



"Jennings, Matt (Tester)"
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05/16/2008 02:11 PM

To <mark.rey@usda.gov>, "Greg Smith" <gsmith08@fs.fed.us>, <james.snow@usda.gov>, "Tom Tidwell" <ttidwell@fs.fed.us>
cc "Walsh, Bridget (Tester)" <Bridget_Walsh@tester.senate.gov>
bcc

Subject Letter from Senator Tester

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3 pgs

Mr. Rey, I wanted to make you aware of a letter that Senator Tester sent to you today requesting more information to be given to Montana counties regarding the cost share road agreements.

I understand you will be back out to Montana this weekend at the Logging Association event. Sounds like it's supposed to get hot this weekend—our good snowpack might not last long.

Thank you.

Matt Jennings
Legislative Assistant
Energy and Natural Resources
Office of Senator Tester
(202) 228-6277



Tester ltr to Rey 5.15.08.pdf

JON TESTER
MONTANA

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United States Senate

May 15, 2008

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RIF

The Honorable Mark Rey
Undersecretary for Natural Resources and the Environment
United States Department of Agriculture
1400 Independence Ave., SW
Washington, D.C. 20250

Dear Undersecretary Rey:

Thank you for meeting with me last week regarding the Plum Creek cost share road easement amendments, and for taking the time to meet with county commissioners from western Montana on April 28th.

Although I appreciate the steps you have taken to involve county commissions in western Montana and to solicit comments on this proposal, substantive feedback will be impossible without further information given to county governments.

I request that you refrain from further consideration of the Easement Amendment until your agency has compiled a list of all the easements and road cost share agreements to which the amendment would apply and convey them to local governments for their comments. Not only will it help local governments get a full understanding of how they may be affected, it seems only prudent that the federal government know, specifically, how many easements it is amending and the locations of each, *before* it signs the amendment. The Missoula County Commissioners in a letter dated May 7, 2008, made a similar request.

Unfortunately, many questions remain regarding the scope, purpose and legal implications of the cost share Easement Amendment. During your meeting with Montana counties you stated that there was no ambiguity in the road access language. Yet as recently as 2006, the Forest Service advised a landowner in Montana that the road access agreement he inherited when he purchased Plum Creek lands did not include rights to residential development, and that those rights would need to be negotiated and undergo further environmental review. Clarification of this discrepancy is greatly needed.

While I strongly support private property rights and road access, the Plum Creek road easements are unique in their size and scope and require careful scrutiny to determine appropriate access. The fact remains that the original basis for determining cost share agreements on road construction and maintenance with Plum Creek or its predecessors was for the purpose of timber management not commercial development.

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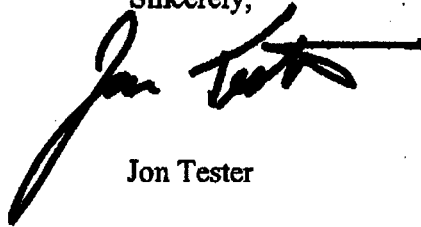
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RIF

It has taken the Forest Service two years to examine and develop the Easement Amendment. It is only reasonable that Montana county governments and the public be afforded some time to have their questions answered and familiarize themselves with this proposal before weighing final judgment.

Sincerely,



Jon Tester

Cc:

Governor Brian Schweitzer

Mary Sexton, Director, Montana Department of Natural Resources and Conservation

The Honorable Gail Kimbell, Chief of the Forest Service, USDA

Tom Tidwell, Northern Region Forrester, USDA Forest Service

Rick Holley, Plum Creek Timber Co., Inc.

Harold Blattie, Montana Association of Counties

Missoula County Commission

Flathead County Commission

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John Bell/WO/USDAFS
04/28/2008 09:18 AM

To A L Richard/WO/USDAFS@FSNOTES, Alan J Yamada/WO/USDAFS@FSNOTES, Bill Fodge/R5/USDAFS@FSNOTES, Charles D Warren/R6/USDAFS@FSNOTES, Charles Lopicola/R9/USDAFS@FSNOTES, Charles Showers/WO/USDAFS@FSNOTES, Cheryl L Clark/R6/USDAFS@FSNOTES, Dan Hager/R4/USDAFS@FSNOTES, Don Rivers/R2/USDAFS@FSNOTES, Donna Sheehy/R1/USDAFS@FSNOTES, Elliot Ng/WO/BLM/DOI@BLM, Fred Bower/R1/USDAFS@FSNOTES, Gary Lybrand/R5/USDAFS@FSNOTES, Jeffrey E Moll/R2/USDAFS@FSNOTES, Jim Kozik/R8/USDAFS@FSNOTES, John Elmquist/R3/USDAFS@FSNOTES, John Fehr/WO/USDAFS@FSNOTES, Ken Goddard/R4/USDAFS@FSNOTES, Ken Vaughan/R10/USDAFS@FSNOTES, Kristine A Smith/WO/USDAFS@FSNOTES, Marcia Hughey/R1/USDAFS@FSNOTES, Marjorie Apodaca/R3/USDAFS@FSNOTES, Martha DeFreest/R10/USDAFS@FSNOTES, Mary A Miller/R10/USDAFS@FSNOTES, Mike Tippie/R6/USDAFS@FSNOTES, Robert Aiken/R2/USDAFS@FSNOTES, Robert H Powell/R4/USDAFS@FSNOTES, Robert Harmon/R8/USDAFS@FSNOTES, Steve Coupal/R2/USDAFS@FSNOTES, Thomas W Erkert/R6/USDAFS@FSNOTES, Veronica Mitchell/R2/USDAFS@FSNOTES, William Angelus/R8/USDAFS@FSNOTES, Marie Messing/R10/USDAFS@FSNOTES, Robert Goetz/R10/USDAFS@FSNOTES, james.snow@usda.gov, Tom Suk/R1/USDAFS@FSNOTES, A L Richard/WO/USDAFS@FSNOTES, Cindy R Swanson/WO/USDAFS@FSNOTES, Richard Sowa/WO/USDAFS@FSNOTES, Lou Leibbrand/WO/USDAFS@FSNOTES, Charles Dull/WO/USDAFS@FSNOTES, Kurt Gerner/WO/USDAFS@FSNOTES, Ed James/WO/USDAFS@FSNOTES, Kristine A Smith/WO/USDAFS@FSNOTES, Merv Eriksson/WO/USDAFS@FSNOTES, Paul T Anderson/WO/USDAFS@FSNOTES, Thomas L Moore/WO/USDAFS@FSNOTES, Ellen G LaFayette/WO/USDAFS@FSNOTES, Ellen.HORNSTEIN@usda.gov, Craig Lasser/WO/USDAFS@FSNOTES, Misty C Alvarez/WO/USDAFS@FSNOTES, Jane Knowlton/WO/USDAFS@FSNOTES, Joe Reddan/WO/USDAFS@FSNOTES, pdl wo nfs eng regional engineers@FSNOTES

cc

bcc

Subject Missoulian Article on Plum Creek Cost Share Easements

Here's a link to a recent article in the Missoulian about the cost share easement revisions that have been negotiated with Plum Creek Corporation.

<http://www.missoulia.com/articles/2008/04/27/news/local/news03.txt>

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My belief is that Jim Snow at OGC and the involved Forest Service employees got a bum wrap. The premise of the reporter and the quoted Missoula and Flathead County Commissioners is that the Forest Service should exercise control over NFS roads to prevent undesirable housing development on private land inholdings within National Forests. Unfortunately, we can't do that. Law and regulation specifically prohibit it. Here's 36 CFR 212.6:

PART 212_TRAVEL MANAGEMENT--Table of Contents

Subpart A_Administration of the Forest Transportation System

Sec. 212.6 Ingress and egress.

(a) Policy in acquiring and granting access. To assure effective protection, management, and utilization of lands administered by the Forest Service and intermingled and adjacent private and public lands, and for the use and development of the resources upon which communities within or adjacent to the National Forests are dependent, the Chief shall as promptly as is feasible obtain needed access thereto and shall grant appropriate access across National Forest and other lands and easements administered by the Forest Service to intermingled or adjacent landowners. Construction, reconstruction or maintenance of a road or highway requires written authorization.

(b) Actual settlers and other persons residing within the National Forests and other areas administered by the Forest Service. Actual settlers and other persons residing within the National Forests and other areas administered by the Forest Service shall be permitted ingress and egress over the same and use of existing National Forest System roads and trails in order to reach their homes and to utilize their property: Provided, such ingress and egress or use shall conform to rules and regulations governing the protection and administration of the lands and the roads or trails to be used.

(c) Others. Entering upon the National Forests and other

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lands
administered by the Forest Service and use of existing National
Forest
System roads and trails shall be permitted for all proper and
lawful
purposes subject to compliance with rules and regulations

If the Commissioners are unable to use zoning to control residential developments, they shouldn't resort to blaming the Forest Service. If Plum Creek, or any other private landowner for that matter, has no easements on roads to lands it proposes for residential development, the roads are still available for future homeowners to use. We can't give away a right in negotiations we don't have to begin with. If you understand that, you'd recognize folks did a good job in the recent negotiations that resulted in Plum Creek agreeing to add conditions to easements they didn't have to.

The regulation has been around a long time. My understanding is that it had its origin in the 1897 Organic Administration Act.

John
John W. Bell, PE
National Road System Operations & Mtce Engr, USDA-FS
Phone - 703-605-4612
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Tom Suk/R1/USDAFS
04/07/2008 02:49 PM

To "JAMES.SNOW@OGC.USDA.GOV"
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bcc

Subject Re: Plum Creek easement

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WIF
1P9

(b)(5)

Jim, my only comment on the memo is that:

[Redacted]

Thomas S. Suk
WO Lands Staff
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04/03/2008 12:15 PM

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cc "MARK.LODINE@OGC.USDA.GOV"
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Subject Plum Creek easement

Tom, Greg and A.L.,

Here's a first draft on an implementation memo. Have at it. Jim

James B. Snow
Special Counsel for Real Property
USDA Office of the General Counsel
Washington, D.C. 20250-1400
(202) 720-6055



Memo to Regional Forester.doc

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12 pgs

Greg Smith/WO/USDAFS
04/24/2008 03:49 PM

To A L Richard/WO/USDAFS@FSNOTES
cc
bcc
Subject Fw: Plum Creek Easement

Per your request!

Gregory C. Smith, Esq.
Director, Lands and Realty Management
USDA, Forest Service
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Email: gsmith08@fs.fed.us



----- Forwarded by Greg Smith/WO/USDAFS on 04/24/2008 03:47 PM -----

"SNOW, JAMES B."
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04/24/2008 03:34 PM

To gsmith08@fs.fed.us
cc
Subject Plum Creek Easement

Here tis...

*James B. Snow
Special Counsel for Real Property
USDA Office of the General Counsel
Washington, D.C. 20250-1400
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Plum Creek Final Easement March 26 2008.DOC

Easement Amendment

THIS EASEMENT AMENDMENT is dated this _____ day of _____, 2008, by and between the **United States of America**, acting by and through the Department of Agriculture, Forest Service, Northern Region, hereinafter called "United States", and **Plum Creek Timberlands, L.P.**, a Delaware limited partnership, and **Plum Creek Land Company**, a Delaware corporation, each with offices at 999 Third Avenue, Suite 4300, Seattle, Washington, 98104.

Authority: The Act of October 13, 1964 ("National Forest Roads and Trails Act of 1964"); 16 U.S.C. §§ 532-538.

Definitions: As used herein:

The term "Prior Easements" means the easements referenced on the attached Exhibit A and incorporated herein as though fully set forth.

The terms "road" or "roads" mean the property rights conveyed by the Prior Easements as may be amended or supplemented herein; such road or roads are part of the National Forest Road System ("road system").

The term "Plum Creek" means Plum Creek Timberlands, L.P., Plum Creek Land Company, their subsidiaries, and/or their successors and assigns.

The term "Party" means either the United States, Plum Creek, or one of their respective successors or assigns, while the term "Parties" means the United States in addition to Plum Creek.

The term "person(s)" means any individual, partnership, limited partnership, corporation, association, organization, limited liability company, trust or other fiduciary arrangement, joint venture, cooperative, or any other type of entity, but does not include federal government agencies.

The term "public road authority" means a federal, state, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities. *See* 23 U.S.C. § 101(23). For purposes of this easement amendment, the Forest Service is not considered a public road authority, but this shall not be construed to preclude the Forest Service from exercising such authority in the future.

WITNESSETH:

WHEREAS, the United States, Plum Creek, and the predecessors in title to Plum Creek recognized the efficiency, cost savings and other benefits of jointly creating a single road

system serving the intermingled real property of the parties. The road system was created by means of Road Right-of-Way Construction and Use Agreements, cost-share agreements, reciprocal easements, and similar agreements which provided for the construction, operation, maintenance of roads and road segments; and

WHEREAS, the reciprocal right-of-way agreements and easements were entered into under the authority of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. §§ 532-538); and

WHEREAS, the Parties desire and intend by this instrument to clarify and define certain rights and obligations with respect to the roads.

NOW THEREFORE, for and in consideration of the mutual covenants and benefits provided herein, the Parties agree to this Easement Amendment as follows.

The Parties agree that the rights conveyed by the Prior Easements identified on Exhibit A are hereafter subject to the following terms and conditions. Except as modified by this Easement Amendment, the terms of the Prior Easements shall continue in effect, provided that in the event of a conflict between the Prior Easements and this Easement Amendment, this Easement Amendment shall be controlling.

1. *Roads Affected.* This Easement Amendment applies to those roads described and identified in the Prior Easements.

2. *Road Uses.*

(a) Except as herein limited, Plum Creek shall have the right to use the roads described and identified in the Prior Easements for all purposes deemed necessary or desirable by Plum Creek for ingress and egress in connection with the protection, administration, management, and utilization of Plum Creek's lands or resources, including the use of the appurtenant land for forest management purposes, subdivision, sale, or commercial, industrial, or residential development.

(b) The National Forest Roads and Trails Act of 1964 does not authorize the use of the roads for utilities. The United States may issue easements or permits to utility providers for the installation, use and maintenance of utilities over, along, across and under the roads described and identified in the Prior Easements under separate authorization.

3. *Road Access Points.*

(a) *On Plum Creek's Land.* Where the easement area crosses Plum Creek lands, Plum Creek may, subject to Paragraph 3(b), locate access points to the road system on its lands for purposes consistent with Paragraph 2 above, provided that Plum Creek uses reasonable efforts, after consultation with the United States, to site such access points so as to minimize impacts on the road or roads. Facilities at access points (driveways, crossings, etc.) shall utilize culverts, drains, contours, and other accepted engineering practices to assure that the road bed and right-

of-way area is not gullied, pitted, eroded, slumped or otherwise damaged or impaired beyond normal wear and tear.

(b) *On the Road System.* Where the authorized representative of the United States determines that user safety on the road system may be adversely affected by the number or location of road access points related to a change in use of Plum Creek's appurtenant lands, the authorized representative of the United States may reasonably prescribe the number or location of such road access points after good faith consultation with Plum Creek.

4. *Regulations and Closures.* The occupancy and use of the roads are subject to applicable state law and such federal statutes, regulations (*e.g.*, 36 C.F.R. Parts 212 & 261) and rules as the United States reasonably may impose including, but not limited to, traffic control, speed limits, vehicle size and weight, and emergency closures in the event of fire, flood, wind, or other natural disasters. The United States may designate public routes for winter recreation and other multiple-use activities and may impose reasonable restrictions to protect snow conditions on or near the roads designated as routes for use by over-snow vehicles and/or skiing. For a dual-use road involving both public winter recreation and other multiple-use activities, and ingress and egress by Plum Creek, the Parties shall address the allocation of costs and appropriate operation and maintenance standards in the plan provided for in Paragraph 6(c).

5. *Prohibitions.* Plum Creek shall not block, gate, or otherwise impede traffic or road use without written authorization by the United States, or take actions creating the appearance that a road is private and not open to general public use (such as signs declaring "private road" or "not open to public entry"). No signs shall be permitted within the easement area without prior authorization of the United States. The right to exclude the public from a road or roads lies solely with the United States. Except for emergency closures as described in Paragraph 4 above, the United States shall not block or gate a road in a manner that will preclude reasonable ingress and egress to Plum Creek's appurtenant lands.

6. *Road Maintenance and Reconstruction.*

(a) *In General.* All users of the roads are responsible for maintenance made necessary by their respective use of such roads and shall share in the upkeep and maintenance of the roads commensurate with the particular needs and uses of each user. For road-maintenance activities that benefit all users, the share to be borne by each user shall be proportionate to that user's total use of the road or roads being maintained. Unless a road has been incorporated into a public road system administered by a public road authority, the United States shall be responsible only for its proportionate share of road-maintenance costs as the United States deems necessary for National Forest System purposes. Plum Creek and its lessees, invitees, and agents, shall not be deemed members of the public for purposes of calculating proportionate use under the Prior Easements or this Easement Amendment.

(b) *Subdivision; Road Users Associations.*

(1) *Establishment of Road Users Associations.*

(A) The United States may, in its sole discretion, require the establishment of one or more road users associations by persons, existing road users associations, or, in the case of lands that have been subdivided, homeowners associations, to provide for performance or payment of construction, reconstruction, and maintenance costs, provide for other operational matters on roads within a common road system, and assume the obligations set forth in Paragraph 6(b)(1)(C). It is understood that the United States is not part of any such association.

(B) Such road users association ("Association") shall create legally binding covenants that run with the land which, at minimum, shall require that: (i) all owners of property appurtenant to such common road system, whether persons or members of a homeowners association, join the Association; (ii) the members of the Association abide by the terms and obligations contained in the Prior Easements and this Easement Amendment; and (iii) as to any other member, the members of such Association be entitled to costs, attorney fees, and interest at the highest legal rate in the event suit is brought against the Association or any of its members to enforce the road construction and maintenance terms as are provided for in the Prior Easements and this Easement Amendment. The rights of the United States shall not be impaired for the failure of an Association to abide by obligations required by this Paragraph.

(C) The Association shall also ensure that the covenant required in Paragraph 7 is recorded and that all requirements of the covenant applicable to homeowners are implemented.

(D) Unless provided otherwise by written agreement of the Parties, in the event an Association terminates, or otherwise ceases to fulfill its obligations under the Prior Easements and this Easement Amendment constituting a default thereunder, such default or termination shall be deemed to begin a period of nonuse as that term is used in the Prior Easements. In the event of termination of an Association, the parties referenced in Paragraph 6(b)(1)(A) who had been that Association's members shall be jointly and severally liable to provide for performance or payment of such Association's construction, reconstruction, and maintenance obligations.

(E) So long as Plum Creek Timberlands, L.P. or any of its successors or assigns continues to manage its lands tributary to a cost-share road system as a Cooperator under a Road Rights-of-Way Construction and Use Agreement and/or Cooperative Road Maintenance Agreement with the United States, it shall not be required to form or be a member of any Association. Should Plum Creek Timberlands, L.P., or any successor or assign, cease to be a cooperator under a Road Rights-of-Way Construction and Use Agreement and/or Cooperative Road Maintenance Agreement, the provisions of this Paragraph 6 shall apply, including the requirement to be a member of an Association if so required by the United States.

(2) *Establishment of Public Roads.* The United States may, in its discretion, grant an easement to a public road authority, over and across a road or road system that is

subject to the Prior Easements and this Easement Amendment. In this event, the rights of Plum Creek under the Prior Easements and this Easement Amendment shall be deemed subordinated to the rights conveyed to the public road authority. Plum Creek shall, if requested by a public road authority, execute any additional instruments deemed necessary by such authority to subordinate any interest it may have in the roads, the Prior Easements, and this Easement Amendment.

(c) *Operation and Maintenance Standards.* A Party shall only be required to operate and maintain a road or roads to the lowest standard suitable and necessary for its purposes, including, with respect to the United States, no maintenance if the United States determines that no maintenance is necessary for its present purposes. In the event the United States determines that a road is not needed for motorized use by the general public, the United States shall restrict such road to non-motorized use by the general public. A Party shall not be financially responsible for additional costs of operation and maintenance to achieve levels of service exceeding those necessary for its purposes. A Party may operate and maintain a road or roads to a higher level at its own cost, provided that such higher level of maintenance accommodates all existing uses at no additional cost to Parties whose purposes do not require the higher level. Maintenance and road operation activities by other than the United States shall be in accord with a plan approved by the United States, which plan shall be promptly and reasonably processed and reviewed in accordance with existing laws and regulations. During such time that a plan is under consideration, the most recently approved plan will continue in operation. As part of any plan, the United States may require bonding or indemnity in the event of damage to a road or damages resulting from uses beyond a road's designed capacity. It is understood that there is no unilateral right by Plum Creek to undertake any road construction, including modifications to road design standards and specifications, or undertaking a different level of maintenance without agreement from the United States on a plan.

(d) *Road Reconstruction.* When any existing or planned use of public or private lands accessed by the road or roads will result in use of a road in excess of its design elements, design standards, and/or road-maintenance standards, the Party or Parties responsible for such existing or planned use shall likewise be responsible for any additional road reconstruction costs that are necessary to meet the design elements, design standards, and/or road-maintenance standards that can accommodate such existing or planned use (as well as other existing uses). The design elements and standards shall be defined in accordance with applicable federal, state, and National Forest System standards generally utilized in the area.

(e) *Snow, Ice, and other Road Operation Activities.* When not in conflict with reasonable restrictions established to protect snow conditions in accordance with Paragraph 4, Plum Creek may provide for snow plowing, ice control, dust control, and other road operation activities at Plum Creek's expense in accordance with the plan described in Paragraph 6(c).

(f) *Chemicals.*

(1) *On Plum Creek's Lands.* Where the easement area crosses Plum Creek lands, Plum Creek may maintain and control right-of-way vegetation by means of chemicals in

accordance with applicable state and federal laws and regulations pertaining to the use of pesticides and herbicides.

(2) *On Federal Lands.* Where the easement area crosses federal lands, Plum Creek may maintain and control right-of-way vegetation by means of chemicals pursuant to approval granted it by the United States. In such case, Plum Creek shall seek approval from the United States in writing, specifying the time, method, chemicals, and precise section of the right-of-way that it proposes be chemically treated, and any approval of such request shall also be in writing. The United States shall not unreasonably delay or withhold action on the proposed use insofar as is consistent with existing laws and regulations.

(3) *On the Road System.* The United States may at any time maintain and control vegetation by means of chemicals on any portion of the road system right-of-way regardless of ownership insofar as such activities are in accordance with applicable federal laws and regulations.

(g) *Roadside Facilities.* All constructed roadside features and facilities, such as sign posts, delineators, mailboxes, utility poles, entrance archways, masonry monuments, and bridge railings shall be reviewed and approved by the United States or the appropriate public road authority for compliance with applicable requirements for roadside safety features contained in the then-current Roadside Design Guide of the American Association of State and Highway Transportation Officials or successor organization.

7. *Fire Prevention Covenant.*

(a) Plum Creek or any successor or assign shall attach to any appurtenant lands which it subdivides for residential or commercial purposes, prior to or upon conveying a subdivided lot to a third party or upon the final approval of the subdivision by the requisite governmental authority having authority for such subdivision, a covenant requiring homeowners of the subdivided tracts to abide by fire avoidance and protection measures for wildland urban interface, to be specified in the covenant.

(b) Such a covenant shall require land uses which conform with the Fire Protection Guidelines for Wildland Residential Interface Development dated July, 1993, as adopted by the Montana Fire Chiefs Association, Montana County Fire Wardens Association, and the Montana Fire District Association.

(c) A current designation of such appurtenant lands in the "Firewise Communities/USA" program of the National Fire Protection Association shall be deemed to meet all requirements of such covenant.

(d) In the event of enactment of state law or local ordinances or regulations which impose fire-protection and avoidance measures for the wildland urban interface which are equivalent to the measures required under paragraph 7(b), the covenant obligation of paragraph 7(a) shall automatically terminate.

(e) For purposes of eliminating title encumbrances where the covenant obligation has terminated, upon the request of Plum Creek, the United States, through the Forest Service, shall promptly authorize Plum Creek to record a release of such covenant obligation with respect to any appurtenant lands covered by the state law or local ordinances or regulations.

8. *Liability.*

(a) *Hold Harmless.* Plum Creek shall indemnify and hold harmless the United States against any and all demands, claims, or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with Plum Creek's uses of the roads authorized under the Prior Easements and this Easement Amendment, provided, however, that nothing contained herein shall obligate Plum Creek to indemnify the United States against the negligence or willful misconduct of the United States.

(b) *Insurance.* Plum Creek or any other Party or its agents (other than the United States or a public road authority) which engages in commercial use and road operations including maintenance, construction, reconstruction, and snow plowing, shall maintain insurance having an AM Best's Key Rating Guide of B+ VI (financial class) or better rating, and as follows:

1. Commercial General Liability Insurance to include minimum limits of \$1,000,000 combined single limit Bodily Injury and Property Damage each occurrence. Extension of coverage to include Contractual Liability, Products and Completed Operations, Independent Contractors, Broad Form Property Damage, Cross Liability, and Pollution arising out of heat, smoke or fumes from a Hostile Fire. The minimum limits may be adjusted by the United States to an amount that is usual and customary in the industry in the region.

2. Comprehensive Automobile Liability insurance covering owned, non-owned, hired and other vehicles, with a combined single limit of \$500,000 per occurrence Combined Single Limit Bodily Injury, Death and Property Damage.

3. Each such policy shall include an endorsement which shall name the United States of America as additional insureds on a primary basis for the term of this agreement.

4. Each such policy shall provide that the United States will be given a 30-day written notice on a best efforts basis prior to cancellation, coverage modification or other material change in the policy.

5. All liability coverages must be on an "occurrence" basis as opposed to "claims made."

6. The party conducting such activity shall furnish to the United States a certificate of insurance dated and signed by a stated, authorized agent for the insuring company or companies containing a representation that coverage of the types listed herein is provided with the required liability limits and the stated endorsements.

7. If a Party retains the services of any contractor, such Party shall cause each contractor to maintain insurance coverages and limits of liability of the same type and amount as are required under this agreement.

(c) *Disclaimer by United States.*

(1) *In General.* The development of lands by Plum Creek shall not create any obligation, express or implied, on the part of the United States to provide fire protection, emergency services, or commercial services for the benefit of such lands or to regulate, operate, construct, or maintain the roads to accommodate access for such purposes.

(2) *Fire.* Nothing in this Easement Amendment obligates the United States to adopt any particular fire management regime, strategy, or methods for appurtenant public lands, or to provide fire protection or suppression for any development on Plum Creek's appurtenant lands.

9. *Successors.*

(a) *In General.* The terms of the Prior Easements and this Easement Amendment shall apply to all Parties. The Prior Easements and this Easement Amendment shall be deemed in gross as to the United States and as to any public road authority that is a successor or assign of the United States. The Prior Easements and this Easement Amendment shall be deemed appurtenant to, and the benefits and burdens shall run with, the lands owned as of the date of this Easement Amendment by Plum Creek, or to lands acquired by Plum Creek hereafter which are incorporated into an applicable Road Rights-of-Way Construction and Use Agreement and/or Cooperative Road Maintenance Agreement.

(b) *Disclosure to Prospective or Actual Purchasers.* Plum Creek shall disclose in clear, written terms to any prospective or actual purchaser or to any other person or entity taking title to property that is appurtenant to the Prior Easements as amended by this Easement Amendment the obligation to abide by the terms and conditions of the Prior Easements and this Easement Amendment including, without limitation, the obligation to contribute to costs associated with the ongoing construction, reconstruction, and maintenance of the roads.

(c) *Assignment.* Any Party may convey, in whole or in part, its rights under the Prior Easements and this Easement Amendment to one or more successors or assigns having land appurtenant to the roads, provided that thereafter any such successor or assign shall become a party to, and abide by the terms and conditions contained in, the Prior Easements and this Easement Amendment, including the obligation to bear a share of the road upkeep and maintenance costs commensurate to that Party's use of the roads; and provided further that upon the transfer by Plum Creek of any appurtenant lands hereto, Plum Creek shall be released from any further obligations hereunder with respect to the lands so transferred.

(d) *To Public Road Authorities and Third Parties.* The United States alone shall have the right to extend rights and privileges for use of the roads to a public road authority or to non-

appurtenant third parties (non-appurtenant third parties being parties without privity with Plum Creek under the Prior Easements). In the event that the roads or segments thereof are incorporated within the jurisdiction of a public road authority, Plum Creek agrees to abide by such public road authority's regulations generally applicable to such roads.

(e) *Legal Access.* The access afforded by the Prior Easements and this instrument to appurtenant lands shall also constitute access for purposes of Section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3210(a)), and no appurtenant lands shall be subject to implied easements or easements by necessity over federal land.

10. *Binding Effect.* By acceptance of this Easement Amendment, as evidenced by the signatures below of their authorized representatives, Plum Creek Timberlands, L.P., Plum Creek Land Company, and the United States agree to the terms and conditions herein stated on behalf of themselves and their successors and assigns.

11. *Construction.* This Easement Amendment has been fully negotiated at arm's length between the signatories hereto, and after advice by counsel and other representatives chosen by such Parties, and such Parties are fully informed with respect thereto. No Party shall be deemed the scrivener of this Easement Amendment. Based on the foregoing, the provisions of this Easement Amendment and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any Party.

12. *Remedies.*

(a) This Easement Amendment is enforceable by any Party in law or equity in the United States District Court having jurisdiction.

(b) Any amounts owing the United States for cost share or other provisions under the Prior Easements or this Easement Amendment are subject to all remedies available under federal law including the provisions of 31 U.S.C. § 3711.

(c) At its option, in order to collect amounts owing, the United States may file a lien against the title of any land of a debtor which debtor's land is appurtenant to the roads.

IN WITNESS WHEREOF, the Parties, through their authorized representatives, have executed this Easement Amendment as of the date first written above. The United States has executed this Easement Amendment pursuant to the delegation of authority to the Chief, Forest Service, 7 C.F.R. § 2.60, and the delegation of authority by the Chief, Forest Service, dated August 22, 1984 (49 Fed. Reg. 34283).

UNITED STATES OF AMERICA
Department of Agriculture

By _____
Name: _____
Title: _____

PLUM CREEK TIMBERLANDS, L.P.
By Plum Creek Timber I, L.L.C., its general partner

By _____
Its _____

PLUM CREEK LAND COMPANY

By: _____
Its: _____

Acknowledgments

State of Montana,

County of Missoula, s.s.

The foregoing instrument was acknowledged before me by _____,
authorized official of the United States of America, this _____ day of
_____, 2008.

Witness my hand and official seal.

Notary Public

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this _____ day of _____, 2008, before me personally appeared _____ to me known to be the _____ of Plum Creek Timber I, L.L.C., general partner of Plum Creek Timberlands, L.P., the limited partnership that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited partnership for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of the limited partnership and that the seal affixed is the seal of said limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public in and for the
State of Washington
Residing at _____
My Commission Expires _____
Printed Name _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this _____ day of _____, 2008, before me personally appeared _____ to me known to be the _____ of Plum Creek Land Company, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of the corporation and that the seal affixed is the seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public in and for the
State of Washington
Residing at _____
My Commission Expires: _____
Printed Name: _____

RIF
1/19

Tom Suk/R1/USDAFS
04/24/2008 01:52 PM

To Greg Smith/WO/USDAFS@FSNOTES
cc A L Richard/WO/USDAFS@FSNOTES
bcc
Subject Plum Creek

I have located at the forest level a case where we still have the NEPA (EA, DN, and FONSI) and the case involved roads on both FS and Cooperator lands to there was an easement exchange. A side note, this was a project that I personally did on the Clearwater Forest, at it is with Plum Creek. They are FED-EXing the NEPA and Easement Copies to me. I anticipate I will get them Monday (possibly tomorrow) and I will get copies of the stuff made and FED-EX to you next week.

Thomas S. Suk
WO Lands Staff
USDA-Forest Service
PO Box 7669
Missoula, MT 59807
(Voice) 406-329-3613
(Cell) 406-210-3603
(Fax) 406-329-3198

Tom Suk/R1/USDAFS
04/22/2008 05:56 PM

To Greg Smith/WO/USDAFS@FSNOTES
cc A L Richard/WO/USDAFS@FSNOTES
bcc
Subject Plum Creek

RIF
1/9

Greg, an update on the request for cost share documents. We are looking for a case where we exchanged easements and have a NEPA decision document associated with it. As I told A L, most often the NEPA documents are associated with larger projects, such as a timber sale where the cost sharing of roads were necessary for that project. In some cases, where the cooperater proposes a project (they are what we call the constructing party) we may not have a current NF project and NEPA analysis planned that we can incorporate the proposal in the analysis. In those cases we will do a separate NEPA analysis for the proposal.

In either case the NEPA documentation is for the action to be taken. Once that action has been taken, those NEPA documents are not kept in perpetuity. In fact, when the project is complete they are sent to the national records center where they are kept for a defined period and then destroyed. Also, the NEPA documents and back up information are not kept in the RO. It would be physically impossible to keep in files all this information. They reside at the individual forests for as long as they are retained then go to the record center.

I think there is a possibility that I may be able to come up with a set of easement documents and at least a NEPA decision document from one of the forests in R1, but it will take some time for folks to look through the files. We will do it as expeditiously as possible, but it is likely to take several days. I am hoping we can located a sample within the next two weeks or less and get them to you all. We are looking at pre-1994 easements as the post ones are available on both the FS Intranet and FS internet sites in directives.

R1 Public Affairs Staff is communicating as well the same information with Senator Tester's local staff.

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(Fax) 406-329-3198

RIF
2pgs

Tom Suk/R1/USDAFS
04/21/2008 04:39 PM

To A L Richard/WO/USDAFS@FSNOTES
cc Greg Smith/WO/USDAFS@FSNOTES, Paul Johnson/WO/USDAFS@FSNOTES
bcc
Subject Re: Fw: information REQUEST FROM SENATOR TESTER - (Plum Creek)

We need to understand here that many of the projects and easement exchanges preceded the passage of NEPA in 1970. For those done post NEPA, in the office, we do not have any of the NEPA documents filed. They are located if they exist, at the Forest. Many have long gone to the records center and after a statutory period of time they are destroyed. The NEPA documents applied to the construction/reconstruction of the roads. They did not apply to the ongoing maintenance and use of the roads, those are generally covered by existing National Cat-E's. Most often the NEPA documents were done in conjunction with a NF timber sale, where road development was just a part of the selected action. The bottom line is I do not have access at hand to previous NEPA documents involving cost share roads, but I might be able to get an example or two for post 1994 easements. Remember, we are dealing with over 40 years of doing reciprocal exchanges, it is not like this was done yesterday. I will get you a copy of the pre-1994 format, but doubt very much that we can come up with a pre-1994 NEPA document, but will check.

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(Fax) 406-329-3198
A L Richard/WO/USDAFS

A L Richard/WO/USDAFS
04/21/2008 12:06 PM

To Tom Suk/R1/USDAFS@FSNOTES
cc Greg Smith/WO/USDAFS@FSNOTES, Paul Johnson/WO/USDAFS@FSNOTES
Subject Fw: information REQUEST FROM SENATOR TESTER - (Plum Creek)

Just a follow up, please obtain and send copies of the pre-1994 easements with PC or their predecessors. Also as I indicated we need copies of the original NEPA decisions that pertains to the subject road(s) described in the easement. Once you gather the information, please send it to me preferably electronically, however if the file is too large, please fax or mail itThanks.....A.L.

A.L. Richard
USDA Forest Service
Washington Office - Lands Staff
1400 Independence Avenue
201 14th Street
Stop Code 1124
Washington, DC 20250
office: (202) 205-1792
Fax: (202) 205-1604

RIF

arichard@fs.fed.us

FEDEX Express
201 14th Street SW
Lands Staff - 4th Floor South
Washington, DC 20250

--- Forwarded by A L Richard/WO/USDAFS on 04/21/2008 01:46 PM ---

A L Richard/WO/USDAFS

04/21/2008 11:51 AM

To Tom Suk/R1/USDAFS

cc

Subject information REQUEST FROM SENATOR TESTER - (Plum
Creek)

Tom - Sen Tester has requested prior easements agreements with Plum Creek or their predecessors to compare the proposed clarification. Also he is interested in seeing original NEPA documents for these cost share roads. I suggest we obtain the original applicable NEPA document to give the Senator a sampling.....Thanks.....A.L.

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office: (202) 205-1792
Fax: (202) 205-1604
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Washington, DC 20250

RIF
1pg

Tom Suk/R1/USDAFS
04/17/2008 01:42 PM

To A L Richard/WO/USDAFS@FSNOTES
cc
bcc
Subject Fw: Plum Creek

Thomas S. Suk
WO Lands Staff
USDA-Forest Service
PO Box 7669
Missoula, MT 59807
(Voice) 406-329-3613
(Cell) 406-210-3603
(Fax) 406-329-3198

----- Forwarded by Tom Suk/R1/USDAFS on 04/17/2008 11:40 AM -----

Tom Suk/R1/USDAFS
04/17/2008 11:21 AM

To Greg Smith/WO/USDAFS, James.Snow@usda.gov
cc
Subject Plum Creek

I have some information that I believe is important that Mark Rey have regarding this Plum Creek business. A couple of months ago I was contacted by a staffer for the Missoula County Commissioners. Our discussion involved a particular PC land sale and the land sales in general. We also discussed in general that we were working on access issues and concerns, more specifically ours with Plum Creek as well as the State of Montana DNRC and State of Idaho Department of Lands as we jointly had similar needs and issues, and they were aware we were working on documents to address these. We of course did not share the drafts as they were simply working papers at that point. I was asked if I would be willing to come over and brief the county commissioners on what we were doing. I told them that yes I would under two conditions. One, I needed the concurrence from the Regional Forester to go and essentially be speaking for him, and that we needed to have a Plum Creek representative present, as I could not nor would it be proper for me to speak for the company. We left it there and I never heard back or was asked to come and brief them, but we were willing to at their request.

In addition, I and others had conversations with a staffer from the Wilderness Society last summer regarding the same issues and they were provided the same information as I discussed with Missoula County. In fact there was a white paper that started showing up in the counties that contain a few sensational errors but in general covered what has been discussed. While no ownership to author was identified I am positive it was put out by the wilderness society as a result of mine and others conversation with them.

The overall point here is that I and we have been willing to discuss what we were doing with Plum Creek and the States with whomever would ask. We did not and would not share any of the actual working drafts for obvious reasons but we would discuss the issues we were addressing and resolving. This has not been done behind closed doors and in strict secrecy. A great many people within the agency and on the outside were aware of our discussions or negotiations.

Thomas S. Suk
WO Lands Staff
USDA-Forest Service

RIP.
1 p9
RIF
1 p9

John Bell/WO/USDAFS
04/16/2008 01:14 PM

To Fred Bower/R1/USDAFS@FSNOTES
cc Joel Krause/R1/USDAFS@FSNOTES, Richard Sowa/WO/USDAFS@FSNOTES, Ed James/WO/USDAFS@FSNOTES, james.snow@usda.gov, A L Richard/WO/USDAFS@FSNOTES, Tom Suk/R1/USDAFS@FSNOTES, Paul T Anderson/WO/USDAFS@FSNOTES, Kristine A Smith/WO/USDAFS@FSNOTES, Thomas L Moore/WO/USDAFS@FSNOTES, Merv Eriksson/WO/USDAFS@FSNOTES, Ellen G LaFayette/WO/USDAFS@FSNOTES, Misty C Alvarez/WO/USDAFS@FSNOTES, Shirley Bridges/WO/USDAFS@FSNOTES, Joe Reddan/R3/USDAFS@FSNOTES, Vivian Shreve/WO/USDAFS@FSNOTES, Cindy R Swanson/WO/USDAFS@FSNOTES, Jane Knowlton/WO/USDAFS@FSNOTES

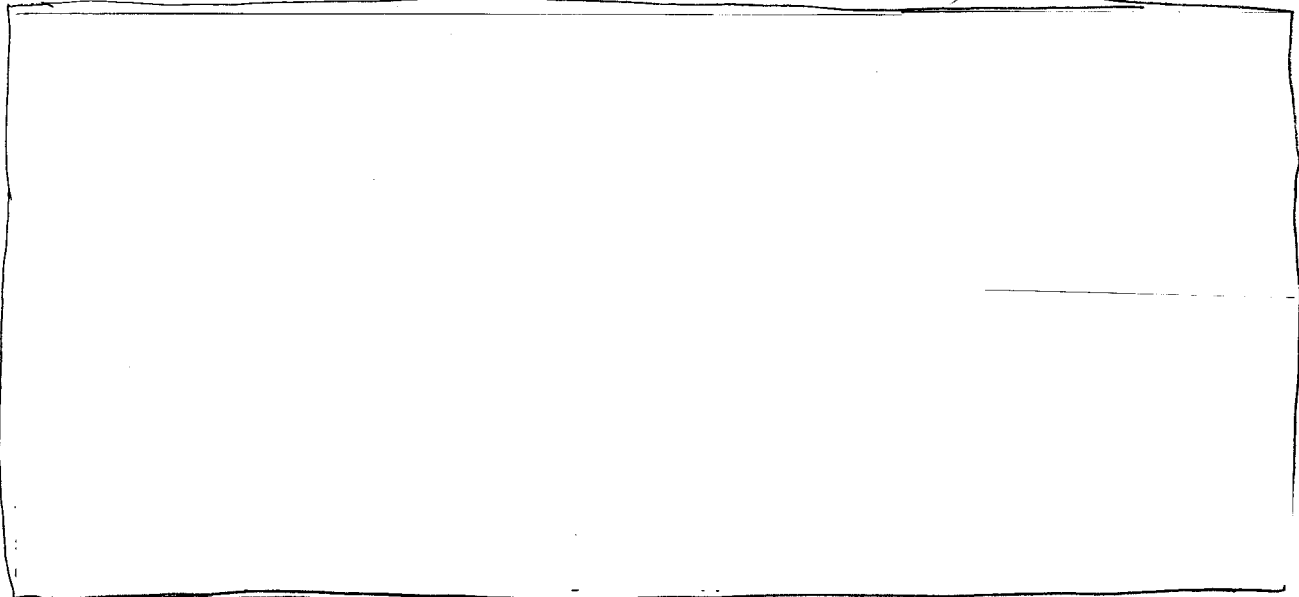
bcc

Subject Re: Plum Creek Easements

Fred:

Thanks for a very timely "Heads Up!"

(b)(5)



John
John W. Bell, PE
National Road System Operations & Mtce Engr, USDA-FS
Phone - 703-605-4612
FAX - 703-605-1542
E-Mail - jbell01@fs.fed.us
Fred Bower/R1/USDAFS

Fred Bower/R1/USDAFS
04/16/2008 12:28 PM

To John Bell/WO/USDAFS@FSNOTES

RF

cc

Subject Plum Creek Easements

Hi John! Here is a link to an article in the local paper about our good junior Senator's concerns that the FS is making it easy for Plum Creek to subdivide their lands. Can you spell "Zoning"?

<http://www.missoulian.com/articles/2008/04/16/news/local/news02.txt>

Fred Bower
Transportation Planning
(406) 329-3354

RIF
1 pg

Tom Suk/R1/USDAFS
04/16/2008 01:02 PM

To Greg Smith/WO/USDAFS@FSNOTES, A L
Richard/WO/USDAFS@FSNOTES,
James.Snow@usda.gov, James
Davis/R6/USDAFS@FSNOTES

cc

bcc

Subject Plum Creek

If you would like to read all about what we are doing with plum creek behind closed doors go to www.missoulain.com for April 16 and click on todays news. The Plum Creek situation is the banner headline and a rather lengthy article was written.

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(Fax) 406-329-3198

RIF
2pp

Tom Suk/R1/USDAFS
04/09/2008 12:33 PM

To A L Richard/WO/USDAFS@FSNOTES
cc
bcc

Subject Plum Creek Question

Here is my write up on money changing hands. I have stayed away from how much we and cooperators have expended in Montana and Nationally, who owes who and how much in Montana and Nationally, and what total investment is, because quite frankly I do not have the information at hand and could not even make and educated guess right now. Hopefully in a couple days I can.



The National Forest Roads and Trails Act.doc

Thomas S. Suk
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(Fax) 406-329-3198

RIF

The National Forest Roads and Trails Act (FRTA) provides authority to develop and maintain roads and road systems through cooperative financing. This can occur in ways other than exchanging money (cash). The most common approach is to carry balances and to offset debits and credits by future road work. Consequently it is not routine for actual money transactions to occur on a year to year basis. If balances get too far out of balance then other forms of amortization, such as timber sale collection rights, are implemented to bring debits and credits back into balance.

RIP
3/9/05

Tom Suk/R1/USDAFS
04/04/2008 03:58 PM

To James Davis/R6/USDAFS@FSNOTES
cc A L Richard/WO/USDAFS@FSNOTES, James
Davis/R6/USDAFS@FSNOTES
bcc


Subject Re: Plum Creek amendment time line 

[Redacted]

(b)(5)

Thomas S. Suk
WO Lands Staff
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(Fax) 406-329-3198
James Davis/R6/USDAFS

James Davis /R6/USDAFS
04/04/2008 11:03 AM

To A L Richard/WO/USDAFS@FSNOTES
cc Tom Suk/R1/USDAFS@FSNOTES, James
Davis/R6/USDAFS@FSNOTES
Subject Re: Plum Creek amendment time line 

(b)(5)

Thanks, A.L. Will advise the Forest to hang in there until it comes out -

[Redacted]

(b)(5)

A L Richard/WO/USDAFS

A L Richard/WO/USDAFS
04/04/2008 09:00 AM

To James Davis/R6/USDAFS@FSNOTES
cc James Davis/R6/USDAFS@FSNOTES, Tom
Suk/R1/USDAFS@FSNOTES
Subject Re: Plum Creek amendment time line

Jim -

(b)(5)

A.L. Richard
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arichard@fs.fed.us

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Washington, DC 20250
James Davis/R6/USDAFS

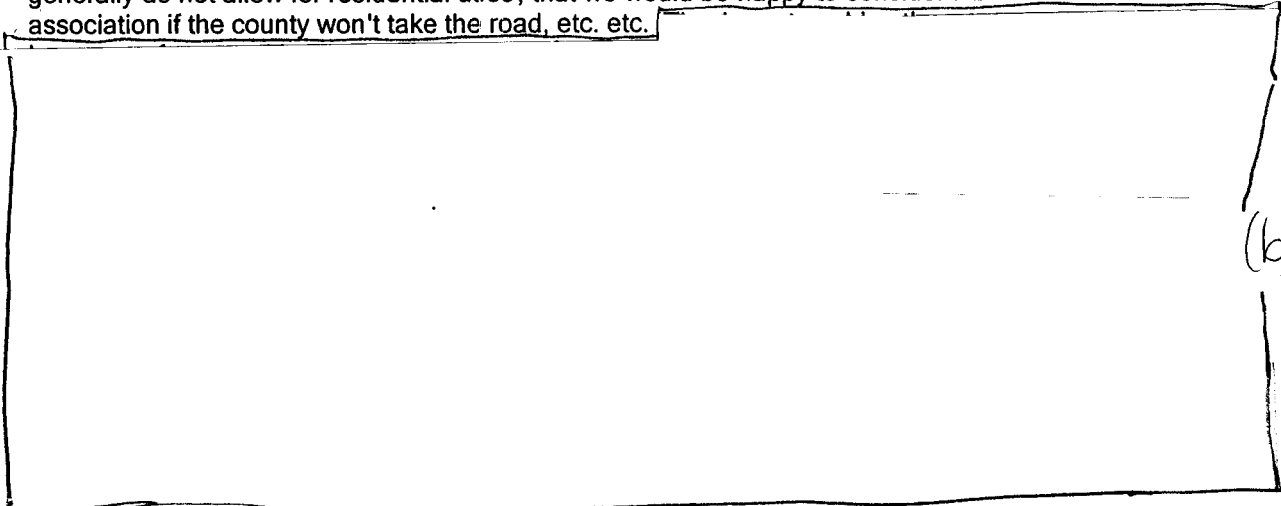
James Davis/R6/USDAFS
04/03/2008 02:15 PM

To Tom Suk/R1/USDAFS@FSNOTES, A L
Richard/WO/USDAFS@FSNOTES
cc James Davis/R6/USDAFS@FSNOTES
Subject Plum Creek amendment time line

Hi!

Wondering what the schedule for roll-out of the Plum Creek cost share easement amendment is?

Plum Creek is splitting out more lands in Washington State for subdivision. Our field folks know we've been working on an amendment for a Montana case that we were trying to structure as a template for similar situations. Right now, they're telling their local PC folks and county that the cost share easements generally do not allow for residential uses, that we would be happy to consider FLPMA easements to an association if the county won't take the road, etc. etc.



So I'm pushing the amendment as the most feasible resolution, which leads back to: do we have an idea on when we can expect the amendment to be officially endorsed and made available for field consideration?

Tom Suk/R1/USDAFS
07/10/2007 04:15 PM

To James.Snow@usda.gov
cc
bcc A L Richard/WO/USDAFS
Subject Plum Creek

RIF
1 pg

Jim, I just spoke with Sher Ward from Plum Creek and we are trying to set up a joint get together here in Missoula at Plum Creeks office on 7/18 to discuss/negotiate the final sticking point on our discussions with Plum Creek. I think the possibility exists that if we get this lined up, they will cancel their trip to DC until we meet. The participants will be myself representing the WO and R1, Jim Davis representing R6, and Sher and Jerry Sorenson from Plum Creek. I will keep you informed as to confirmation of the meeting.

Thomas S. Suk
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(Cell) 406-210-3603
(Fax) 406-329-3198

"JAMES.SNOW@OGC.USDA
.GOV"
<JAMES.SNOW@OGC.USDA
A.GOV>

05/29/2007 03:34 PM

To "jdavis08@fs.fed.us" <jdavis08@fs.fed.us>

cc "arichard@fs.fed.us" <arichard@fs.fed.us>,
"MARY.SAJNA@OGC.USDA.GOV"
<MARY.SAJNA@OGC.USDA.GOV>, "arichard@fs.fed.us"
<arichard@fs.fed.us>, "tsuk@fs.fed.us" <tsuk@fs.fed.us>

bcc

Subject RE: Plum Creek easement

referred to OGC

Gentlemen,

[Redacted]

Jim

-----Original Message-----

From: James Davis [mailto:jdavis08@fs.fed.us]

Sent: Tuesday, May 29, 2007 2:50 PM

To: SNOW, JAMES B.

Cc: A L Richard; Richard, A L -FS; SAJNA, MARY; Suk, Tom -FS; James
Davis

Subject: RE: Plum Creek easement

I've also gone through the fed registers I have available and haven't
found

any that delegate signing authority to the WO Director of Lands. The
ones

I found are very specific to the Regional Directors.

[Redacted]

(b)(5)

*RIP
5 pgs*

(b)(5)

"SNOW, JAMES B."
<JAMES.SNOW@OGC.U
SDA.GOV>

To

<arichard@fs.fed.us>
05/29/2007 07:57

cc

AM

"A L Richard"

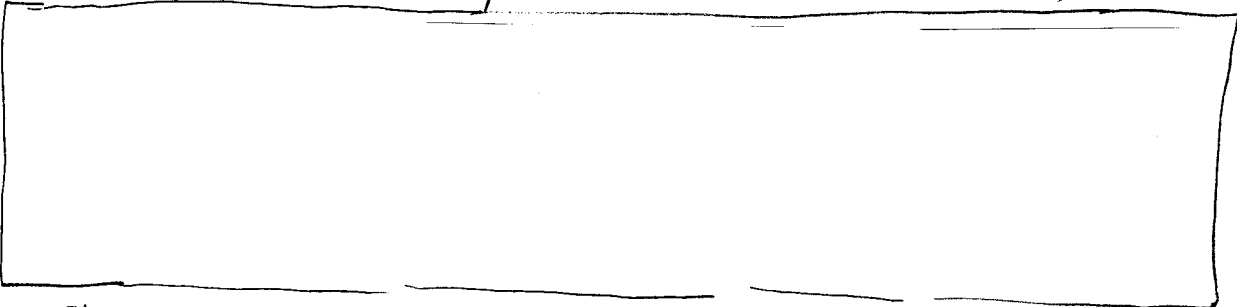
"Richard, A L -FS"

<A.L.Richard@usda.gov>,
jdavis08@fs.fed.us, "SAJNA, MARY"
<MARY.SAJNA@OGC.USDA.GOV>, "Suk,
Tom -FS" <Tom.Suk@usda.gov>

Subject

RE: Plum Creek easement

referred to OGC (b)(5)

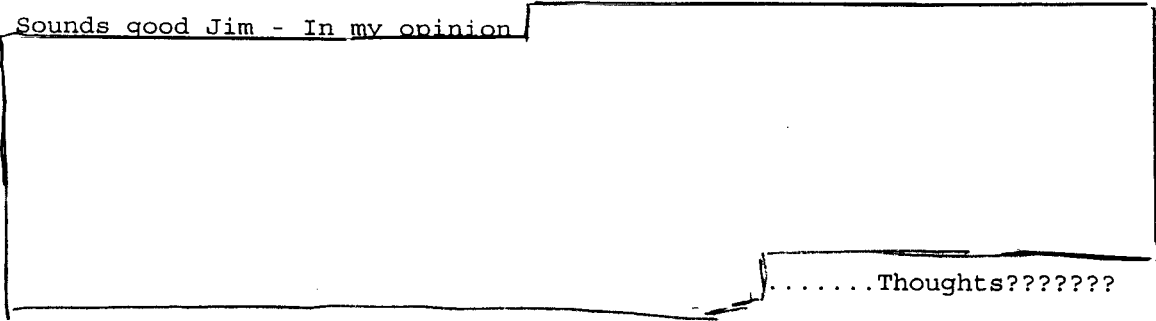


Jim

-----Original Message-----

From: A L Richard [mailto:arichard@fs.fed.us]
Sent: Saturday, May 26, 2007 2:15 PM
To: SNOW, JAMES B.
Cc: Richard, A L -FS; jdavis08@fs.fed.us; SAJNA, MARY; Suk, Tom -FS
Subject: RE: Plum Creek easement

Sounds good Jim - In my opinion



(b)(5)

.....Thoughts???????

A.L. Richard
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Washington, DC 20250

"SNOW, JAMES B."
<JAMES.SNOW@OGC.U
SDA.GOV>

To

"Richard, A L -FS"

05/25/2007 12:34

<A.L.Richard@usda.gov>

PM

cc

jdavis08@fs.fed.us, "SAJNA, MARY"

<MARY.SAJNA@OGC.USDA.GOV>, "A L

Richard" <arichard@fs.fed.us>,

"Suk, Tom -FS" <Tom.Suk@usda.gov>

Subject

RE: Plum Creek easement

referred to OGC (b)(5)

A.L.,

Cheers,

Jim

-----Original Message-----

From: Tom Suk [mailto:tsuk@fs.fed.us]

Sent: Friday, May 25, 2007 11:52 AM

To: jdavis08@fs.fed.us

Cc: SNOW, JAMES B.; jdavis08@fs.fed.us; SAJNA, MARY; A L Richard

Subject: RE: Plum Creek easement

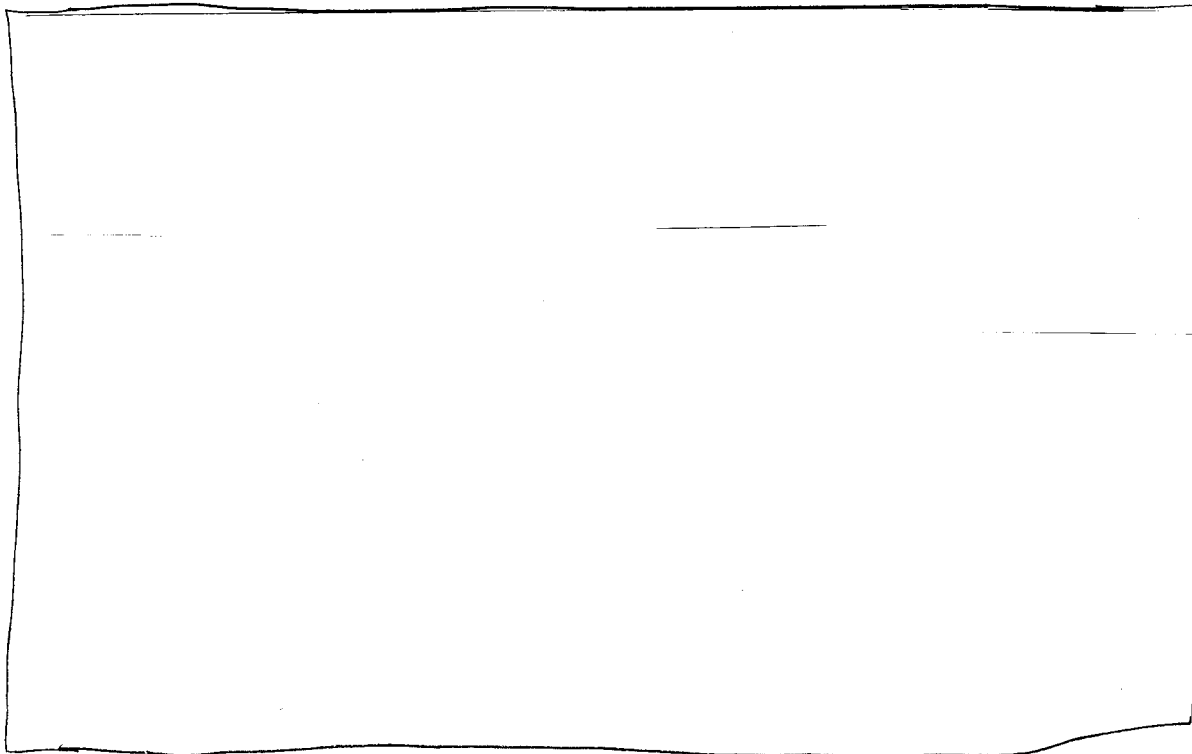
Gang, I have been doing extensive research on delegation of authority
for
executing easements. [redacted] (b)(5)

[redacted] The WO Director
of

Lands authority as it relates to easements acquired or easements granted
is

limited to approving for use new deed limitations, conditions, or reservations and in the case of grants approving additions or modifications of standard clauses in easements and permits (FSM 5460.42 and FSM 2730.04 b).

The delegation from the Chief for granting and executing easements and permits has been delegated to the Regional Forester who may further delegate to the Regional Director of Lands (FSM 5460.43). FSM 2730.04c and d states the Regional Forester is authorized and responsible for granting FRTA authority easements (there is a similar delegation under FLPMA as well) and can redelegate to the Regional Director of Lands or equivalent position and to Forest Supervisors (conditions exist for redelegation to Forest Supervisors). It also provides that such redelegation of authority is to be published in the Federal Register. I have checked our older cost share easements and the new ones and we DO cite the FR delegations of authorities in the IN WITNESS WHEREOF clause.



(b)(5)

Thomas S. Suk
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