an interdisciplinary group of Law Enforcement, Resource Planning, etc. Regarding the emergency declaration, it is declared for effective administration of the process. Emergency declaration may or may not be used in the future depending on whether it is the most efficient way to administer the situation.

The Chief of the Forest Service has directed that the Incident Command Team deal with noncompliant groups by contacting the group once they have reached 75 and reminds them of the permit process; if no permit is forthcoming, they are notified that they either need to acquire a permit or reduce size to less than 75 people; if the situation continues, the group is informed they must leave the site; if there is still no permit, the group falls under the same regulations that the general public fall under when using the forest (i.e. fires, structures, water lines, infrastructure); if the occupation continues, the roads will be blocked and only people who are entering to remove things from the site.

**Pavilion rescue break.**

To continue: People inside will continue to be encouraged to leave. If all the people on the land are not able to be removed, the "general public regulations" will continue to be enforced. Everyone who is present when the event is shut down can be cited for gathering on Forest Service land in a group of >74 without special use authorization.

**Addressing the questions:** Will the Forest Service acknowledge that the Rainbow Family is an organization and does not have leaders (what is a leader)? What matters to the Forest Service is whether >74 people are gathering, it doesn't matter whether they are an organization or not.

Will the FS guarantee not to declare the Gathering an emergency? FS will guarantee neither to declare nor to not declare the Gathering an emergency.

Will the FS issue joint statements to the press with the family? No. It is necessary for the FS to acknowledge that some bad things happen in conjunction with Gatherings, though they are a small percentage of all activities at Gatherings. It would be unfair to just indicate that everything will be wonderful. Question: How about the FS informing the Gathering in some fashion what information has

been provided to the local family?

FS would be happy to work with the family to notify somebody of meetings with the community. FS can't invite family to meetings with other Law Enforcement. Statement: FS requested permission to establish a bulletin board at info at one Gathering, and was denied permission. Response: That is because the FS wanted to post legal notices so they could go to court and state they provided legal notice. Request made that meetings be held jointly with the FS in local communities to address issues. A variety of anecdotes regarding town meetings and problems with the town meetings were recounted, in particular town meetings at which Rainbow Gathering attendees were denied participation either due to nonnotification or not being allowed to speak when they attended. Much back and forth regarding accuracy of the information the FS gives local communities prior to Gatherings and the problems that inaccurate information can cause. Statement by Carolyn that past activities are done, we can't fix them; we can make a beginning toward better cooperation next year. Garrick Beck and Jeff Klein have offered the following process: If nobody else wants to sign the permit (it is preferred that Thanksgiving Council or the group that are focalizing the Annual Gathering next year include a person on the land who will sign a permit), Jeff Klein will sign the permit. Under the signature will be indicated the statement that the person is self-designated. Does the contact person become an agent of the group? Everyone who is on the land is bound by the requirements of the permit. That person is the go-between between the group and the Forest Service.

Feather passed - some attempted summary of some comments:

Question: What is the time frame for making notice? The minimum is 72 hours prior to 75 people being on the Gathering site. The pre-notice should be as soon as possible. In what area? Regarding the Annual, it is obvious, there are lots of people. Regarding regionals, if 75 people are counted, the permit is required. As far as what is the area, it's a gray area.

Permit issue is actually an attempt to wipe out the Rainbow movement. It changes it from a gathering to a festival.

A lot of people who participate in Rainbow still consider this permit regulation unconstitutional. The harassment in enforcement of the regulation is uncalled for. What is the point of coming to a meeting to compromise and bring a pronouncement set in stone of how things will be?

It seems a kind ultimatum has been presented. Appreciation was spoken for Ann and Carolyn coming to expose themselves to the controversy. But: It doesn't seem that any ideas of compromise has been presented. The Constitution is not a sacred document; it was written by people 227 years ago to attempt to establish a more representative government than existed previously. Our right to Gather isn't granted by the Constitution; it exists, and the Constitution acknowledges that. The issues we are dealing with have to be dealt with on a policy level; Ann doesn't have the authority to change the policies she is hired to enforce. This is a long-term issue.

An understanding was expressed that this council cannot represent the Rainbow Family on the land; thus, all we can do here is have a dialog. Question raised: Can the FS post in a Rainbow-frequented public forum, AGR presented as an example, any community outreach events the FS is planning? Also, why the overflights and clandestine surveillance? Also, what is the problem with slit trenches, which are approved for military use? Also, speak more to the self-designated contact and why the regulations cannot be changed to reflect the self-designated contact status.

In the interest of making the Gathering safer, stop jamming the CALM radios, or if you're not going to, please come up with a new tape to jam the radios with. Also, please stop going into the community with the message that the Rainbow Gathering is a big drug party; it causes problems with the locals coming out looking for a heavy drug event, and behaving in ways which cause problems for the Gathering. Permit issue: Can a person volunteer to be a contact person rather than a representative? Answer: Although a piece of paper can be stapled to the application, the application must still be signed. Problem with letting

the government know early where the Gathering will be allows the federal government to do bad PR in the region or local area. Harrassment: No indication from LEOs that harrassment will diminish. Town meetings: Speaker would like the opportunity to address the town meetings first, to inform them of negative issues they may need to address. We (don't know who the speaker refers to) will give the local media published info from past Gatherings; FS doesn't need to.

Where can we find the Police Standard of how violations of the permit is supposed to be written up? The whole thing makes me nervous on a constitutional basis. We have the lowest crime rate per capita in a group our size of any organization. Question: If you are out there working with 74 other people working the Gathering, would you sign a permit making you liable for their acts?

Dinner will be served. There is cheese in the sauce; vegans please notify us so we can get you a meal without the sauce.

How do these regulations manage to supercede the Constitution? Ann: The Constitution contains the separation of powers. The people elect Congress to make laws; the executive branch implements the laws, the courts interpret the laws, in particular as to whether they are constitutional. Congress passed a series of laws relating to the Forest Service, including passing on to the Secretary of Agriculture the authority to set up regulations. The Rainbow has taken several regulations to court requesting an interpretation as to constitutionality. The courts, with some specific exceptions in parts of the regulation, have upheld the constitutionality of the regulation. The case is now appealed to the Supreme Court, and it is awaiting certiorari (whether the case will be heard).

What if we don't go past the proposal stage? It will still not be an authorized Gathering. The reason for looking at proposed sites is to facilitate getting the permit signed in the first place, to avoid setbacks or denials in getting the permit approved.

I want to see compromise; I feel we've been given an ultimatum. It's going to happen. Speaker will not sign a permit or authorize anyone else to sign a permit.

Speaker has a problem trusting what the FS reps say, because of past actions and actions toward other forest users. If the permit is signed it may mess up cases in process.

If a person signs the permit, and x amount of damage is done, who is liable? Ann: The group of individuals is responsible for any resource damage, but the Forest Service will deal with the specific individuals for damage caused by that specific individual. If nobody signs the permit, who is responsible? The individuals who commit the acts. However, the Gathering will not be allowed without a permit.

The question we have to ask ourselves is: Is this permit legal? Thus far the courts have found this permit to be legal. The crux of the problem is with those who make the laws. The solution may require that some of us get into the legislative branch that makes the laws.

Has the Forest Service ever considered coming in and building a kitchen, for when they're not on duty, so they can have fun while they're there? Ann: One of the frustrations of no permit means the FS folks can't do more to participate because it's an illegal event, and the government employees can't participate in an illegal event.

Although the regulations may be legal, ethically and morally these Gatherings are not illegal.

The dinner was awesome!

Speaker believes that we have a right to be out there. The Constitution gives that right. Everyone is welcome. If you want to be a Rainbow, you can be a Rainbow. Why can the FS reps not sign the permit? The FS reps are not there to participate, they are there to conduct their official duties.

Appreciation expressed for Ann and Carolyn coming to hear what we had to say and listen to the massive disagreement we have with them. That's a great first step. As to the permit, these permits have been around for a long time. Contact persons have chosen themselves through the years, as self-designated contact persons (not labelled as such, but in practice that's what they did). All the planning was done in cooperation with the FS when law enforcement didn't have any regulation to enforce. We are in the end fighting over a symbol, some colored ink on a piece of paper. Some folks, knowing they will incur the hatred of others, have come up with this self-designated contact person concept. The self-designated contact would sign stating that he/she is not signing as a representative of the Rainbow Family, not committing anyone else to any obligation due to the signature, it is just a signature as an individual. We won't know if we're wrong until we try.

This regulation appears to be designed specifically to give this group hell. It appears this ultimately will be solved by the courts. I don't see any letup on the hippie lifestyle because society as a whole just doesn't get it. There is a conflict between two presentations of the "self-designated signer" rule: Ann appears to have said that the self-designated signer obligates the group to abide by the permit; the previous speaker indicated that the signer only obligates him/herself to be a contact person. If this regulation can be shown before the Supreme Court to be targeted at one group, it shouldn't have a chance of being upheld.

There keep being comments on how good the relationship with the Forest Service used to be; what happened to change it? Are there any potential areas of compromise? And why does the FS go into areas with an attitude of hysteria? Ann: There has always been an agreement on an operating plan, though it wasn't signed. The operating plans have always worked pretty well. The Law Enforcement decision didn't set up the regulations; the regional officers and the Chief of the Forest Service and the line officers pressed for and established the regulations. The reason the regulation was put forward was that the line officers and the Chief said that the old system wasn't working, and a new method of administration needs to be established. One problem we've had in the past was LEOs being harassed by Gatherers, which has gone down in recent years.

When resource personnel were incident commanders, they were satisfied with everything except the law enforcement personnel. Regarding the permit issue, Ann keeps getting around to talking about "you people" agreeing to this person signs the permit, implying that we have designated that person. The person who signs "signs as an agent of the holder" according to the back of the application for permit. No one who signs is an agent of anyone else at this council. When Law Enforcement says that without a signature, folks working toward the Gathering cannot consult with resource personnel, it is to the detriment of the forest. The only thing hindering cooperation is the signature issue. There is no such thing as a designated signee and no one is willing to make such a thing exist.

Proposal for cooperation originally given to a meeting in Santa Fe was read, and a copy offered to Ann and Carolyn.

A brief early history of FS-Rainbow interaction was spoken.

The simple solution to this is to eliminate the requirement for a signature. If the Forest Service wants to issue a permit, that's fine. There is more to this signature requirement than cooperation. It is about control. The only way the bureaucracy could come after Rainbow was as "the rest of the people", since we are the people peaceably assembled.

A message was conveyed from "some others": Any further communication from the Forest Service to the "family as a whole" should be by way of the Usenet newsgroup alt.gathering.rainbow. Communications with the attorneys should be directed through the U.S. Attorney. Ann asked if the reader was acting as an agent for anyone else. Response was that the reader is conveying information for some other people.

It was requested that people be allowed to communicate with resource personnel to work with the issues

1 where the FS and those working toward a Gathering can usefully cooperate, with the goal of making the Gathering a safe and healthy Gathering. Ann: An oral proposal can be given, and FS can work with whoever would like to work with the FS up until the time a permit would be required. Also, her comment regarding the group agreeing to a designated signer was offered as a compromise, giving some control over who signs, not as a dictate... a person can still just stand up and self-designate as a signer.

2 What authority must the self-designated signer have? The signer serves in the contact capacity, and was agreed on by the group. As an attempt to reach out to what has been said regarding Rainbow having no representatives, the FS is willing to accept a self-designated signer in full realization that the whole group has not designated them as an authorized representative; that person would be a designated contact person. Can that contact exist without a signature? No.

3 Thanks to Rainbows who have managed to hang on for this council. Hopefully we can keep working, even if we don't get what we want out of this council, toward making a successful Gathering happen. The Gathering is a nonhierarchical thing; it will go on with or without the consent or advice of this council. No one can be compelled to sign; no one can be banned from signing. It seems silly that just because some one person has agreed to sign for no one else, the Gathering suddenly is legal. How can we do all that is needed toward making the Gathering happen, and then have it all fall apart 72 hours before the Gathering due to no signature?

4 Even though this has been a long day, this council meeting was to find out where we all stand, and I think we've accomplished that.

5 There seems to be a problem that is someone signs, it jeopardizes the whole legal and ethical movie. Would it be possible for council to work out a statement representing ourselves as Individuals in council?

6 Thanks to Ann and Carolyn for coming, and to everyone else, for subjecting themselves for all this. It is disappointing that the Forest Service came to the council with no intention of compromise.

7 Your (FS) Chief in Washington is clearly a very powerful Chief, but clearly he is not a wise one, because he does not see that any signature will be given under duress.

8 The people who Gather are not poor powerless people; we have shown power in court cases, in standing up to the Army, in refusing to be rolled over. All respect for the Government is lost with this bogus meeting where the Government comes and says that if you sign, we're going to target you selectively, and if you don't sign, we're going to cite you selectively. We have a lot of power. There are two ways to get rid of power: they can slit our throats, or they can convince us to slit our own throats. Don't hang onto the big Rainbow Gathering for dear life; the Great Spirit will dictate how all is resolved.

9 Have you come to the conclusion yourselves that there is no way that a valid signature can be put on a permit? The Family council will not assent to a representative who signs a permit, thus in the eyes of those of us in this council that signature will be invalid. There are several groups, or tribes, which claim the name of Rainbow Family. If one of those tribes consented to sign a permit for the Annual Gathering, how would that be binding on the other tribes? The answer Ann has been told is that it is obvious that the group that exists on the land at that time is more than that tribe, and the only permit we can issue is for that whole group.

10 Rainbow is made of many tribes; it is not a single tribe. To classify it as a single entity minimizes the differences.

11 Consensus was proposed that Jeff Klein represents us as a council as a permit signer. Consensus was blocked by numerous individuals. Consensus was proposed that anyone be allowed to represent us. Consensus was again blocked by numerous individuals. It was noted that we have no authority to ban Jeff or anyone else from signing a permit as an individual, but that we pointedly do not authorize his signature



be on our behalf. Appreciation expressed again that Ann and Carolyn were willing to come and share information with us. Acknowledgement that they are here to convey information to us about a stupid regulation, that they did not make up the stupid regulation.

This group is an anarchist group. We are all totally responsible for our own actions, and only our own actions. When we deal with the Forest Service, we are dealing with a very complex and powerful organization, the U.S. Government. The signature is the one thing that is required. No legal basis has been shown how the signature affects any individual responsibilities. An analogy could be drawn to the Government's treatment of Native tribes, where the Government obtained signatures on treaties, and then broke every one of those treaties. When we sign a permit with the U.S. Government, we are by nature setting up some sort of representative organization. Signing such a permit damages the very basis of what Rainbow is. Signing a permit would be not only signing away the concept of freedom, but signing away our freedom itself.

Given the experience historically with the US Government keeping its promises, the record is not good. At this juncture, I have severe reservations about this permit issue, but I think it is an issue that has to be dealt with at a policy level.

This whole permit thing has been over-focused-on. An issue is raised regarding potential site selection. Would the Forest Service have some suggestions regarding where a suitable site with meadows, parking, and water would be? The feeling was expressed that the issue has not been focused on enough.

Ann requests that we look at the same criteria the FS looks at in determining an appropriate site, as delineated in the handout she passed around. She expressed thanks for sharing our feelings with her in a respectful way. She apologizes to those let down because they thought she was coming with proposals for compromise on the regulation issue. She also apologizes to those who feel she and Carolyn just came here to deliver an ultimatum. She was trying to be up front, complete, and accurate, and to present the situation in the Forest Service openly so that those who work toward a Gathering have the information they need as they move forward. Contact information will be provided. Keep in mind that Ann and Malcolm and Carolyn are working together as part of the Noncommercial Group Use Committee, so any communication with any one of them will be shared. Contact information for Jeff and Garick will also be provided.

Question raised regarding why, if the site, as indicated by Ranger Walt, was the least impactable site in Idaho, was the permit denied? Ann: First, it was represented to the FS that the site was just Spring Council. The question was then raised whether it was better to move the group or let them remain where they were, and we decided to have them stay where they were.

11 2/1

**ATTACHMENT II - Cold Mountain, Cold Rivers videotape:  
Shoshone-Bannock Mediation (June 27, 2001).**

This tape documents a Circle and Council, held at "Idaho Annual Rainbow Gathering", June 27, 2001.

On the video are Indigenous American Tribal Elders of the Shoshone-Bannock, Shoshone-Paiute Elders, Federal Mediator Doug McConaughy, a couple of hundred Rainbow Gathering individual attendees, plus plaintiff Barry Adams (representing himself), and Forest Service District Ranger Walt Rogers, other forest service, and forest service Law Enforcement Officers, mounted and armed with weapons. There were approx. 2,000 or more other attendees at this Gathering at this time, not present at this Circle.

This videotape is an amazing view into the way three different cultures - Forest Service, Indigenous Tribal People, and Rainbow Tribal People peaceably assemble in Circle and Council, Rainbow-style; i.e. in Respect - listening and speaking.

Plaintiff would hope this Court would find time to watch and listen to the entire tape, however, plaintiff has marked off the "relevant" and "essential" sections, of this videotape, in support of Plaintiff's Response to Defendant's Motion for a Protective Order.

Relevant and Essential sections:

0:00:00 - Tape begins

1:04:40 - Federal Mediator introduction.

1:05:20 - Federal Mediator and Adams - Jeff Kline, Garrick Beck are named.

1:08:55 - Federal Mediator speaks.

1:10:00 - Federal Mediator Doug McConaughy and Barry Adams, in this exchange Doug identifies he is in "discussions" with Jeff Kline, Garrick Beck, John Buffalo, and Barry Sacharow - four persons who have attended Gatherings.

1:11:50 - Federal mediator says "Forest service has authorized me to reach an accord."

1:13:00 - Barry Adams, plaintiff speaks concerning his proposed Peace Resolution.

1:19:15 - Federal Mediator states, "Barry, perhaps it is time for your peace resolution."

1:20:00 - 1:40:50 - Barry Adams, speaks, another gentleman named Felipe speaks, Federal Mediator speaks, another gentleman named Durwin, and Elder Lionel, his nephew Terry, another Tribal Elder, and so on, until near the end of videotape. It is during this sharing that the Federal Mediator indicates he will return on June 29, 2001 (didn't happen).

1:41:12 - Short interview of Ranger Walt Rogers.

1:41:54 - Tape ends.

AFFIDAVIT

STATE OF MONTANA

SS

County of Missoula

I, Susann Bradford, being first duly sworn on oath, state:

1. I work for Cold Mountain, Cold Rivers, a nonprofit environmental and human rights group based in Missoula, Montana and incorporated in the State of Montana.

2. On June 27, 2001, I was operating a camcorder for Cold Mountain, Cold Rivers in Bear Valley of Boise National Forest at the site of the annual "Rainbow Gathering" to document activities of public interest, and to disseminate information about activities concerning citizen access to public lands and related environmental and cultural impacts.

3. In the main meadow of the gathering site, around 3pm, I witnessed the arrival of several tribal members of the Shoshone-Bannock and Shoshone-Paiute Tribes accompanied by persons who later became known to me as federal mediator Doug McConnaughey and several Forest Service agents, including Sharon Sweeney and District Ranger Walter Rogers. As this entourage entered the main meadow of the gathering, an informal "circle" was called together in the "main circle" area to hear the tribal members' concerns about the site of the gathering.

4. I brought a video camcorder to this circle and documented it in its entirety.

5. After returning to Missoula, I provided two un-edited VHS copies of this original footage to Barry Adams, at his request, for possible use in a civil rights claim. These tapes are entitled "Rainbow 2001, 6-27-2001, Shoshone-Bannock Mediation".

The foregoing is sworn to be true under penalty of perjury of the laws of the United States and is signed this \_\_\_\_\_ day of November, 2001 at Missoula, Montana.

*Susann M Bradford*

Susann M. Bradford  
Box 7941, Missoula, MT 59807

On this 30 day of November, 2001, before me, a notary public, personally appeared SUSANN M BRADFORD, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (s)he executed the same.



*J. Sean Dwyer*  
Notary Public for the  
State of Montana  
Residing at: Missoula  
My commission expires: 11/01/12

Attachment H

I've been asked to try to post any information directly to groups rather than to individuals, so please forgive me if this is posted incorrectly or cross-posted.

Thank you to those who have shared your thoughts with us regarding the invitation extended to the Forest Service to attend the Thanksgiving Council. Thank you especially to Eric who has extended his hospitality to us. Given the continued invitation but also cognizant of the concerns expressed, I wanted to let you know our current plans.

We will have two people attending. The first is a recreation special uses staff person from our Regional Office for the WI/MI/MN area. She has been asked by the Regional Forester for that region to be the coordinator/point of contact for next year's gathering. She will be working closely with the region's line officers and our national coordinator Malcolm Jowers (who cannot attend due to family commitments).

The second is myself. I am a special agent (law enforcement officer) for the Forest Service. I supervise Malcolm Jowers in his current capacity as the coordinator of non-commercial group use activities for the Forest Service, am a member of the Chief's NCGU Committee, and have been involved with five prior national gatherings. I also participated in the recent conference call with Garrick, Karen, et al and so can speak to that discussion.

As people have expressed a concern about having some group time without FS presence, our current plans are to only attend all day Saturday. We will be staying at a hotel off-site. Hopefully, this will provide the freedom desired, yet give ample opportunity throughout the day on Saturday for good discussions. As I expect not to be placed in any enforcement or unsafe situation, and out of respect for Eric's wishes regarding his private home, I will not have any weapons with me.

I hope these plans are ok.

We look forward to seeing all of you at the Council.

Ann Melle  
US Forest Service  
[amelle@fs.fed.us](mailto:amelle@fs.fed.us)



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**From:** "Ann Melle/WO/USDAFS" <gonzo@g...> (by way of Gonzo)

**Date:** Wcd Nov 7, 2001 1:16 pm

**Subject:** Thanksgiving Council

Gonzo and Racchi - We thank you again for your invitation to attend t Thanksgiving Council. Malcolm Jowers would normally attend this on t Agency's behalf, however he has family commitments for the Holiday. Therefore, I'll be attending the Council. Also attending with me w a regional recreation staff person from our Region 9 in Milwaukee, wh been designated by the Regional Forester as their point of contact fo planning for next years National Gathering. Although I can't speak I her, I would like to attend as much of the "meeting" part of the Coun I can, so that we can continue working towards a successful cooperati gathering. I'll plan on arriving Thursday afternoon and leaving Sund morning, but would appreciate any other feel you have of when group discussion time may occur. I've heard that the council will be at a private residence, and would appreciate it if you could send me any directions and information on the overnight logistics. I would welc any input or ideas you all have in advance of any questions or concer think Council participants may wish to have us address, so that we ca as informative as possible.

Thank you!  
Ann Melle  
USDA - Forest Service  
Washington, D.C.  
[amelle@f...](mailto:amelle@f...)

P.S. Please feel free to repost this to AGR if you wish.

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- ☆ = Owner
- ★ = Moderator
- Ⓞ = Online

<a href="#">Replies</a>	<a href="#">Author</a>	<a href="#">Date</a>
5096 <a href="#">Re: Thanksgiving Council</a>	Ocean Song	Wed 1

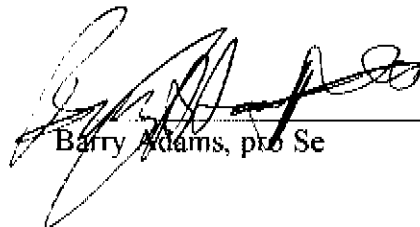
**CERTIFICATE OF SERVICE**

The undersigned Barry Adams, certifies that on the 1st day of December, 2001,  
I caused to be personally served via Federal Express, a true copy of the foregoing:

**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO FOR A  
PROTECTIVE ORDER; and SUPPLEMENTAL RESPONSE TO  
DEFENDANT'S MOTION TO DISMISS; SUMMARY JUDGEMENT; AND  
PLAINTIFF'S STATEMENT OF DISPUTED FACTS.**

upon:

STUART E. SCHIFFER  
Acting Assistant Attorney General  
THOMAS E. MOSS  
Intermin United States Attorney  
ALAN BURROW  
Assistant United States Attorney  
THOMAS W. MILLET  
AMANDA QUESTER  
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Attorneys for the Federal Defendants

  
Barry Adams, pro Se