



Public Employees for Environmental Responsibility

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September 19, 2016

Hon. Tom Vilsack
Secretary of Agriculture
Jamie L. Whitten Federal Building
1400 Independence Avenue, SW
Room 200-A
Washington, DC 20250
agsec@usda.gov

Inspector General Phyllis Fong
U.S. Department of Agriculture
Jamie L. Whitten Federal Building
1400 Independence Avenue, SW
Washington, DC 20250
phyllis.fong@usda.gov

Dear Secretary Vilsack and General Fong:

I am writing to you today on behalf of Public Employees for Environmental Responsibility (PEER) to inform you one the most blatant official desecrations of a sacred site in modern American history, in this case by the U.S. Forest Service and to request immediate action from your offices.

As you know, the Trail of Tears was a series of forced relocations of Indian tribes from the Southeast U.S. following the Indian Removal Act of 1830, during which thousands died. The series of protected trails cover 2,200 miles stretching across nine states, from Georgia to Oklahoma. A number of the affected tribes have informed the Forest Service, among other federal entities, that they consider the Trail of Tears to be sacred to their peoples.

Beginning in January 2013, Cherokee National Forest officials launched extensive erosion control work. In March 2014, these officials executed an estimated \$28,000 on a bulldozing contract and oversaw the dredging a series of 35 tank traps and impoundment dykes across a nearly mile long stretch of the Trail of. Yet this work was undertaken –

- On lands the Forest Service did not then own. The tract was subject to an option to buy containing terms explicitly forbidding this type of work;
- Sending heavy equipment out without conducting the required historic or cultural resource reviews even though the sole purpose of the purchase was to add land to the publicly-owned historic trail system, and in violation of federal law requiring environmental review for any such project; and
- Without sufficient justification, as the targeted erosion was not on the Trail of Tears, now honeycombed with tank traps and 32 water bars.

Adding insult to this injury, it appears that the supposed erosion project was utterly unnecessary. There was no discernible erosion of trails in use by the Forest.

Shortly after the illegal project, the responsible district ranger was promoted to a position in the forest supervisor's office, placed in charge of "strategic planning" and retired the next year, according to an agency timeline (enclosed).

After the magnitude of the damage was recognized, the Forest Service did only an internal review but did not question anyone under oath or take any apparent disciplinary action.

It was not until many months after the damage was known that Regional Forester Tony Tooke issued an apology to the tribes this June which read, in part:

"The Forest Service's actions damaged the Trail of Tears...historic trails that you have told us are sacred to your tribes. Many of you have told me about the great harm this has done to the tribes, emotionally and spiritually. On behalf of the U.S. Forest Service, I sincerely apologize to each and every member of your respective tribes and to each of you individually for this incident."

Despite this act of contrition, in the more than two years since, the Forest Service has yet to repair the damage or take any steps to or prevent its recurrence.

Recently, the Tennessee Historical Commission in a letter dated September 6, 2016, announced that it is abrogating its Programmatic Agreement on management of cultural resources with the Cherokee National Forest (also enclosed). The Commission cited "the Forest Service's failure to comply with the stipulations in the Programmatic Agreement and resultant mismanagement of a previously identified historic property" in the Trail of Tears. This agreement had been in effect since 2005. Its termination will mean further expense and delay on virtually all future Forest projects.

By this letter, PEER is requesting that your offices 1) conduct a thorough review of these events utilizing investigators who are independent of the Forest Service; 2) identify responsible parties; and 3) pursue appropriate disciplinary and management corrective actions.

Beyond any apology, PEER advocates that your offices take steps to ensure that the U.S. Forest Service commits to repairing the damage done under a formal process and schedule involving all of the relevant stakeholders. Further, we would urge that your offices take steps to oversee the Forest Service adopting concrete management reforms which prevent – in an enforceable manner – this type of travesty from ever taking place again.

Thank you for your attention to this matter. Please feel free to contact me at (202) 265-PEER if you desire any further information or documents supporting this request.

Sincerely,

Jeff Ruch
Executive Director

Enclosures

Cc. U.S. Forest Service Chief Thomas Tidwell