

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 05-CV-01173-JLK-DW

COLORADO WILD, INC.,

Plaintiff,

v.

PETER CLARK, in his official capacity as Forest Supervisor, Rio Grande National Forest; MARIANNE FRAZIER, in her official capacity as Forest Service Rocky Mountain Regional FOIA Officer; ANDREA FOWLER, in her official capacity as FOIA/PA Coordinator for the United States Department of Agriculture; JAMES MICHAEL KELLY, in his official capacity as Acting General Counsel for the United States Department of Agriculture; BETTY L. OLLILA, in her official capacity as Deputy Assistant General Counsel, General Law Division, United States Department of Agriculture; U.S. FOREST SERVICE, a Federal Agency within the U.S. Department of Agriculture; and, U. S. DEPARTMENT OF AGRICULTURE, an agency with the Federal government;

Defendants.

**COURT MINUTES: ORAL ARGUMENT & RULING ON PLAINTIFF'S MOTION
FOR CONTEMPT AND MOTION FOR CONTINUED ENFORCEMENT
OF COURT ORDERED RELIEF**

Court in Session: 3:30 p.m.

The Magistrate Judge heard oral argument on the Plaintiff's Motion for Contempt and Plaintiff's Motion for Continued Enforcement of Court Ordered Relief on January 17, 2006 beginning at 3:30 p.m. Prior to hearing the arguments of counsel, the Magistrate Judge asked each of the parties to respond to questions posed by the Magistrate Judge. At 4:19 p.m. the Magistrate Judge asked the parties to meet with him in chambers off the record. At 4:25 p.m. the matter went back on the record and the Magistrate Judge heard the arguments of counsel after which the following Orders were entered:

The Defendants are willing to make amendments to the supporting declarations that would better describe the searches that occurred relating to the FIOA requests made by Plaintiff as they related to Ollila, Fowler and Morgan declarations and;

IT IS HEREBY ORDERED that those amendments shall be submitted to the Plaintiffs by January 31, 2006.

The Defendants are also willing to identify and state, without going into any detail of content, (1) any communications between Wolf Creek Village and the Forest Service and (2) any “ghost drafting” of U. S. Forest Service policy by Wolf Creek Village attorneys, assuming any of the above-mentioned documents exist.

IT IS FURTHER ORDERED a Vaughn index of these documents shall be submitted to Plaintiff by February 7, 2006.

As to Plaintiff’s Motion for Contempt, the Court finds that the Defendants are in substantial compliance with the Court’s order of October 18, 2005 and that a Motion for Summary Judgment is a more appropriate avenue for review than a Motion for Contempt and therefore;

IT IS HEREBY ORDERED that Plaintiff’s Motion for Contempt is **DENIED**.

As to Plaintiff’s Request for Continued Enforcement of Court Ordered Relief, the Court notes that all cases cited by the Plaintiff are consent decree cases and this is not a case involving a consent decree. In the proposed Order submitted to the Court which was entered on October 18 2005, the parties stipulated and agreed that any final Environmental Impact Statement related to the Application for Transportation and Utility and Facilities for the Village at Wolf Creek should not issue prior to November 28, 2005. The parties agreement and the Court’s order created no obligation on the parties or the U. S. Forest Service to further delay any final Environmental Impact Statement

past the November 28, 2005 date, therefore;

IT IS HEREBY ORDERED that Plaintiff's Request for Continued Enforcement of Court Ordered Relief is **DENIED**.

Dated: January 17, 2006

Court in Recess: 4:40 p.m.