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Comments:

This letter is a formal request to the Department of Agriculture/USDA to comply with the Memorandum for the Heads of Executive Departments and Agencies, issued by the White House 2017/01/20. This Order requires Agencies per paragraph 3 where there is a (and I quote), "question of fact, law and policy they raise" to comply with the direction of this order.

Specifically, the Travel Management Plan itself states, "Section 212.53 of the final rule requires responsible officials in making designations to recognize valid existing rights including valid outstanding or reserved rights of way for a road or trail. The Forest Service may not regulate uses within the scope of these rights-of-way if the Agency has not acquired the right to do so."

The Forest Service has not complied with this requirement of the Travel Management Plan.

In each of the three segments of implementation of the TMP in this region, we, (meaning myself, a public organization and Montezuma County officials and representatives have commented officially and in public meetings requested compliance with Section 212.53 of the TMP.

I offer the additional following facts;

.Colorado law explicitly states that responsibility for RS-2477 Right-of-way is delegated to local jurisdictions (i.e.) County Government.

.The Federal Land Policy Management Act, (FLPMA) states, "Nothing in the Act...shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted or permitted."

.Title 1 Section 108. states, "No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act."

.From other legal findings; If a Federal Agency or it's employees close such a road, it would be a violation of Federal Law.

.Regarding FLPMA: One hundred and ten years after it's enactment, RS-2477 was repealed with the passage of the Federal Lands Policy and Management Act (FLPMA) of October 21, 1976. FLPMA repealed many previous land laws, including other rights-of-way statutes, and put into place a new, comprehensive system for the retention and management of the Federal public lands. Accordingly, FLPMA repealed RS-2477 and its open-ended grant of rights-of-way over public lands while explicitly protecting RS-2477 rights-of-way in existence on the date of FLPMA passage. Many of these RS-2477 rights-of-way, (roads and trails) have been closed and or decommissioned by the Forest Service in the first two segments of the implementation of the TMP in our region and are under consideration in this current segment open for comments. This TMP process has and is being done without due consideration for Federal law, State and County laws and the Travel Management Plan regulation itself. I will forward these comments along with further documentation to the Secretary of the Dept of Agriculture and the Appropriate Congressional Committees to formally request relief and due process before this phase of the TMP continues.

I demand that the Responsible Official/s comply with Section 212.53 and other Federal, State and County Laws and Regulations.

Dennis Atwater

