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El Dorado County

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Supervisor, District III

2011 AUG 16 AM 8:05

BOARD OF SUPERVISORS
EL DORADO COUNTY

Date: August 15, 2011

To: Board of Supervisors

RE: **Item #18 on 8/16/11 Agenda – Summary of Rubicon Trail Issues**

1..We have asked for approval of our work plan for "maintenance" on the existing trail within the prescriptive use area. We should not need USFS approval and should proceed with this work to satisfy the CAO (Order issued by the Sacramento Valley Regional Water Quality Control Board April 23, 2009 #R5-2009-0030).

2..We have asked for a permit to place a bridge over Ellis Creek as required by the CAO. This permit is proposed to be cleared by Cal-Trans acting for Federal Highways. USFS wants to make this a part of the overall easement request. We also need a Corps of Engineers 404 permit. Water Quality Board could be helpful in obtaining that permit and the USFS could issue a use permit. Risk is lawsuit; but who would sue to have us avoid continuing pollution of creek crossing? Only fools!

3.. On August 31, 2010, the County of El Dorado acquiesced to the USFS request that the County apply for an easement for the Rubicon Trail. This came as a result of a long meeting with the Forest Supervisor, the Pacific District Ranger and a Regional Office Attorney. They had explained that pressure was coming from higher up to have us obtain such an easement rather than our pursuit as an RS2477 Public Road. They asserted that it would make our relationship more workable.

We believed that they would immediately allow ALL maintenance work, quickly clear the Ellis Creek Bridge and take the time they needed to work on the overall easement.

The Board of Supervisors needs to authorize our DOT to continue with the maintenance work as planned, continue to press for immediate clearance of the Ellis Creek Bridge, and be patient and cooperative as to the overall easement.

As to the additional issues:

My greatest fear was that the USFS would expand the Rubicon Trail issues to include other road segments which are on the County Maintained Mileage System.

They are making such an attempt. They want to include the Wentworth Springs Road from near Airport Flat to the Wentworth Springs Campground (the beginning of the Rubicon Trail). This road segment is part of the County Maintained System and has been at least since 1937. We have a photo of a plaque on a bridge over Basin Creek dated 1937. This road section is subject of an agreement with the USFS dated August 5, 1971 wherein they would build a ford at Dellar Creek and the County would "continue to maintain the road".

We are in fact continuing to maintain the road! Also, this road, as all of our system roads, is covered by a blanket NPDES permit.

Perhaps the reason the USFS is trying to include this road is our effort to place a bridge over Gerle Creek at a location on private property. Not a good idea as that location is not their affair.

The Board of Supervisors should direct staff to resist with all effort the inclusion of any portion of County System Roads in the Rubicon affair and should direct that the staff resist any effort by the USFS to further intervene in the maintenance process on any system road. Further, the Board should direct that the annual report from the DOT Maintenance Division be forwarded to the Forest Engineer after its approval by the Director of DOT.