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Subject Conf Call Today at 12:30 AKT, 1:30 PT, 4:30 ET

I would scheduled a conference call for today at 12:30 AKT, 1:30 PT, 4:30 ET to discuss the ethics issues related to FSEEE v. USFS. Please call into 907-586-7820 at that time.

The latest developments are that the Chief has assigned Jacque Mycrs to be a point person on the employee-litigant issues, and FSEEE won't be filing an amended complaint as they need to seek leave from the court before they do so. Their proposed amended complaint includes at least the following new claims:

44. In June 2006, as an FSEEE member, Glen Ith signed a fundraising letter that FSEEE sent to its 12,000 members to explain the facts and background of the ongoing road reconstruction case against the Forest Service. In that letter, Mr. Ith asked FSEEE's members to help contribute to FSEEE's expenses in the ongoing case. All of the work concerning the June 2006 letter was on Mr. Ith's own time, and not as a Forest Service employee. All of the time Mr. Ith has spent on the litigation against the Forest Service has been on his own personal time. At PAGE 11, PLAINTIFFS' THIRD AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

no time did Mr. Ith use official Forest Service time or equipment, or Forest Service information not otherwise available to the public.

45. On July 10, 2006, Glen Ith was informed by his supervisor, Chris Savage, that an investigation is being conducted by the Forest Service concerning Mr. Ith's participation in the FSEEE fundraising effort. Mr. Ith was informed that he would be subjected to questioning on this matter at 1:00 pm on Thursday, July 13, 2006, in Petersburg, Alaska, by a special investigator who works for the Forest Service.

CLAIM V: The Forest Service Has Violated the First Amendment and 42 U.S.C. § 1983 Through Intimidation and Attempts to Suppress and Limit Mr. Ith's Free Speech and Active Involvement in this Case

64. Plaintiffs hereby incorporate by reference all preceding paragraphs.

65. The First Amendment to the United States Constitution provides that "Congress shall make no law...abridging the freedom of speech, . . . Or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

66. 42 U.S.C. § 1983 provides: "Every person who, under color of any statute...subjects, or cause to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress."

67. The United States Supreme Court has recognized that public employees cannot be compelled to relinquish their First Amendment rights to comment on matters of public concern as a condition of public employment. See *Pickering v. Board of Education of Township High School District 205*, 391 U.S. 563 (1968).

68. Glen Ith's involvement in this case as a public citizen is "speech" protected by the First Amendment. Mr. Ith's June, 2006, letter to FSEEE's members is also "speech" protected by the First Amendment.

69. The above allegations establish that the Forest Service has, under color of federal law, had a chilling effect and otherwise deprived Glen Ith of his First Amendment rights of free speech through the agency's actions towards him as the result of his association with FSEEE, his participation in a public interest lawsuit against the Forest Service, and his participation in fundraising efforts regarding this lawsuit. The Forest Service has thereby violated the First Amendment and 42 U.S.C. § 1983.

RELIEF REQUESTED

WHEREFORE, the Plaintiffs respectfully request that this Court:

H. Enjoin the Forest Service from continuing its investigation into the involvement of Mr. Glen Ith in a public interest lawsuit against the Forest Service, including Mr. Ith's involvement in FSEEE's fundraising efforts regarding the lawsuit;