

From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>
Sent: Tuesday, September 5, 2023 4:28 PM
To: R. Tee Spjute <tee@robertsonalger.com>; Briefer, Laura <laura.briefer@slcgov.com>
Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

Due to the changing conditions and ownerships in the canyon, I respectfully request proof of ownership, such as copies of vesting deeds, bills of sale, and/or the owner's title insurance policy in addition to the county tax assessor's information, for each landowner who is requesting motorized access to their property. As people have driven off the only previously authorized motor vehicle route in the canyon, I also request new maps showing how each landowner is proposing to use motorized vehicles within the canyon to access their properties. I will only consider authorizing incidental motorized vehicle use if provided the above information, completed form FS-7700-48, and the use meets the definition of incidental (occasional, unexpected, or singular use that meets the criteria for exemption from permit requirements in 36 CFR 251.50(e)(1)). To meet this criterion, I also ask that you limit the total number of days you are asking for access to one weekend.

If the landowners would like to request motorized vehicle use access for their family members or for additional days above what is considered incidental, they will need to fill out a permit application (SF-299 (located here [Standard Form 299 - Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property \(gsa.gov\)](https://www.gsa.gov/standard-form-299))).

To be clear, the people in the photo were not Forest Service surveyors. Our surveyors are respecting private property to the greatest extent possible. They may go onto private lands in order to find existing markers and corners but they are doing so to clarify where our boundaries are. You may be aware, David E. Hawkes with Boundary Consultants is doing surveys in Cardiff Fork canyon. He is not associated with us. His phone number is 801-792-1569 and email isdave@boundaryconsultants.biz if you would like to reach out to him and find out which landowner he is working for.

I hope this helps.

Bekee

Bekee Hotze
District Ranger

Forest Service

**Uinta-Wasatch-Cache National Forest, Salt Lake Ranger
District**

p: 801-733-2675
c: 801-372-0926
rebecca.hotze@usda.gov

6944 South 3000 East
Salt Lake City, UT 84121
www.fs.usda.gov

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>
Sent: Tuesday, September 5, 2023 4:10 PM
To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Briefer, Laura <laura.briefer@slcgov.com>
Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

I will be sending you additional emails with the following:

1. Permit application with the name of the landowner, my contact information, proposed dates, and description
2. Forest Service map identifying the road that crosses Forest Service land
3. Screenshot from the Salt Lake County Assessor office confirming ownership
4. Screenshot from the State of Utah confirming LLC ownership

Let me know if this is what you are looking for and I will get these applications signed and returned to you.

I hope there is some flexibility with the proposed dates. Some landowners can inspect on Saturdays, some Sundays, and some Mondays. I mainly included the Saturday for each weekend in September.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

This message and any attached documents contain information from the law firm of Robertson Alger & Spjute that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information. If you have received this transmission in error, please notify the sender immediately by reply email and then delete this message.

From: R. Tee Spjute

Sent: Friday, September 1, 2023 6:50 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Briefer, Laura <laura.briefer@slcgov.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>;

Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotzee,

I am trying to comply with what you asked.

I included the prior permit map because the Forest Service previously produced that. The location of the road and parcels has stayed the same.

The landowner list (along with their family members) is the same one your office previously accepted as owners.

After much back and forth, you have now sent me a permit application. Thank you, I wish it had been sent previously.

To comply with the map/road request, I will

- Highlight the road where it crosses Forest Service property

To meet your requirements for "proof of ownership" for individuals, I can

- Take a screenshot from the County Assessor website, with the individual name attached

I can take a screenshot of the parcel landowner for the LLCs, then provide proof of LLC ownership via the State website.

Would you happen to know if these steps and information will meet your requirements?

I will provide the maps, ownership, and description to you very soon.

There is another matter that concerns me related to what appears to be your surveyors entering onto private property. I specifically asked you and Laura Briefer if you authorized the surveyors shown on landowners' wildlife cameras. I did not receive an answer.

I have been told that surveyors are on the JLC property in lower Cardiff by the main road. I specifically stated that your surveyors are NOT authorized to be on that private property without further permission. Please have your surveyors represent my clients' property. I understand that Salt Lake City is claiming we are putting fences on their property, but that is not the case. I hope we all can respect each other's property.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Thursday, August 31, 2023 5:26 PM

To: R. Tee Spjute <tee@robertsonalger.com>; Briefer, Laura <laura.briefer@slcgov.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

Your proposal cannot be waived based on “noncommercial recreational activities” when you state the purpose is to inspect private property through motor vehicle use. If the landowners wanted to hike to their properties in a large group, that would qualify as a noncommercial recreational activity. Your proposal falls under 36 CFR 251.50 (d)(1).

(d) Travel on any National Forest System road shall comply with all Federal and State laws governing the road to be used and does not require a special use authorization, unless:

(1) The travel is for the purpose of engaging in a noncommercial group use, outfitting or guiding, a recreation event, commercial filming, or still photography, as defined in [§ 251.51 of this subpart](#), or for a landowner's ingress or egress across National Forest System lands that requires travel on a National Forest System road that is not authorized for general public use under [§ 251.110\(d\) of this part](#);

Forest Service authorization is required to use motor vehicles on any NFS land that is not designated for motor vehicle use in accordance with 36 CFR 212.50, 261.13.

I can only approve the use of motor vehicles without a special use permit if I am able to determine that such use would have such nominal effects on NFS land, resources, or programs that a permit is not necessary to protect NFS land or resources or avoid conflict with Forest Service programs (251.50(e)(1)). For this reason, I had asked for evidence of ownership of property to which motor vehicle use is necessary for incidental access and an explanation of why motor vehicle use on NFS land is needed.

You have provided a list of over 200 individuals and stated they needed motorized access. The list contained not only landowners but also family members that were part of an expired permit. You have also sent me a map that was part of the expired permit, but the road that was highlighted for motor vehicle use does not provide access to all the properties within the canyon. As you know, one of the continued issues of non-compliance with the previous permit was unauthorized motor vehicle use off National Forest System Road #019.

Allowing motor use vehicle access to over 200 individuals, even if limited to 6 people per day, for every weekend for 5 weekends is not incidental. We used the term "incidental" to mean an occasional, unexpected, or singular use that meets the criteria for exemption from permit requirements in 36 CFR 251.50(e)(1).

I am attaching a permit application for use of roads, trails, or areas restricted by regulation or order when the use is incidental. In addition to needing the information contained in the form in enough detail for me to determine if the use is incidental, I need the following:

- I understand that some of the property is owned by corporations, partnerships, or associations, for those landowners, I need information that satisfies 36 CFR 251.54 (d)(2)(ii)(B), 36 CFR 251.54 (d)(2)(ii)(D) or 36 CFR 251.54 (d)(2)(ii)(E), whichever applies.
- In accordance with 36 CFR 251.54 (d)(5), I again ask for a list of landowners (not family members), proof of ownership, and a detailed map showing exactly how they plan to use motor vehicles to access their property across National Forest System lands.

Sincerely,

Bekee

Bekee Hotze
District Ranger

Forest Service

**Uinta-Wasatch-Cache National Forest, Salt Lake Ranger
District**

p: 801-733-2675
c: 801-372-0926
rebecca.hotze@usda.gov

6944 South 3000 East
Salt Lake City, UT 84121
www.fs.usda.gov

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Wednesday, August 30, 2023 1:35 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Briefer, Laura

<laura.briefer@slcgov.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotzee:

Can I get answers to my prior email and questions below?

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

This message and any attached documents contain information from the law firm of Robertson Alger & Spjute that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information. If you have received this transmission in error, please notify the sender immediately by reply email and then delete this message.

From: R. Tee Spjute

Sent: Wednesday, August 23, 2023 8:55 AM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Briefer, Laura <laura.briefer@slcgov.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

Thanks for the last email.

I want to make sure I understand your request and the necessary steps. According to 251.50,

Before conducting a special use, individuals or entities must submit a proposal to the authorized officer and must obtain a special use authorization from the authorized officer, unless that requirement is waived by [paragraphs \(c\) through \(e\)\(3\)](#) of this section.

According to paragraph c,

A special use authorization is not required for noncommercial recreational activities, such as camping, picnicking, hiking, fishing, boating, hunting, and horseback riding, or for noncommercial activities involving the expression of views, such as assemblies, meetings, demonstrations, and parades, unless:

(1) The proposed use is a noncommercial group use as defined in [§ 251.51 of this subpart](#);

(2) The proposed use is still photography as defined in [§ 251.51 of this subpart](#); or

(3) Authorization of that use is required by an order issued under [§ 261.50](#) or by a regulation issued under [§ 261.70 of this chapter](#).

Our use is for "non commercial recreational activities". Our landowners are a noncommercial group and or individuals.

Is our authorization required by an order issued under 261.50 or a regulation under 261.70?

According to 251.50 (e)

For proposed uses other than a noncommercial group use, a special use authorization is not required if, based upon review of a proposal, the authorized officer determines that the proposed use has one or more of the following characteristics:

(1) The proposed use will have such nominal effects on National Forest System lands, resources, or programs that it is not necessary to establish terms and conditions in a special use authorization to protect National Forest System lands and resources or to avoid conflict with National Forest System programs or operations;

According to 251.54,

Filing proposals. Proposals for special uses must be filed in writing with or presented orally to the District Ranger or Forest Supervisor having jurisdiction over the affected land

The required information is:

Noncommercial group uses. [Paragraphs \(d\)\(3\)](#) through [\(d\)\(5\)](#) of this section do not apply to proposals for noncommercial group uses. A proponent for noncommercial group uses shall provide the following:

(A) A description of the proposed activity;

(B) The location and a description of the National Forest System lands and facilities the proponent would like to use;

(C) The estimated number of participants and spectators;

(D) The starting and ending time and date of the proposed activity; and

(E) The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the proponent.

Since presenting orally to the District Ranger is an option, can you and I hop on a phone conversation to review and approve our requests?

Our Proposal would be similar to the following for each applicant. Does something like this work for you?

Proposal - Motorized access over the existing Cardiff Fork Road so private landowners can physically inspect their private property for vandalism, dead and down on existing roads and trails, and overall wellness inspection for the land.

Location - Please see the attached land ownership map that shows the Cardiff Fork Road and where it crosses public and private property. NO Forest Service lands will be used by applicants other than driving over the existing Cardiff Fork Road where it crosses Forest Service land.

Number of Participants - Not to exceed 6 individuals per application.

Starting and ending time and date - Due to the work schedules of applicants, we would like to identify a block of dates, or weekends, that we could then coordinate with applicants. Once confirmed with applicants, I can let you know specific dates for specific applicants. For example, if we determine that each weekend from August 25 to Sept 23 is available, I will get dates from applicants.

Signing - I do not have the complete list at this time but, for example, it would be, Cyle Buxton, Wayne Crawford, Justin Hohl, Corey Buxton, Judd Mackintosh, and others.

I hope this email helps better determine and define the process we are asked to follow. The proposals will be mostly the same. This should help keep the process simple.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

This message and any attached documents contain information from the law firm of Robertson Alger & Spjute that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information. If you have received this transmission in error, please notify the sender immediately by reply email and then delete this message.

From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Friday, August 18, 2023 5:16 PM

To: R. Tee Spjute <tee@robertsonalger.com>; Briefer, Laura <laura.briefer@slcgov.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

As you are aware, all landowners continue to have access to their property by walking, however the road is closed to motor vehicles where it crosses NFS land, and Forest Service authorization is required to use motor vehicles on any NFS land that is not designated for motor vehicle use in accordance with 36 CFR 212.50, 261.13. The

information you have provided lacks the specificity needed to make a determination. Authorization may be sought by individuals by making a proposal to the Forest Service in accordance with **36 CFR 251.54**, with the requirements outlined in **36 CFR 251.54(d)**. Only once I have a complete proposal will I be able to determine if a permit is required and may be issued in accordance with 36 CFR 251.54, which is likely to take several months to process, at minimum. Alternatively, the Forest Service has indicated that it may authorize incidental uses by motor vehicles without issuance of a permit where the proposal meets the criteria at **36 CFR 251.50(e)(1)**. This determination will be made on a case-by-case basis, depending on the complete proposal received outlining the proposed motor vehicle use. We used the term "incidental" to mean an occasional, unexpected, or singular use that meets the criteria for exemption from permit requirements in 36 CFR 251.50(e)(1).

Sincerely,

Bekee

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Friday, August 18, 2023 4:44 PM

To: Briefer, Laura <laura.briefer@slcgov.com>; Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

Another follow up on the prior emails.

I want to start scheduling land inspections with CCOA and hunting access for the Mackintosh family.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: R. Tee Spjute

Sent: Friday, August 18, 2023 4:42 PM

To: Briefer, Laura <laura.briefer@slcgov.com>; 'Hotze, Bekee - FS, UT' <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Briefer,

Thank you for the follow-up email.

As I previously stated, few surveys are available in Cardiff Canyon. In addition, the County Surveyors' office claims their records for property lines in the area can be off by hundreds of feet.

The Forest Service states they have surveyors ready to go. CCOA landowners should have the schedule for their surveyor very soon.

Since parties are not authorized to cross each other's property at this time, it seems wise to get the Forest Service/CCOA agreements in place, let the surveyors get to work on the mountain, and they can instruct landowners as to the correct locations. When and where necessary, the fencing and signs can be moved.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Briefer, Laura <laura.briefer@slcgov.com>

Sent: Friday, August 18, 2023 11:17 AM

To: R. Tee Spjute <tee@robertsonalger.com>; 'Hotze, Bekee - FS, UT' <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>; Nelson, Patrick <Patrick.Nelson@slcgov.com>; Greenleaf, Karryn <Karryn.Greenleaf@slcgov.com>; Bench, Nikole <nikole.bench@slcgov.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

The location of the fences on the map you provided shows that they are placed on Salt Lake City's property. You state you believe the fences are not on our property based on current information, but you have not provided any other information besides the attached map that shows the fence locations on the City's land. If you feel the map you provided is incorrect and needs to be updated, or if there is other information that you believe would be helpful in clarifying your client's claims, please provide that information. Otherwise, we are again requesting that the fences be removed.

Thank you,

Laura

LAURA BRIEFER, MPA | (*She/Her/Hers*)

DIRECTOR

Department of Public Utilities | Salt Lake City Corporation

Office: (801) 483-6741

Cell: (385) 252-9379

Email: Laura.Briefer@slcgov.com

www.slc.gov/utilities

www.slc.gov

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Thursday, August 17, 2023 10:48 AM

To: Briefer, Laura <laura.briefer@slcgov.com>; 'Hotze, Bekee - FS, UT' <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Briefer:

Thank you for the follow-up email.

CCOA plans to survey all of their private parcels in Cardiff and is in the process of scheduling that effort. This will prevent these questions from happening in the future since landowners will know where the property lines are and there won't be any issues. Based on current information we believe the fences are in the appropriate location but will be happy to work with Salt Lake City to ensure the location of fencing is correct.

One of the issues for everyone involved is that there are few accurate surveys in that area. I am told that the County Surveyors office has said their data in this area could be inaccurate and off by hundreds of feet, so being told that our fences are in the wrong location or on land owned by Salt Lake City is difficult to determine. If you have a survey of the subject property that would help clarify this issue, please forward it to me.

Lastly, please see the Twitter handle @Informed_Utah. It has videos of surveyors who likely crossed my client's property without permission. Do you know who these surveyors are? I want to make sure I understand what is going on with my clients' property, just like you are doing the same for property owned by Salt Lake City.

Thank you for working with us to resolve these issues.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Briefer, Laura <laura.briefer@slcgov.com>
Sent: Wednesday, August 16, 2023 3:49 PM
To: 'Hotze, Bekee - FS, UT' <rebecca.hotze@usda.gov>; R. Tee Spjute <tee@robertsonalger.com>
Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Tee,

To follow up on my email to you last week (attached), please provide an update related to our request that your clients remove fencing and any other materials that they may have placed on Salt Lake City's property. If you haven't already, please alert them that they do not have permission to place any items on the City's land and must remove these items immediately.

Should the items not be removed in a timely manner, please note that Salt Lake City will remove and dispose of the items.

Thank you,

Laura

LAURA BRIEFER, MPA | *(She/Her/Hers)*

DIRECTOR

Department of Public Utilities | Salt Lake City Corporation

Office: (801) 483-6741

Cell: (385) 252-9379

Email: Laura.Briefer@slcgov.com

www.slc.gov/utilities

www.slc.gov

From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Wednesday, August 16, 2023 2:14 PM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

At this point, I will do what I can to help coordinate with the surveyors. They are traveling to Salt Lake today and plan to start work tomorrow. Once I hear back from them, I could provide more information.

Regarding the request to use motorized vehicles on National Forest System lands, I still haven't received any of the information I have requested to adequately assess whether or not it would be incidental and can be authorized in a letter, or if the use would require a permit application.

Sincerely,

Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>
Sent: Wednesday, August 16, 2023 12:15 PM
To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>
Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; laura.briefer@slcgov.com; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

I also wanted to follow up with you regarding my prior checklist from August 8, 2023. Please see my comments below in red.

1. I will contact our landowners to coordinate times to inspect private property in Cardiff.

Several landowners would like to inspect their property. What do the time slots look like? For example, do we decide and coordinate specific dates with you, then the landowners meet your ranger at the gate, say at 10 am, then the landowners meet your ranger back at the gate at 5 pm?

2. I am glad to see that surveying will occur this summer in Cardiff. I will review your authorization form along with the specific parcels. I received the form in the mail yesterday.

CCOA members have decided to survey all their private lands in Cardiff, separate from the Forest Service survey work. The surveys for parcels along the road will occur first. CCOA is waiting for their surveyor's schedule. As soon as I know more details, I will reach out to you with dates that their surveyor needs to be on the mountain.

I will get the authorization forms for the parcels you requested.

However, the JLC property (erroneously identified as the Evan Johnson parcel) is not authorizing access or work to be done on its lower parcel by the main road (parcel you have identified as Evan Johnson Parcel Exhibit, but is, in fact, JLC).

In addition, I am told the survey on the Success, June Bug, etc., that was provided is in error and that it will be corrected over the next 30 days. I will provide that to you as I receive it. Some land was mistakenly left out.

3. Please see the attachment that shows where the orange net fencing has been installed. As you can see, the map shows the Donut Falls trail crossing Evan Johnson's property. Let's make sure to survey this parcel and the location of the trail. **See prior answer.**

4. There have been a number of trespassers on private lands in Cardiff. Some of our landowners have installed wildlife cameras. Landowners continue to file police reports with pics from the wildlife cams. Anything your office can do to help prevent trespassing on private property is appreciated.

I was sent a link to the Twitter handle @Informed_Utah. Some videos show surveying being done in Cardiff at least starting last week or the week before. Our private landowners tell me they did not hire these surveyors. Do you know who these surveyors are or if they work for the Forest Service? I assumed that surveying would not start until the 17th. I am concerned that they went across private property without landowner consent. If they were working with the Forest Service, what specific parcels did they survey, etc.?

5. Please review the attached video. An employee of the Forest Service makes some concerning statements. In particular, he states the Cardiff Fork Road is no longer a road but is, in fact, a trail. Is this the official position of the Forest Service? If yes, please provide me with the documents and determination you relied on to convert the road to a trail. **See prior answer.**

6. A few of our Cardiff landowners have permits for the upcoming bow hunt. They would like motorized access for the days they are hunting. **Can our CCOA members get motorized access to Cardiff for the bow hunt? This will involve them staying overnight. I believe the hunt starts tomorrow.**

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

This message and any attached documents contain information from the law firm of Robertson Alger & Spjute that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information. If you have received this transmission in error, please notify the sender immediately by reply email and then delete this message.

From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Tuesday, August 15, 2023 2:06 PM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; laura.briefer@slcgov.com; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

Our plan is to survey the boundaries of mutual concern to the owners and the public/Forest Service which we have previously identified (outlined in red). We are not planning to survey the entire boundary of each private parcel, however the landowners may contract those services out separately if they wish. And yes, we will be filing our survey(s) and corner records with the County Surveyor's Office.

Thank you,
Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>
Sent: Tuesday, August 15, 2023 11:00 AM
To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>
Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>;laura.briefer@slcgov.com; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotzee,

A quick question. I want to follow up with you regarding your proposed surveys.

It appears you intend to survey only the portion of the parcels outlined in red. Is this correct?

My clients are interested in complete and stamped surveys for their entire parcels. Then, in compliance with the County ordinance, our stamped surveys must be submitted and recorded at the surveyor's office and available to the public.

Please confirm that your proposal includes surveying the entire parcel and then recording the completed and stamped surveys at the County Surveyors' office.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Wednesday, August 9, 2023 3:16 PM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson

<cwnelson@utah.gov>;laura.briefer@slcgov.com; Kittrell, Mark

<Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn

<rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

Thank you for your response. For clarification, are you saying that the locations marked with an "X" on the attached "Donut Falls Map.jpg" image are where fencing has been installed? If so, I believe that property is owned by Salt Lake City. I see that Laura Briefer is cc'ed here and will ask her to address the land ownership.

Thank you for bringing #4 and 5 to my attention. I will work with my staff to ensure that we are portraying the situation in Cardiff Canyon accurately. Specifically, two long-term special use permits in Cardiff Canyon expired May 31, 2022. The first permit issued by

the Forest Service to Cardiff Canyon Owners Association (CCOA), which allowed motor vehicle use across National Forest System (NFS) land in Cardiff Canyon, has expired. The 2nd permit was issued by the CCOA to the Forest Service, which allowed Forest Service administrative access and non-motorized public access across private lands, and also expired at that time. As of now, CCOA has not applied for a special use permit which would allow motor vehicle use on NFS land in Cardiff Canyon and the Forest Service does not have authorization from CCOA to cross, or to allow the public to cross, private lands, even on an existing trail. As for the reference to an existing trail, I noticed that Cardiff Fork trail (#1157) is shown on the maps we had printed in 2017 that are currently in use. I am working with our Supervisor's Office to update the map to remove trail # 1157 from the map where it first enters private property (McConaughy's). These changes should help improve public messaging.

I look forward to receiving additional information as outlined in my previous email about the request for motor vehicle use on NFS land. The additional information is necessary so we can make a determination as to whether or not it would be incidental and can be authorized in a letter, or will require a permit application.

Sincerely,

Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Tuesday, August 8, 2023 4:43 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson
<cwnelson@utah.gov>;laura.briefer@slcgov.com; Kittrell, Mark
<Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn
<rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Bekee,

Thank you for the email.

1. I will contact our landowners to coordinate times to inspect private property in Cardiff.
2. I am glad to see that surveying will occur this summer in Cardiff. I will review your authorization form along with the specific parcels. I received the form in the mail yesterday.
3. Please see the attachment that shows where the orange net fencing has been installed. As you can see, the map shows the Donut Falls trail crossing Evan Johnson's property. Let's make sure to survey this parcel and the location of the trail.
4. There have been a number of trespassers on private lands in Cardiff. Some of our landowners have installed wildlife cameras. Landowners continue to file police reports with pics from the wildlife cams. Anything your office can do to help prevent trespassing on private property is appreciated.
5. Please review the attached video. An employee of the Forest Service makes some concerning statements. In particular, he states the Cardiff Fork Road is no longer a road but is, in fact, a trail. Is this the official position of the Forest Service? If yes, please provide me with the documents and determination you relied on to convert the road to a trail.
6. A few of our Cardiff landowners have permits for the upcoming bow hunt. They would like motorized access for the days they are hunting.

We are making progress on a number of important Cardiff issues. I appreciate your cooperation as we work toward restoring public and private access in Cardiff Canyon.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Thursday, August 3, 2023 12:31 PM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; Laura Briefer <laura.briefer@slcgov.com>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

Thank you for your email, it is very timely. I am going to refer you to an email exchange we had the end of January and beginning of February. Unless the Forest Service has designated motor vehicle use (as identified on our Motorized Vehicle Use Map - https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5336991.pdf) or has issued a special use permit, I can only approve the use of motor vehicles if I am able to determine that such use would have such nominal effects on NFS land, resources, or programs that a permit is not necessary to protect NFS land or resources or avoid conflict with Forest Service programs. For this reason, I had asked for evidence of

ownership of property to which motor vehicle use is necessary for incidental access, an explanation of why motor vehicle use on NFS land is needed, and sufficient advance notice to evaluate the request and assign personnel to open the gate and monitor the motor vehicle use if incidental use of motor vehicles is approved. At this time, I do have staff available to assist CCOA members once we identify a time. As always, I only speak for National Forest System lands and will allow Laura Briefer speak for Salt Lake City Department of Public Utilities lands.

We have also had exchanges about surveying boundaries between National Forest System lands and landowners in Cardiff. I have been notified that our survey crew has availability in a few weeks starting August 17th and would like to survey a few of the boundaries. As you, acting as their attorney, have instructed me to communicate through you, I am attaching a notification letter asking for permission to do this work. I am attaching maps where we have highlighted in red the parcel boundaries that we plan to survey. The Work Explanation Enclosure Form explains how the surveyors will conduct the work and offers landowners an opportunity to inspect the work at any time. I ask that you route this form along with the notification letter and the appropriate map to the landowners for their consideration. If they agree, I would need them to sign and date the letter and return to me.

Thank you,

Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Tuesday, July 25, 2023 3:53 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson
<cwnelson@utah.gov>;laura.briefer@slcgov.com; Kittrell, Mark
<Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn
<rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

Now that the snow has melted, I would like to get temporary motorized access into Cardiff Canyon for the landowners so they can inspect their property.

What specific steps would you like me to take to accomplish this? I can provide the names of specific landowners, proposed dates, etc.

Thank you.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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this information. If you have received this transmission in error, please notify the sender immediately by reply email and then delete this message.

From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>
Sent: Tuesday, June 27, 2023 8:54 AM
To: R. Tee Spjute <tee@robertsonalger.com>
Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson <cwnelson@utah.gov>; laura.briefer@slcgov.com; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

As I mentioned earlier in this e-mail string, anyone working on National Forest System lands must do so under the direction of qualified staff and under a volunteer agreement. Salt Lake Ranger District staff, under my direction, continue to assess projects we will focus on this summer. Volunteer services will only be accepted for these approved projects. Based on current assessments, we have identified projects for volunteer service. The project you describe below is not being considered this year. CCOA members are not authorized to perform any work on National Forest System lands in Cardiff Canyon.

Thank you,

Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Monday, June 26, 2023 2:11 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Jordan Cullimore <jcullimore@utah.gov>; Cyndy Nelson
<cwnelson@utah.gov>;laura.briefer@slcgov.com; Kittrell, Mark
<Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn
<rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

For your information, it is my understanding that there were many volunteers organized by Dea Theodore and they removed dead trees from the portions of the road located on private property along Cardiff Road. Twitter @deatheodore

Some of the landowners who participated reported back that there are dead trees across the Forest Service portion and that members of the public hiking to Donut Falls have to go over or under the dead trees.

Our landowners want to know if you will give permission to them to cut and remove those dead trees and the hiking hazard it has created?

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Wednesday, June 21, 2023 8:44 AM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Connor Flinders <connor@robertsonalger.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

I have no concerns with work done on private lands, I do have concerns with work done on National Forest System lands and I have concerns with unauthorized motorized use across National Forest System lands. As mentioned below, CCOA members installed a fence on National Forest System lands last winter claiming it was private property and that there was no trespassing. I want to validate the survey information they are using with our data prior to their work to ensure they do not impact National Forest System lands.

Thank you,

Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Tuesday, June 20, 2023 4:18 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Connor Flinders <connor@robertsonalger.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Just so that I understand, is there an objection to removing fallen trees with chains saws on private property?

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Tuesday, June 20, 2023 4:07 PM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Connor Flinders <connor@robertsonalger.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

Please send me copies of their surveys they plan to use to identify when they are on their lands. As I mentioned over the winter, they erected an orange fence on National Forest System roads telling the public it was private property and no trespassing. If you can't find my email, let me know and I will resubmit it to you.

Regarding your question about the ownership. This is an issue that has been brought up repeatedly. I have sent you the documents I possess on the issue and have summarized them for Mr. Bennett in the email linked below. If you need copies of the documents and the links do not work, please submit a FOIA request to our FOIA coordinator, Kathy.pollock@usda.gov.

Thank you,

Bekee

[202306_es_to Bennett re_\[External Email\]Ownership of the Cardiff Canyon Road.pdf \(collaborators only\)](#)

Bekee Hotze
District Ranger

Forest Service

Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District

p: 801-733-2675

c: 801-372-0926
rebecca.hotze@usda.gov

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Tuesday, June 20, 2023 3:46 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Connor Flinders <connor@robertsonalger.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

I have a few more follow-up items.

The landowners want to remove the dead trees and debris off the road on their private property. The landowners possess surveys that indicate the boundaries of their property. They plan to use chainsaws to remove trees. Do you have any concerns or objections regarding their actions to maintain access and public safety? Please let me know.

Also, has the Forest Service ever conducted a legal opinion on the ownership of Cardiff Road on public and private property? If yes, please send me a copy of the opinion or direct me to the individual I can discuss this with them.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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this information. If you have received this transmission in error, please notify the sender immediately by reply email and then delete this message.

From: R. Tee Spjute

Sent: Tuesday, June 20, 2023 1:32 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Cc: Connor Flinders <connor@robertsonalger.com>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

One last comment, it is my understanding that some of the fallen trees are in a stream which is causing the washing out the road. If you don't want volunteers to take action to resolve that issue, we request that the Forest Service prevent destruction to the road if it is also preventing my clients from fixing this issue.

If this request needs to be made in a different manner, please let me know and copy my associate Connor on future communication since I will be out of the office the rest of this week. Thank you in advance.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Tuesday, June 20, 2023 1:04 PM

To: R. Tee Spjute <tee@robertsonalger.com>

Subject: FW: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

I did not receive your email until today and am providing a response to your inquiry. During my absence, Cody Edwards responded explaining our process to accept volunteer service for approved projects on National Forest System lands. Anyone working on National Forest System lands must do so under the direction of qualified staff and under a volunteer agreement. Salt Lake Ranger District staff, under my direction, continue to assess projects we will focus on this summer. Volunteer services will only be accepted for these approved projects. Based on current assessments, we have identified projects for volunteer service. The project you describe below is not being considered this year. CCOA members are not authorized to perform any work on National Forest System lands in Cardiff Canyon.

For future communication, please send correspondence directly to me.

Thank you,

Bekee

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest,
Salt Lake Ranger District**

p: 801-733-2675

**c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East

Salt Lake City, UT 84121
www.fs.fed.us

Caring for the land and serving people

From: Hurtt, Justin - FS, UT <Justin.Hurtt@usda.gov>

Sent: Tuesday, June 20, 2023 12:21 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Wood, Tucker - FS, AZ
<tucker.wood@usda.gov>

Subject: FW: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners
Association / U.S. Forest Service

From: R. Tee Spjute <tee@robertsonalger.com>
Sent: Friday, June 16, 2023 3:39 PM
To: Edwards, Cody - FS, UT <Cody.Edwards2@usda.gov>
Cc: Hurtt, Justin - FS, UT <Justin.Hurtt@usda.gov>; Anderson, Lindsay - FS, UT <Lindsay.Anderson@usda.gov>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

All,

Following up on the email I sent last week regarding cleaning up the fallen trees on Cardiff Road.

CCOA members and landowners would like to start removing trees tomorrow off the road. Do you have any objection to their work tomorrow? They, of course, have performed this work each year on this section of the road.

Thank you and please let me know as soon as you can.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: R. Tee Spjute
Sent: Friday, June 9, 2023 8:56 AM
To: Edwards, Cody - FS, UT <Cody.Edwards2@usda.gov>
Cc: Hurtt, Justin - FS, UT <Justin.Hurtt@usda.gov>; Anderson, Lindsay - FS, UT <Lindsay.Anderson@usda.gov>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Thank you. Let me know when you are ready for assistance with the clean-up.

Sincerely,

Robert Tee Spjute

Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Edwards, Cody - FS, UT <Cody.Edwards2@usda.gov>
Sent: Friday, June 9, 2023 8:24 AM
To: R. Tee Spjute <tee@robertsonalger.com>
Cc: Hurtt, Justin - FS, UT <Justin.Hurtt@usda.gov>; Anderson, Lindsay - FS, UT <Lindsay.Anderson@usda.gov>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Robert,

Good morning, thank you for taking the time to reach out to the UWC and your willingness to provide assistance and coordination to the cleanup that may be required in various portions of the forest along the Wasatch Front. Efforts are still in the organization phase at the SLRD. I have cc'd Justin our SSS on this response who has been capturing those willing to provide support in various ways. Once we are at a place where we can begin directing and assigning crews, we will consider your offer to provide assistance and direction in the clean-up effort. We hope to have those procedures and implementation plans in place in the near future.

Have a great day

Cody

Cody Edwards
Fisheries Biologist

Forest Service

Salt Lake Ranger District

Cody.Edwards2@usda.gov

385 271-6563

6944 S 3000 E,

Salt Lake City UT 84121

www.fs.fed.us

From: R. Tee Spjute <tee@robertsonalger.com>
Sent: Wednesday, June 7, 2023 7:04:33 PM
To: Edwards, Cody - FS, UT <Cody.Edwards2@usda.gov>
Subject: FW: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Cody,

It looks like Bekee is out of town, her email saying she was out of the office said I should contact you. Here is the email that was sent below. Thank you.

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: R. Tee Spjute

Sent: Wednesday, June 7, 2023 6:51 PM

To: 'Hotze, Bekee - FS, UT' <rebecca.hotze@usda.gov>; 'Jordan Cullimore' <jcullimore@utah.gov>

Cc: 'Cyndy Nelson' <cwnelson@utah.gov>; 'Briefer, Laura' <laura.briefer@slcgov.com>; 'Kittrell, Mark' <Mark.Kittrell@slcgov.com>; 'Otto, Rachel' <Rachel.Otto@slcgov.com>; 'Richard Plehn' <rplehn@utah.gov>; Dea H. Theodore <DHTheodore@slco.org>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Bekee, Laura, and Dea:

We are aware of damage issues in the Wasatch due to this winter's extreme snowfall and related issues. My client, the CCOA and its members appreciate the efforts to reach out to the public for volunteers to help clean up, mitigate, and restore the canyons to their natural state. (see reference to the article below)

The CCOA has requested that I reach out to you to coordinate times and resources to clear Cardiff Road and certain trails.

The CCOA is ready to begin work immediately, Please let me know what is needed for "some oversight on that".

Time is of the essence and I appreciate your timely response to this matter.

Whittekiend said the Forest Service is asking for volunteers to mitigate the damage and try to restore the canyons to their natural state as much as possible.

“We are accepting volunteers to go out. We would ask that they check with the Forest Service office. And before they just go out and start doing work on the forest, we need some oversight on that,” he said. “But we’re assembling projects that volunteers could work on. We’ve also had a very successful adopt the trail program in the forest in the past and if there are people who want to adopt a trail and do a lot of maintenance work.”

https://www.deseret.com/utah/2023/6/2/23745489/snowpack-cottonwood-canyons-debris-flows-recreation-uah-forest-service-recreation?utm_campaign=Utah%20Policy&utm_medium=email&_hsmt=261138089&_hsenc=p2ANqtz--rZbwydkmx9MQVVnIdPBdJDPaaon-aylx0UcnEvs9BiMi31P086Jd3OYU-pa2fpeE02nebnz5oQcFC264PTadr0Mkr84wBGAsglcCHz0t6_VXNwTM&utm_content=261138089&utm_source=hs_email

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: R. Tee Spjute

Sent: Thursday, March 2, 2023 3:13 PM

To: 'Hotze, Bekee - FS, UT' <rebecca.hotze@usda.gov>; 'Jordan Cullimore' <jcullimore@utah.gov>

Cc: 'Cyndy Nelson' <cwnelson@utah.gov>; 'Briefer, Laura' <laura.briefer@slcgov.com>; 'Kittrell, Mark' <Mark.Kittrell@slcgov.com>; 'Otto, Rachel' <Rachel.Otto@slcgov.com>; 'Richard Plehn' <rplehn@utah.gov>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

All:

It is my understanding that some of the CCOA private landowners would like to snowmobile on the JLC property in lower Cardiff. This property is sometimes referred to as the bridge property. It is approximately 60 acres, is near the highway, and has access that does not require access over Cardiff Road.

We are asking because in the past some individuals have been ticketed for recreating on the bridge property. I would like to know if the Forest Service, the MSD, Salt Lake County, or Salt Lake City will consider that use of private property inappropriate. Frankly, we are trying to avoid conflict, and this is a request to help avoid issues for my clients.

Please let me know at your earliest convenience.

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: R. Tee Spjute

Sent: Wednesday, February 22, 2023 11:51 AM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Jordan Cullimore <jcullimore@utah.gov>

Cc: Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze:

As an initial comment, the purpose of mediating and continuing this conversation is to attempt to find some kind of common ground in which a resolution can be reached, or at least as an opportunity to resolve some concerns.

So far, at mediation, we were told that you had no authority to do anything other than to tell us that we can file for a permit for vehicular access to Cardiff road. You then said we could have some limited vehicular access to check on our property, but we would need to work out the details and we could provide a request. However, when we requested that access you put requirements on the access that are onerous and unreasonable to meet.

Again, in my last email, I asked that we work together to make sure we have the same universe of documents and to set up some easy links to look at the documents we are all referring to, particularly because you have referred to documents in your emails I have never seen. But the only substantive response is that we can file a FOIA request. Given these bureaucratic responses, I am starting to wonder if any of this negotiation has been done in good faith. I feel that this is just an opportunity to raise new accusations against my clients, attempt to raise my clients' costs to defend their land and their position so that they give up, and avoid any real opportunity to work anything out. Honestly, I am disappointed in your sides' efforts to stonewall this process. I hope that we can find some common ground in good faith.

It is our understanding that the Forest Service assumes that my clients will not have the ability to protect their property interests and ultimately will give up and all of the property will be treated by the Forest Service as de facto public lands. I know that this is not the FS's official position, but that is what my clients have heard. It is disappointing that the Forest Service has so clearly disregarded private property rights and seeks to administratively take this property by removing any reasonable access to the property. Please know that the FS's responses and actions to remove signs and fences seem to be leading us down such a path and it is disappointing that this sentiment is being repeated in our continuing communications.

With that being said, in an effort to highlight something of a positive note, I assume the Forest Service installed this sign in Cardiff. (see attached) If yes, thank you. The language on the sign is what the CCOA members have wanted to see for some time. I am not sure where the sign is located. Can you send me the coordinates? Also, would you be willing to send me the file for that sign so we can print some additional signs and get them posted on private lands?

Although our landowners believe the fence is on private property, to avoid further claims of misplacement of signs and fences, we have requested that a surveyor visit the subject site and determine if the placement is correct. If you would like, we can

coordinate a date and time with your surveyor to visit the site at the same time. Please let me know if you have any questions.

As for your below email. I would ask for documents supporting your contention that there are two decades of statements by the FS that parts of Cardiff road that cross FS property are closed to motorized vehicles. I assume you will just tell me to file a FOIA request. Nonetheless, I request your documents that support that contention. I also see your deferral to Ms. Briefer as to motor vehicle use across SLC's property, it would be helpful to know that position as SLC is clearly working with the FS and the FS seems to be attempting to enforce SLC's interests to the detriment of the CCOA. It would be also nice to know if SLC claims the road is public or private since they have been included in this issue based on your last email. Therefore, I would ask that SLC, please answer the following questions:

- According to Salt Lake City, is Cardiff road public or private?
- Please provide me with the documents you rely on for your determination.
- Is Salt Lake City participating in these discussions as a landowner or as one exercising its Extraterritorial Jurisdiction?

Obviously, my clients continue to maintain that the road is private unless you prove otherwise.

As we have sent previously, some Cardiff parcels have been surveyed. I am surprised that the Forest Service does not have reliable surveys of their lands in this highly used area. I also am surprised that you are willing to stake your determination on phone images of my client's property, yet you do not provide similar images regarding your claims of trespassing, wrongful sign placement, etc. on Forest Service land. Also, the phone screen images contain dropped pins which apparently are intended to indicate where fences are located, but also the cross-hairs in the image seem to indicate where your agent was located, which in some images appears to be on what you have shown to be our property. It is disappointing that the FS agents were knowingly trespassing on my client's property. By what means did you verify the locations and that it is on Forest lands? If you are using cell phone coordinates, or any other method, please send those to me. If you claim the fences are in the wrong place, then we would appreciate useful communication so that we can ensure the fences and signs are placed in the correct places. Again, working together in good faith would be helpful.

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Wednesday, February 8, 2023 3:57 PM

To: R. Tee Spjute <tee@robertsonalger.com>; Jordan Cullimore <jcullimore@utah.gov>

Cc: Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>;

Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>;

Richard Plehn <rplehn@utah.gov>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Mr. Spjute,

As we requested in mediation, please continue to direct communications through me. I will respond on behalf of the Forest Service.

As has been explained by the Forest Service numerous times over a period of nearly two decades, the segments of the Cardiff Fork road that cross National Forest System (NFS) land are closed to motor vehicle use without Forest Service authorization. I will defer to Laura Briefer about motor vehicle use across SLCDPU's property. The Forest Service has indicated a willingness to issue authorization for motor vehicle use on the road segments that cross NFS land, and explained the terms under which authorization will be considered, which include assurances that the past history of unauthorized use and trespass by any parties will be curtailed. However, your most recent correspondence again indicates that your clients have no intention of seeking such authorization, so it does not appear that there is anything further to discuss. The NFS land beyond the gate remains closed to motor vehicle use without Forest Service authorization, on or off the Cardiff Fork Road. Under 16 U.S.C. 551 and regulations at 36 CFR 251 Subparts B and D, the Forest Service remains willing to consider authorization of motor vehicle use that is necessary for reasonable use and enjoyment of private property, which will require a permit for regular use of motor vehicles, or may be authorized informally for occasional, incidental uses under the permitting exception at 36 CFR 251.50(e)(1) if reasonable and necessary for access to private property, and the criteria of the regulation are met.

During the same time period, your clients have been advised by the Forest Service on several occasions that use of motor vehicles on the Cardiff Fork road where it crosses NFS land would not be a routine operation or maintenance activity that is within the express scope of a documented linear right-of-way. Therefore, it is not exempt from permit requirements under the permitting exception codified at 36 CFR 251.50(e)(3). The Forest Service has not been provided with any documentation that legally establishes the existence of a private right of way for the Cardiff Fork road across NFS land, which is required to exempt use or maintenance of the road without authorization. Nor has any State, County, municipal, or other public road authority asserted ownership of a public highway right-of-way under R.S. 2477, as would be required in the alternative for exemption of routine operation or maintenance of the road across NFS land from Forest Service permit requirements under 36 CFR 251.50(e)(3). While reservation of the land for national forest purposes would preclude establishment of a public highway right-of-way under R.S. 2477 after the date of reservation, the property has been in continuous federal ownership since 1848 when it was acquired under the Treaty with Mexico, and a grant by the United States would be required to establish a private right of way on federal land before or after the date of reservation for national

forest purposes. We have not been provided with evidence that such a grant was made by the United States.

Ongoing or future matters of unauthorized use or trespass on NFS land will be dealt with as appropriate. As indicated previously, we agree that the pattern of land ownership in the area and location of property boundaries is complex, and that accurate location and posting of boundaries by licensed surveyors would be beneficial. The Forest Service will cooperate in any efforts to accurately survey and post boundaries within the limits of its staffing and budget. We will seek to resolve any trespasses on NFS land resulting from good faith misunderstandings due to lack of accurate boundary location or posting by agreement prior to initiating legal action.

The Forest Service has taken reasonable steps to advise the public that the authorization to cross private property in the area issued by CCOA is no longer in effect. It is the responsibility of private property owners to secure their property against trespass by the public in accordance with State law.

According to my staff, there are no trespassing signs on the trail to Kessler Peak on National Forest System lands. I have asked them to go up there to confirm locations, but we may not be able to do so until we have our summer seasonals on board. I recently received a complaint that there is a fence on National Forest System lands. I asked staff to walk up the canyon to the boundary between Forest Service and private. My staff did not report a fence, however they did document no trespassing signs on National Forest System lands (5 files attached with the date 20230204 as part of the file name). But this morning I received another email with 2 attachments (Cardiff fence.jpg and Cardiff fence location.jpg) which show a fence and its location. I have verified that the location is on National Forest System lands. Please have your clients remove these "Private Road no trespassing" signs and fence from NFS lands. The final attachment I have is a photo I received from UPD of a sign they say Mr. Buxton provided claiming that Cardiff Road is a private road. The sign contains inaccurate and misleading claims that further incites an already contentious issue with the public.

If you still wish to receive copies of the evidence we used to write our letters of unauthorized use, please submit a request under FOIA to kathy.pollock@usda.gov.

Sincerely,

Bekee Hotze

District Ranger

Salt Lake Ranger District

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Thursday, February 2, 2023 3:38 PM

To: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>; Jordan Cullimore <jcullimore@utah.gov>

Cc: Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Richard Plehn <rplehn@utah.gov>

Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Ms. Hotze,

A couple of items before we get into the following email It seems that I should be communicating directly with an attorney for the Forest Service. Can you please include the attorney for the Forest Service regarding these issues that we are discussing, thank you.

In addition, to make things clear, I have responses to the information below and some follow-up questions in red so that we can get to the bottom of these issues.

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

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8 East Broadway, Suite 550

Salt Lake City, Utah 84111

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From: Hotze, Bekee - FS, UT <rebecca.hotze@usda.gov>

Sent: Monday, January 23, 2023 12:02 PM

To: R. Tee Spjute <tee@robertsonalger.com>; Jordan Cullimore <jcullimore@utah.gov>
Cc: Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>;
Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>;
Richard Plehn <rplehn@utah.gov>
Subject: RE: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners
Association / U.S. Forest Service

Mr. Spjute,

Trespass issues include past violations of the expired permit, unauthorized use and occupancy of National Forest System (NFS) lands about which we have communicated previously, and some additional concerns that have come to our attention recently. They include:

The issues that you allege in paragraphs 1-6 are claimed violations of the prior permit, which my clients do not agree with. Also, you have not provided tangible proof to support several of your allegations. This makes it very difficult to address specific alleged violations with our landowners. We asked for specific violations that need to be resolved.

If you are saying that these types of issues cannot happen in the future, please let me know. Also, we have previously provided information related to some of these issues that all or some of these issues were not caused by members of the CCOA or simply disputed. If I am missing something please let me know.

Also, I have some of these letters, but I don't have information for many of these letters. Perhaps we should prepare a dropbox so we can all have the same universe of documents to work from. This was part of my concern because I was not sure how far back the FS was going to claim issues have occurred and their support for the information. That would allow me to also share any documents we may have instead of trying to go back and search through old emails.

1. Evidence that motor vehicles, both wheeled and over-snow, have been used on NFS land off of Forest Road #019 (aka Cardiff Fork Road) such as:
 1. Unauthorized snowmobile, over-snow vehicle, or snowcat use described in letters dated 2/17/2022, 11/20/2020, 11/18/2020, and 3/9/2020;
 2. Unauthorized snowmobile use across the open wetland area adjacent to Big Cottonwood Road described in letters dated 1/24/2022 and 3/8/2021);

3. Unauthorized motor vehicle use to access the Doughnut Falls trailhead when the road is closed to the general public described in letters dated 1/19/2021, 11/20/2020, and 11/18/2020; and
4. Unauthorized motor vehicle use across NFS lands to Montreal Hill and Vina Flat described in letter dated 11/18/2020.

Are there specific tickets issued by the Forest Service associated with the alleged unauthorized motor vehicle use? Also, do you have pictures and related surveys? If yes, please forward them to me.

2. Unauthorized establishment and maintenance of roads or trails across NFS land to Montreal Hill and/or Vina Flat (letters dated 1/24/2022, 11/18/2020) Are there tickets, citations, pictures, and surveys for the alleged violation? If yes, please forward them to me.
3. Unauthorized maintenance of Forest Road #019 without an approved Operation & Maintenance Plan (letters dated 3/8/2021, 1/19/2021a, 1/19/2021b, 11/18/2020, 3/9/2020) Are there tickets, citations, pictures, and surveys for the alleged violation? If yes, please forward them to me.
4. Posting “No Trespassing” signs on NFS lands (letter dated 8/5/2019) Are there photos of the postings along with a survey? It is my understanding that the FS does not have a survey of the property and there is confusion about exactly where the FS property starts and stops. If there are specific signs you would like moved, please let me know which specific signs so that we can review these issues.
5. Violation of condition 2 of the Special Use Permit which provide that the “holder shall comply with applicable Federal or State law and shall comply with State standards for public health and safety, environmental protection, and siting construction, operation, and maintenance if those standards are more stringent than applicable Federal standards” by using Forest Road #019 to establish or maintain structures of private land that may be in violation of State law or local ordinances (letter dated 11/18/2020). Notice of Violations for several Salt Lake County code violations (Case No.s CEZ21-1460 and CEZ20-0029) were issued to Justin Hohl and Corey Buxton. Hohl and Buxton appealed the decision and Salt Lake County agreed to a Settlement Agreement that would allow the landowners to apply for a permit through the land use application process. Complete applications have yet to be received by Salt Lake County. What information are you relying on regarding complete or incomplete applications? Please forward such information to me. Also, if we are in the process of seeking a permit and working with the local land use authority and there are no current notices of violation, then raising this as an issue seems to be the FS essentially

making a decision that following the permit process is somehow a violation. Is this an overreach by the FS to make this determination?

6. Parking a snowcat on NFS lands without authorization (letter dated 3/9/2020)
Please provide a citation, pics, and a survey for said violation

Regarding the potential issues of structures in trespass, as we indicated to Jordan during mediation it will take us a few weeks to compile the information. We completed preliminary surveys last summer but will need to confirm this year whether the structures are in trespass on NFS land. **While waiting for completed surveys, please provide pics and preliminary surveys of the alleged structures in trespass. Also, please check and see if the structure you refer to is owned by Mr. Ted Wilson and Mr. Rick Reese.**

A point of clarification is needed regarding your statement that “we haven’t been able to have motorized access to the property for over four months...” Authorization for motor vehicle use on Forest Service Road #019 ceased when the permit expired May 31, 2022, almost 8 months ago This past summer we have several instances where motor vehicles were used beyond the gate without authorization and caused damage to National Forest property:

1. Approximately 1100 on 06/08/2022 – UTV originating from above the gate drove past staff at approximately 1100 at the Donut Falls Trailhead, gate was inspected, and lock was unlocked. Side by side was blue and white
2. Approximately 1545 on 06/11/2022 – Forest Service staff were approached by **Kyle Buxton** asking for help. He said that their group, about 8 vehicles in total, had driven up the road in the morning.
3. Between 0845 and 1915 on 06/17/2022 – Evidence that lock had been opened and locked again as the chain was configured differently.
4. 0900 on 06/18/2022 – Forest Service staff had an encounter with a vehicle with 4 individuals. The individual knew that using a motor vehicle on NFS land beyond the gate was not allowed. The individual was driving a dark grey GMC Sierra and had 3 adult passengers. He stated that **Wayne Crawford** gave him permission to use the road to access private property. He declined to answer how he obtained the key to the gate.
5. 1800 on 06/18/2022 – Forest Service staff interacted with Mr. **Bendixen**, who was leaving through the Cardiff gate with two other vehicles. Mr. Bendixen opened the gate with his key, let everyone out, then closed the gate and locked it. The two other vehicles were an older hummer license plate 4T5FW owned by **Joshua Arden Bendixen** and a truck license plate U778VV owned by **Cyle Buxton**.

6. 0900 on 06/19/2022 – Forest Service staff reported the gate was closed but the lock was left unlocked.
7. Several instances on 06/24/2022, 06/25/2022, 06/26/2022, 07/01/2022, 07/02/2022, and 07/03/2022, 07/08/2022, 07/09/2022, 07/10/2022, 07/12/2022, 07/16/2022, 07/24/2022, 07/25/2022, 07/29/2022, 07/30/2022, 08/01/2022, 08/05/2022, 08/06/2022, 08/07/2022, 08/14/2022, 08/27/2022, 08/28/2022 – Evidence that lock had been opened and locked again as the chain was configured differently.
8. 1125 on 07/03/2022 – Black Ford F250 went through the gate without authorization.
9. 07/09/2022 – Forest Service staff witnessed 2 Jeep Rubicons drive on the closed Forest Service Road #019 – one was yellow and the other orange.
10. Afternoon of 07/09/2022 – Forest Service staff encountered a member of CCOA. As staff were relocking the gate, an older adult male came to the gate from the Cardiff Canyon area. The individual identified himself as **Corey Buxton**, unlocked the gate, passed through the gate with his truck license # UT U108CA, then locked the gate and left. Mr. Buxton said he was in Cardiff Canyon with a total of 4 vehicles: Chevy truck, Razor and 2 Rubicons.
11. 1800 on 07/24/2022 – Forest Service staff reported a White Honda pilot parked behind the gate.
12. 1400 on 08/05/2022 – Forest Service staff witnessed 2 vehicles opening the gate and continue to drive up canyon. One vehicle was an offroad side-by-side and the other was an older truck.
13. 1015 on 08/20/2022 – Forest Service staff witnessed an unknown person in a blue side-by-side with a dented and bent Utah plate (possible WA49W) driving south on Forest Service Road #019. Because the vehicle was not observed anywhere in the donut falls area and the gate was not locked properly, the people within the vehicle must have opened, passed through, and then relocked the gate.
14. 1020 on 08/20/2022 – Forest Service staff witnessed **Judd Mackintosh** on Forest Service Road #019 behind the locked gate. Judd opened the gate with a key. 2 OHVs drove through – Judd said the other OHV belonged to his son, **Scott Mackintosh**.
15. 1030 on 08/20/2022 – Forest Service staff witnessed another side by side and white truck open and drive through the gate. Staff stated the vehicles were likely members of the Mackintosh family.
16. 0950 on 08/27/2022 – Forest Service staff witnessed a large military style truck with a utility bed, green camouflage paint, and “**Bindixen**” stenciled on the front turning onto Big Cottonwood Canyon Road from Cardiff Road. When staff

reached the gate, a Forest Visitor sitting at the creek just south of the gate told staff they witnessed the vehicle driving through the gate.

17. 0835 on 08/31/2022 – Forest Service staff witnessed an ATV trailer parked near gate with the backgate down, no one at truck or trailer.
18. 1404 on 08/31/2022 – Photo 7, black 4 door Polaris RZR traveling down the road with two occupants, no license plate visible
19. 1424 on 08/31/2022 – Photo 22, same black 4 door Polaris RZR traveling up the road with one occupant, no license plate visible
20. 1557 on 08/31/2022 – Photo 43, blue 4 door Polaris RZR traveling down the road with one occupant, no license plate visible however based on prior contacts and experiences, Forest Service law enforcement identified the individual as **John Dumas**.
21. 0807 on 09/01/2022 – Photo 113, black 4 door Polaris RZR traveling down the road with one occupant, no license plate visible

This list of prior concerns is not helpful and I cannot help but ask the obvious question: Where are the citations/tickets for the alleged violations? Where tickets issued? If yes, please provide the tickets. If tickets were not issued, why has so much effort been expended on surveilling my clients? I also worry that there is selective enforcement. In August 2020, a trespasser put numerous game cameras in Cardiff Canyon. Information related to this incident was provided to the FS soon after it took place, specifically to enforcement officer Tucker Wood. It is my clients' understanding that nothing was done on this issue. It seems that motorized access is allowed for non-landowners, but not to the landowners. A copy of the vehicle tag previously provided to the FS related to that incident is attached.

Let me clarify my last request. Since the FS locked the gate, the members of CCOA have not been able to get up to their respective properties. It seems that the FS spent a large amount of time following and documenting my client's use of their property but not issuing tickets. Clearly, my clients regularly need an opportunity to access and review their property. As has previously been reported to you, Cardiff landowners have had their property in Cardiff slashed, ripped, defecated on, etc. by public users.

Please provide me the date(s) the Forest Service, UDOGM, and any others associated with the FS, accessed Cardiff Rd. via motorized vehicles. Also, please provide me the written authorization to cross private lands. You also reference photos that I do not have, please send those to me as well.

NFS land beyond the gate is closed to motor vehicle use but it is open to non-motorized access year round.

Let me also make clear that access across private property, much of which is required to access Forest Service land in Cardiff Canyon, is NOT open to the public. I also want to highlight that it is our contention that the road is private. The County, the Forest Service, and others have not demonstrated that the road is a public road. An attached title summary supports our contention.

While authorization for motor vehicle use on NFS land generally requires a permit, issued in accordance with statutory and regulatory requirements and procedures, the Forest Service has indicated a willingness to authorize incidental motor vehicle use where it is reasonable and necessary for use of private property, such as for retrieval of personal property, or to provide access by contractors to perform specific work, or other such incidental access needs. The private property here is undeveloped and currently under feet of snow, so it is not clear why motor vehicle access without a permit is immediately necessary.

As previously stated, several of our landowners have private property and possessions that need to be inspected immediately since they have not had access since the time the FS locked the gate.

During mediation, we requested a minimum of 2 weeks' notice to agree to a specific date for incidental use of motor vehicles on NFS land with CCOA. Incidental use of motor vehicles without a permit requires reasonable time for the Forest Service to evaluate the request to confirm that it is necessary and incidental and assign someone to be on site to open and close the gate. During the winter, we have reduced staffing and therefore our ability to accommodate your requests for access is limited until our summer staff report for duty.

Please accept and honor our prior request. What other information do you need?

The Forest Service has made clear to the public that there is private property in the vicinity, that the Forest Service no longer holds authorization for public access across private property, and that members of the public must secure access across private property in accordance with State law.

There seems to be much confusion regarding this issue with the Forest Service signage, etc. Also, it appears that at least two special use permits are still intact with backcountry touring companies. Please confirm that any and all permits involving Cardiff and the Forest Service have been terminated.

The Forest Service welcomes the marking of property boundaries that is both clear and accurate. In the past, "no trespassing signs" have been placed by CCOA members where they do not clearly and correctly identify property ownership and boundaries.

Boundary surveys are necessary to accurately identify property boundaries given the complex pattern of land ownership in the Cardiff fork area. If CCOA members have surveys that identify property boundary locations, it would facilitate discussions if those surveys were shared with the Forest Service so we can enter into discussions regarding placement of boundary markers by both property owners and the Forest Service.

Our private landowners are very confident as to the placement of the soon-to-be-installed fencing and signs. It will be installed on private property. If nothing else, I have attached a survey that will be used to place a fence.

In order to approve incidental use of motor vehicles on NFS land for access to private property prior to application for an issuance of a permit, the Forest Service will require evidence of ownership of property to which motor vehicle use is necessary for incidental access, an explanation of why motor vehicle use on NFS land is needed, and sufficient advance notice to evaluate the request and assign personnel to open the gate and monitor the motor vehicle use if incidental use of motor vehicles is approved.

Your request might be inconsistent with your previous actions. I understand that the landowner who you allowed to get his trailer out of Cardiff is not on the landowner list. Please provide me with the list you relied on to allow him motorized access.

I refer you to the federal statute at 16 U.S.C. § 551, and regulations at 36 CFR §§ 261.13; 251.110; 251.50(a), (d)(1) and (e)(1) to explain the limited circumstances under which the Forest Service may allow use of motor vehicles on NFS land, particularly for access to private property on roads that are not open to the public. As has been explained previously to CCOA, the permit exception at 36 CFR 251.50(e)(3) does not apply to the use of motor vehicles on the Cardiff Fork road because no public road authority has asserted that there is a public highway right of way under R.S. 2477, and the authorized officer of the Forest Service has not determined that the proposed use of motor vehicles on the Cardiff Fork road is within the express scope of a documented linear right-of-way. In short, approval of motor vehicle use on NFS land that is not designated for public motor vehicle use by the Forest Service can only be allowed by the Forest Service without a permit where the Forest Service can determine that such use would have such nominal effects on NFS land, resources, or programs that a permit is not necessary to protect NFS land or resources or avoid conflict with Forest Service programs. The above information will therefore be required in order for the Forest Service to consider approval of any request for incidental motor vehicle use prior to application for and issuance of a permit.

CCOA members are not looking to enter into a Special Use Permit with the Forest Service at this time. Also, please confirm the accuracy of the Muir letter/memo. Was it

accurate at the time of his writing and if yes, is it accurate today? If not, please explain the reasoning.

Sincerely,

Bekee Hotze

**Bekee Hotze
District Ranger**

Forest Service

**Uinta-Wasatch-Cache National Forest, Salt Lake
Ranger District**

**p: 801-733-2675
c: 801-372-0926
rebecca.hotze@usda.gov**

6944 South 3000 East
Salt Lake City, UT 84121
www.fs.usda.gov

Caring for the land and serving people

From: R. Tee Spjute <tee@robertsonalger.com>

Sent: Tuesday, January 17, 2023 12:05 PM

To: Jordan Cullimore <jcullimore@utah.gov>

Cc: Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>;

Hotze, Bekee - FS <rebecca.hotze@usda.gov>; Kittrell, Mark

<Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; cc: Richard

Plehn <rplehn@utah.gov>

Subject: [External Email]RE: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

[External Email]

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All,

I wanted to follow up on the postponed mediation. To begin, I appreciated Jordan's work as the mediator and his willingness to remain on the email chain as we follow up on the last mediation session and perhaps on a follow up session. One thing that was discussed in the mediation was various claimed issues that the Forest Service would like addressed, including the building of a structure on Forest Service land which was revealed to us for the first time at mediation. Please send us the items the Forest Service would like addressed.

It was also my understanding that the Forest Service would agree to have limited access for specific issues upon two weeks' notice. A number of our Cardiff landowners need motorized access to inspect their personal property in Cardiff, many of them haven't been able to inspect their property since early September. Also, what is the reason for needing two weeks' notice and only on weekdays? Many of the CCOA landowners are blue-collar workers and only have time off during the weekend. I assume there are rangers on site on the weekends as well.

Given the fact that we haven't been able to have motorized access to the property for over four months, can we get them up there on or before Saturday, January 28th depending on the weather? Please let me know so we can get a date scheduled that will work for both sides.

Finally, I do want to make sure that it is understood that CCOA does not give permission to access the canyon over their property. COAA may consider reasonable requests, but for the time being there is no permission to go across CCOA property. With this in mind, CCOA landowners will plan on installing orange mesh safety fencing around their property boundaries, including Cardiff road, to prevent trespassing on private property. The fencing will be installed and posted on private property above Donut Falls. Our landowners will also install security/motion sensor cameras and trail cams.

Let me know what questions you have.

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Jordan Cullimore <jcullimore@utah.gov>

Sent: Thursday, January 12, 2023 10:57 AM

To: R. Tee Spjute <tee@robertsonalger.com>

Cc: Cyndy Nelson <cwnelson@utah.gov>; Briefer, Laura <laura.briefer@slcgov.com>; Hotze, Bekee - FS <rebecca.hotze@usda.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; cc: Richard Plehn <rplehn@utah.gov>

Subject: Re: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Thank you, Mr. Spjute. I'll review this now. See you all soon.

Jordan Cullimore
Lead Attorney
Office of the Property Rights Ombudsman
801.530.6391 | propertyrights.utah.gov

On Thu, Jan 12, 2023 at 9:10 AM R. Tee Spjute <tee@robertsonalger.com> wrote:

All,

To help move things along today, attached is a mediation statement with some information we hope will be helpful from CCOA's perspective. We'll see you all today at 1pm.

Sincerely,

Robert Tee Spjute

Robertson Alger & Spjute, PLLC

*Licensed in Utah

8 East Broadway, Suite 550

Salt Lake City, Utah 84111

Ph: (801) 478-8080

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From: Cyndy Nelson <cwnelson@utah.gov>

Sent: Thursday, January 5, 2023 4:28 PM

To: R. Tee Spjute <tee@robertsonalger.com>; Briefer, Laura <laura.briefer@slcgov.com>

Cc: Hotze, Bekee - FS <rebecca.hotze@usda.gov>; Kittrell, Mark <Mark.Kittrell@slcgov.com>; Otto, Rachel <Rachel.Otto@slcgov.com>; Jordan S. Cullimore <jcullimore@utah.gov>; cc: Richard Plehn <rplehn@utah.gov>

Subject: Notice of Mediation: Cardiff Canyon Owners Association / U.S. Forest Service

Good afternoon. This email will serve as confirmation that Jordan Cullimore, attorney for the Office of the Property Rights Ombudsman, will be conducting mediation in the

Cardiff Canyon Owners Association and U.S. Forest Service matter on Thursday, January 12, 2023.

The mediation will begin at 1:00 p.m. at the Office of the Property Rights Ombudsman located at 160 East 300 South, 2nd Floor, Salt Lake City, Utah 84111. A copy of the mediation process is attached.

Please contact Jordan if you have any questions.

Thank-you,

Cyndy

--

Cyndy Nelson
Administrative Secretary

Office of the Property Rights Ombudsman

PO Box 146702
Salt Lake City, Utah 84114-6702

Phone: (801) 530-6391

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