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To Kathy Burgers/WO/USDAFS@FSNOTES, Ronald Banegas/WO/USDAFS@FSNOTES, Melvin Y Shibuya/R3/USDAFS@FSNOTES, Lori Delgado/WO/USDAFS@FSNOTES
cc Karlene K Hale/R10/USDAFS@FSNOTES, jrthomas@fs.fed.us@FSNOTES
bcc
Subject Nationally Precedent Setting Ethics/ER issue

We have an issue in Region 10 that OGC attorneys (Washington Office and local) are saying is precedent setting; and an ethics issue. A Forest Service employee (Petersburg RD, Tongass NF), along with the group, Forest Service Employees for Environmental Ethics, filed a lawsuit (March 2006) claiming the .."Forest Service violated NEPA and the Appeals report Act by entering into contracts and reconstructing logging roads on the Tongass NF prior to completing the required NEPA analyses, issuing decisions, and resolving administrative appeals." The employee also worked on the planning team for the project. Apparently, it is precedent setting for an employee to file.



FSEEE v. USFS Compliant 3-30-06.txt FSEEE v. USFS New Case Memo 3-30-06.doc

In addition, this employee appealed another project to the Regional Forester in this region just prior to this lawsuit (February). This project was one of which he was the team leader. The employee is a GS-09, Wildlife Biologist.

We have received the Attorneys' feedback, their focus being on litigation and environmental resources and now are ready to focus on the HR ramifications. As this lawsuit will gain national attention, I think it is critical we involve the WO HRM for advise.

1. Attorneys' discussed moving employee from the duties of his position on the District to different duties in an office 6 miles down the road. Currently, the employee is working on a project similar to project he appealed. Individuals working with him do not trust him; their morale is low; and he has access to files for which he is the litigant. They would like to remove him from the district and remove his access to the server. This seems appropriate, unless you with years of experience, see a dark hole. This does not seem like any kind of retaliation to us, however, the employee could see this differently.
2. The supervisor had planned to give the employee a Letter of Reprimand prior to the February appeal to Denny. This is of concern to us, however, the Forest Supervisor feels strongly it should be delivered. Denny wants to support the Forest Supervisor, however, is worried as to the appearance of retaliation. When we reviewed the letter, we found it needed much more work IF it was to be delivered. They did this, and it does look better, however, there is still the concern of retaliation AND the fact that the reprimand is for failure to follow instructions for a project due in 2005. I do not know whether Denny or I are just being overly concerned.



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This case could go on for quite some time as the OGC attorneys feel that this is a serious breach of ethics for an employee to file a lawsuit. Karlene, our ER/LMR HR Specialist, has been talking with Lori and some with Melvin. This email is primarily to keep you in the loop of something that will get national attention.

Your Advice: My advise is to follow through with 1. above but strongly advise against 2. If you agree with me on 2., and the Forest Supervisor wants to proceed, is there any recourse but to accept the fact we could be in purgatory for the next few years if we proceed? Is the Letter of Reprimand worth the risk?

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