

File Code: 5460

Date: MAR 06 1996

*Bob Gordon 3/11/96*  
*Return to: Gina*  
*SOT file*

Senator Conrad Burns  
10 East Babcock, #106  
Bozeman, MT 59715

Dear Senator Burns:

This letter is in response to your inquiry of February 15, regarding the filing of "Statements of Interest" in county courthouses.

Some of the National Forest System roads and most of the National Forest System trails in Montana were established in the early 1900's. Since that time, these roads and trails have been maintained, signed, managed and used for Forest Service management purposes and public recreational activities. Forest visitor maps have for years shown these roads and trails open for use, subject to Forest Service travel management regulations.

A portion of this road and trail system crosses intermingled private lands. In many cases, these roads and trails afford the only access to adjoining public lands. However, only a small portion of the roads and relatively few of the trails crossing private lands are covered by recorded easements. For those National Forest system roads and trails where the Forest Service does not have recorded easements, it is our position that the United States has an easement interest due to historic public and administrative use and maintenance.

During the past several years, various actions have been taken by landowners to deter continued use of these roads and trails, including signing or physically closing those segments across private lands. The Forest Service has adopted a policy of filing in the appropriate county courthouse a "Statement of Interest" and map showing the road or trail location in situations where continued use is threatened, or we believe continued use may be threatened. The Statement of Interest is designed to provide a notice of public record that the United States does claim an interest in those National Forest system roads and trails across the private lands.

Under current Regional policy, Forest Supervisors may file Statements of Interest if such action can be supported by adequate historical evidence. Prior to filing a Statement of Interest, Forest Supervisors must evaluate status evidence to determine historic United States investment, management, maintenance, and use of the facility. Sources of evidence may include retired Forest Service or other agency employees, local citizens who have knowledge of the facility, historians, maps, USGS plats/records, Forest Service records on capital investment expenditures and maintenance records, and county records.

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Senator Conrad Burn

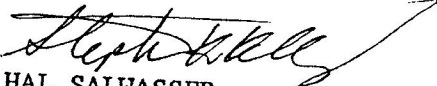
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Forest Supervisors are encouraged to coordinate with the Regional Office Lands staff and Office of General Counsel before filing.

Since 1993, three "Statements of Interest" have been filed: two by the Gallatin Forest Supervisor and one by the Deerlodge Forest Supervisor. The two Statements in the Gallatin Forest were terminated after the Forest Supervisor received assurance that the United States interest would be maintained. In the Deerlodge case, the interest of the United States is currently being litigated.

I trust this letter provides the information you requested. Please feel free to contact us if you have further questions on this matter.

Sincerely,



*for* HAL SALWASSER  
Regional Forester