

Local

Subpart A draft

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The letter to withdraw the Travel Management Plan was signed by then-WWNF supervisor Monica Schwalbach, and simply states her decision to withdraw the plan with no explanation. Requests made to former Regional Forest Kent Connaughton for the reason the Travel Management Plan was withdrawn resulted in release of the letter signed my Schwalbach with no reasons given. In addition, several requests for information regarding the budget and amount spent by the USFS on the failed Travel Management Plan have gone unanswered.

The withdrawn Travel Management Plan had several defining management decisions that did not sit well with a majority of the local community. First, the Travel Management Plan called for a new “closed unless designated open” forest management policy, counter to the traditional policy that designated the entire forest road system in the WWNF open unless designated closed. The shift to a “closed unless designated open” policy in essence would have closed all approximate 9,300 miles of roads in the WWNF after which certain roads would then have been designated as open. Also, the plan called for the permanent closure of approximately 3,300 miles of roads and prohibited cross-country travel.

Not long after the USFS began public discussions on the Travel Management Plan in 2007, local residents began to organize and push back against the newly proposed policies. A petition was circulated through the communities within Baker, Union, and Wallowa counties and garnered about 6,000 signatures protesting the proposed Travel Management Plan. Community meetings were organized by residents and were held in Baker, La Grande, and Enterprise and thousands attended in protest.

An organization, Forest Access for All (FAFA), emerged through the period of protest and has continued to gain momentum and today boasts about 1,500 members. Monthly FAFA meetings are

convened and an annual banquet is held in May bringing several nationally recognized individuals to speak and lend support to the group and to the cause of local control over forest management decisions. This years’ speaker was founder of Stewards of the Range and renowned land use attorney Fred Kelly Grant.

Rep. Walden responds

The outcry regarding proposed limited forest access from local residents was heard by US Representative Greg Walden (R-Oregon 2nd Congressional District) who has recently re-introduced to Congress legislation titled H.R. 1555 Forest Access in Rural Communities Act of 2015 that, if adopted into law, would give local government officials more control in the federal land management decision making process. H.R. 1555 has gained bipartisan support and now has 11 co-sponsors as it works its way through Congress. The bill has been referred to the Congressional Committee on Natural Resources.

The introduction of Walden’s bill reads, “A bill to stop implementation and enforcement of the Forest Service travel management rule and require the Forest Service and the Bureau of Land Management to incorporate the needs, uses, and input of affected communities, and to obtain their consent, before taking any travel management action affecting access to National Forest System lands derived from the public domain and for other purposes.”

Locals rebuffed on Subpart A document request

FAFA representatives and FAFA member John George recently requested copies of the Travel Management Plan Subpart A draft document. Both FAFA and George submitted the request under the federal Freedom of Information Act. The USFS denied the document requests. FAFA and George filed appeals on the USFS decision to deny release of the Subpart A draft.

“I am again writing to request the draft document for the Subpart A Analysis for minimum roads needed on the Wallowa-Whitman National Forest that your staff is developing,” wrote George in a letter to Regional Forester John Peña dated May 23, 2015. “I have had this request in since Sept. of 2014.”

FAFA also sent a Freedom of Information Act

request for the Subpart A draft document. That request was dated April 3, 2015. FAFA received a denial of that request from Peña dated June 2, 2015, based on Pena’s claim that the Subpart A document did not exist in full.

Peña’s June 2nd response states in part, “That although the Forest has begun analyzing and reviewing information related to the preparation of the Subpart A report, at this time, no draft Subpart A report exists for the Wallowa-Whitman National Forest. Therefore, the Forest has no records responsive to your request.”

In a subsequent correspondence addressed to FAFA regarding the request, Peña writes, “When Forest Supervisor Montoya forwarded your request to the Regional Office on May 4, 2015, only portions of the report existed. No complete draft existed at that time. That is why my June 2 letter stated that a draft report did not exist. On June 3, 2015, the FOIA (Freedom of Information Act) staff learned that a complete draft Subpart A Report dated May 2015 had been submitted to the Regional Office staff for review and comment.”

After correcting the first denial of FAFA’s records request, Peña then denied FAFA’s records request invoking what is referred to as “Exemption 5” citing Government agency privilege: “The deliberative process privilege protects the decision making processes of Government agencies, and protects advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decision and policies are formulated.”

Peña wrote, “After careful consideration, it has been determined that release of draft documents could diminish the candor of agency deliberations in the future and thereby injure the quality of agency decisions. Therefore, I am withholding the complete draft Subpart A Travel Analysis Report for the Wallowa-Whitman National Forest ... Forest Supervisor Montoya anticipates having a final Subpart A Report by this Fall. You will need to submit a new request for the Subpart A Report after it has been finalized.”

FAFA filed an appeal to Peña’s denial dated June 20, 2015 addressed to USDA Secretary Tom Vilsack, Under Secretary

Robert Bonnie, and USFS Chief Tom Tidwell.

In the appeal letter, FAFA writes, “Exemption 5 is meant for decisional document development. The residents of Eastern Oregon have been told repeatedly that Subpart A of Travel Management is not a “decision document.” Mr. Peña has enacted Exemption 5 to block access to the documentation to the people of Eastern Oregon ‘to prevent injury to the quality of the agency decisions’ ... Mr. Peña states that the Subpart A report for the Wallowa-Whitman is a ‘decision document’ and therefore must undergo the rigors of an EA (Environmental Assessment) process with the public involvement and coordination with local government bodies.

“If this is deemed not a decision document, FAFA requests that our FOIA be honored and all documentation provided that was requested, as Exemption 5 does not pertain to this denial of our request. If the denial of our request is upheld, we request the Subpart A report be moved into an EA process immediately.”

FAFA ends the appeal letter, “We would also like to express our grave concerns at what is perceived as an open attempt by the staff of the Wallowa-Whitman Nation Forest Supervisors Office and the Region 6 Office in

Portland to misrepresent the factual nature as to the existence of the draft Subpart A report. We know the document existed at the time the June 2nd response was sent out stating no draft document existed, and we believe your staff knowingly falsified their statement in order to keep FAFA from receiving this information.”

When asked for a summary of his journey through the FOIA request process and subsequent denial and appeal, George answers, “I started requesting information last summer from John Laurence (previous supervisor of WWNF), and he repeatedly told me it wasn’t a decision document and that he wasn’t required to take

pubic input on the report. My last written request to him was September of last year, and he never responded to me. I let it lay till April of this year when I followed up with Tom Montoya, he forwarded it on to the Regional Office as a FOIA request, it took them two months to tell me the document didn’t exist, and sent me an email June 3rd telling me the response had been mailed, but that there may be a mistake and that they would look into it, that letter showed up at the house June 10th. June 17th I received another letter stating that the report exists, but that they feel it could cause injury to the candor of the report if it was given to me, or FAFA for that matter.”

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