



United States
Department of
Agriculture

Forest
Service

Coronado National Forest
Supervisor's Office

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File Code: 1010/2300/2670

Date: April 13, 2009

William Edwards
District Ranger
USDA Forest Service, Coronado National Forest
Douglas Ranger District
1192 W. Saddleview Rd
Douglas, AZ 85607

Dear Mr. Edwards

I have been looking into the validity of Special Closure Order # 05-189, which applies to an area of the Dragoon Mountains, Douglas Ranger District, in the vicinity of Rockfellow Dome and Dome Park. This area is popular as a rock-climbing destination, and the Closure Order was to protect the American Peregrine Falcon (*Falco peregrinus anatum*) during its nesting season, in compliance with the Endangered Species Act of 1973, and consistent with the policy of natural resource protection on the Coronado National Forest. Although the American Peregrine Falcon was de-listed as a threatened subspecies in 1999 (Final Rule, Federal Register 64(164):46542-46558), we are still legally obligated to follow the guidance of post-listing monitoring. Although post-listing monitoring is for five years in duration, in this case the five years are spread over a 15-year span, because of life history characteristics of this subspecies (US Fish and Wildlife Service. 2003. Monitoring Plan for the American Peregrine Falcon, A Species Recovered Under the Endangered Species Act. U.S. Fish and Wildlife Service, Divisions of Endangered Species and Migratory Birds and State Programs, Pacific Region, Portland, OR. 53 p. on file, Coronado National Forest).

The original Closure Order (attachment 1) was signed on 18 March 2002 by John McGee, the Forest Supervisor of the Coronado National Forest at the time. This Closure Order was valid. Two other documents surfaced: one was from Douglas Hardy, Ranger of the Douglas Ranger District when signed on 1 December 2006, and the other was from you dated (I have an unsigned copy) on 11 February 2008. Both of these latter documents were memoranda amending the 18 March 2002 Closure Order. They contained the same informational content, which was essentially an adjustment of the closure dates and refining of the closure order, resulting in a less restrictive closure. The memorandum dated 11 February 2008 is attachment 2. There were no signed Termination Orders for Closure Order 05-189 in our files.

Our Law Enforcement Specialist, Cheri Bowen, discussed these and other Closure Orders with our Biologists' Leadership Team (present were Larry Jones, acting Program Manager; Rick Gerhart, selected Program Manager [effective date 10 May 2009]; Joshua Taiz, Santa Catalina Ranger District; Anne Casey, Safford Ranger District; Debbie Sebesta, Nogales Ranger District; and Glenn Frederick and Melinda Fisher, Sierra Vista Ranger District) on 23 March 2009. It was determined that only the original version (attachment 1) is a legally binding, valid Closure Order. The other two documents were not signed by a Forest Supervisor, the person with authority, and not in the proper format to be valid. However, the group decided to recommend to me that while



not technically valid, we honor the verbiage contained in attachment 2. This is based on the fact that Tom Skinner, Program Manager (now retired), had worked with the Douglas District Ranger and the rock-climbing community to fashion the latter "amendments." The current Biologists' Leadership Team voted to recommend the stipulations in attachment 2, rather than supersede the document, or revert back to the stipulations of the original, attachment 1.

I support this approach, and am instructing the Law Enforcement agents on the Coronado National Forest to treat attachment 2, the 11 February 2008 memorandum, as the functional direction of Closure Order # 05-189, until we can revise an official, valid Closure Order, under our new guidance. If you have any questions on this, please do not hesitate to contact me at 520-388-8306 or Larry Jones at 520-388-8375.

Sincerely,

/s/ Jeanine A. Derby
JEANINE A. DERBY
Forest Supervisor

cc: Cheri Bowen
Larry Jones
Richard A Gerhart
Glenn Klingler
Josh Taiz