

June 28, 2010

Forest Service

C/O Cathy Kahlow

Dear Cathy,

The NFS continues to harass the private property landowners to pay for a special use permit with letters of how the Forest Service will collect fees from us, not addressing the issue that the Forest Service has taken authority where it has none over private property ownership and ingress and egress, which we will address in this letter.

#3 as per your letter, June 24, 2010:

"We are requesting a review if you believe the debt is not owed."

We believe that we do not owe the Forest Service any money for any permit for the following reasons:

We are writing this letter to you to let you know that we will not be paying for a special use permit allowing us ingress and egress to our privately owned property on a state claimed road RS2477. We have already been granted right of way privileges, and patented mining claim privileges and constitutional rights on private property that we already pay taxes on.

*As Private Property Landowners of Cardiff Fork, we do not need a Special Use Permit to access, camp or leave our private property on a state road. No where has the Forest Service claimed title in the R.S. 2477 right-of-way of the Cardiff Fork Road. (see attached, dismissal) (Civil No. 2:07-CV-146)(State Claimed Road)

*We have legal right-of-way for ingress and egress and use of our own privately owned property. (See certificate of private land ownership and right-of-way signed by Ulysses S Grant).

*The Forest Service has made a legal determination of the legal status of Cardiff Fork right of way without a written legal opinion of the existing right of way without facts and without authorization.

Cardiff Fork is not a Federal Reserve or public property.

According to the Forest Service Special Permit Handbook that applies to public land for special use, nowhere in the entire book does it apply to private property ownership or access to private property over a state road.

For 66 feet of said right-of-way or R.S.2477, thirty three feet on either side all the way up is state road. Where is the Forest Service property of which we are being charged for the special use permit? It appears that the gate that the Forest Service put in is trespassing on a state road.

This permit we are being charged for is not a permit for public utilities, or any of the land uses of federally owned land requiring a permit as per the Forest Service Special Permit manual states.

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We are not on federally owned property and all of the codes you use in your letter of permit fees do not apply to private property access, ingress and egress.

According to

Title 36: Parks, Forests, and Public Property 251.10

The location of mining claims in such areas within 660 feet of any Federal, State or county road and within such other areas where the location of mining claims would not be in the public interest, as may be designated by the Chief, Forest Service, or the Regional Forester, of Forest Service Region 2 is hereby prohibited. The Director, Bureau of Land Management, Department of the Interior, shall be advised of the areas so designated and notes of the boundaries of such areas posted at conspicuous places in the Preserve, as well as at the county courthouses in Pennington in the cities of Custer and Rapid City, and Custer Counties and the post offices State of South Dakota.

***We do not live in South Dakota and Cardiff is not a Federal Preserve. It is Private Property in UTAH!!!**

According to the Rules and Regulations Department of Agriculture Forest Service 36 CFR Part 251 RIN 0596-AB35 Special uses Monday, November 30, 1998. Page one: States that examples of authorized land uses include road rights-of-way serving private residences, apiaries, domestic water supply conveyance systems, telephone and electric service rights of way, oil and gas pipeline rights-of-way, hydroelectric power generating facilities, ski areas, resorts, marinas, municipal sewage treatment plants, and public parks and playgrounds.

Once again, this does not apply to the property or the landowners of Cardiff. These are not residences, nor does any of the other applications apply to the private property land owners of Cardiff.

*Right of way has not been acknowledged by the National Forest Service. The NFS has no authority to take over a state road with private property access, depriving land owners access to their own land. Special Use Permits are not an option by any agency including the NFS without written documentation of those existing rights before instigating such. (See Charles Livsey Esa. Quiet Title Action against the Federal government , December 12, 2007).

Forest Service Manual, Chapter 2734, v 2 states: Before any road anywhere is closed, the Forest Service needs to get a legal opinion whether public or PRIVATE easements or rights of way will be infringed on. The Forest Service is to contact their attorney to make sure this legal work has been done. In v 5 it states that the Forest Service is to HONOR those easements or rights of way.

This has not been done, since none of the private property landowners of Cardiff have been contacted on said legal document of the Forest Service. There is no legal documentation this has ever been addressed. We are requesting a FOIA from the NFS asap on this matter.

According to the Patented Mining Claim language (LEO Lot 1), states that personal and private property owners have the right of ingress and egress . The road was built by the miners before the Forest Service was ever in existence.

***The Forest Service has no authority or jurisdiction over a RS2477 road, which it also is.**

Over 39 tickets have been thrown out of the State and Federal court systems for denying access to private property by landowners.

Why are we having this issue? All 39 tickets have been thrown out of court, yet the Forest Service continues to harass the land owners of Cardiff Fork with demands of permits and tickets written that *continue to be thrown out of court*. Enclosed find written documentation of right-of-way established state road and patented mining claim access to our privately owned property without interference of the NFS. It appears that someone is,not listening to the court. Yes, it would be the Forest Service wasting taxpayers and the courts time and everyone's money.

Having it thrown out of court states that the Forest Service has stepped over the line here and is not obeying the law that is well documented and yet by that same law is harassing *private landowners*. How does that work?

This is a waste of the court and tax payers time and money. This is also a waste of our time and our money and since you are paid with our tax money, it appears that the Forest Service puts themselves on a higher level of being above the law. Doesn't the Forest Service and their employees obey the law of the land? That of respecting the rights of private property ownership according to the Constitution of the United States of America.

We consider the actions of the Forest Service in denying us free access to our private property by permit only, *harassment and criminal*.

We have all been charged unfairly and unjustly. We already pay our taxes on our private land. All of the landowners have the right to be reimbursed by the Forest Service and an apology made, as the Forest Service employees have put themselves above the law of the land.

If the harassment does not stop, action will be taken by the landowners of Cardiff Fork to protect our rights of entering, using and exiting our private property without any kind of special use permits payable to the Forest Service or any other government agency and without harassment of any kind.

It is the hope of the landowners of Cardiff Fork that the Forest Service will spend their time in a more positive manner such as stated in the Rules and Regulations of the Department of Agriculture

Forest Service 36 CFR Part 251 RIN 0596-AB35

Special Uses: Monday November 30, 1998 *65950 Agency:Forest Service, USDA.

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Action: Final rule

Summary:

Pg 1

The department is adopting amendments to regulations governing the use and occupancy of National Forest System Lands to streamline and make more efficient the process for obtaining special use authorizations, to provide for the use of one-time payments for easements as presently used in the market place, to limit certain liability requirements to amounts determined by a risk assessment, to clarify definitions of certain terms, and to clarify requirements related to renewal of existing special use authorizations. The intent is to improve service and reduce costs to proponents and applicants for and holders of National Forest System special use authorizations, to expedite decision making, and to permit *more "user-friendly" administration of such authorizations by removing certain requirements deemed unnecessary and outdated.*

Pg 2.

The 14 Statutes authorizing special uses on National Forest System Lands claim the Mineral Leasing Act of 1920 (check your unpatented mining language here).

The 1976 Act also provides that fees may be waived, in whole or in part, under specified conditions when equitable and in the public interest.

The gate was installed by the Forest Service and the Canyon Patrol to reduce the incidence of injuries up the canyon from parties and riff raff going on up there all hours of the day and night. We are in agreement with not wanting partying or trespassing of the public risking injury of inexperienced drivers invading the canyon. That could be messy.

We have resolved issues with the Canyon Patrol and we hope to resolve this issue with the Forest Service.

All private property landowners need a key and the combination every year of access of ingress and egress with no hassles ever again from any government agency and we will all be satisfied. Working together will be the best option to resolve this issue.

*Enclosed find a map of Cardiff Fork (Mill D South Fork) so that you can see all the private property, and the R.S. 2477 road was in existence long before the Forest Service was created. (late 1800's).

*Map of Cardiff private property ownership and placement of Forest Service gate.

*Map of Mining Claim information of Big Cottonwood.

*Enclosed find bills for permits for several years. Notice how they continually go up in cost excessively. (We already have limited time there since it is under snow 10 months of the year).

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*Letter from the Forest Service Dated December 28, 1956 - Refusing a special use permit for access across national forest lands to patented lands. Statutory right of ingress and egress to patented lands with the national forest. R-4 Supplement to the Manual in connection with roads concerning easements under the act of 1897.

*Letter specifying Act of June 4, 1897, ingress and egress of property ACT of June 4, 1897 (16USC47B) Entitlement to the right of ingress or egress to your property over National Forest land.

*Case of Wayne Crawford V USDA Forest Service. Civil No. 2:07-CV-146

*State of Utah V Judd Mackintosh Docket No. 955007055

Because we drove to our property, dismissed by Joanne L. Rigby Justice Court.

We have the right to drive to our own property.

Water shed Truth: 60% of SLC water comes from outside of SL County from Provo River system and 57% of Big Cottonwood Creek is not treated culinary water and wastes to the Great Salt Lake.

There should be no issue with any of the landowners accessing their property by vehicle because it would disrupt the watershed. This is simply not true.

We are requesting information of where we can find the authority of the Forest Service for installing a gate and denying private property landowners access to their own property without the special use permit. All of the reports, documentation and opinion of this being done. Would you please send us that information ASAP?

Sincerely,

Judd Mackintosh

Debbie Mackintosh

Scott Mackintosh

c.c.

Mark Shurtleff: Attorney General

Peter Caroon: Mayor of SL County

Gary Herbert : Governor of SLC

Kelvyn Cullimore: Mayor of Cottonwood Heights

Ken Pauer Esq.: Forest Service Attorney

***Specifically we would ask FOIA for all legal opinions obtained by the forest service lawyers as it relates to the Cardiff Fork Road under:**

- 1. Mineral location notice rights of ingress and egress**
- 2. Rights of access granted by presidential authority in the patent**
- 3. Rights of way under RS2477**