

FREEDOM FROM RELIGION *foundation*

P. O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

May 26, 2011

USDA Forest Service, FOIA Service Center
1400 Independence Avenue, SW
Mail Stop: 1143
Washington, DC 20250-1143

Re: Freedom of Information Act Request

Dear FOIA Officer:

I am writing on behalf of a concerned area resident and taxpayer, and other Montana members of the Freedom From Religion Foundation ("FFRF"), who object to the erection and maintenance of a statue of Jesus Christ on government property. FFRF is a national nonprofit organization based in Madison, Wisconsin, with nearly 16,500 members across the country including members in Montana. Our purpose is to protect the fundamental constitutional principle of separation of church and state.

It is our understanding that a statue of Jesus Christ is located on Big Mountain in the Flathead National Forest. Our complainant informs us that the Knights of Columbus Council #1328 received a special use permit for the erection of the statue in October 1953 and that the statue was installed in 1955. It is also our understanding that the special use permit has been renewed and granted every 10 years, and is once again up for renewal.

Religious Display on Government Property

It is a fundamental principle of Establishment Clause jurisprudence that the government cannot in any way promote, advance, or otherwise endorse religion. The Supreme Court has said time and again, that the "First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary County, Ky. v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947). Therefore, it is very inappropriate to have religious symbols placed on Federal property. The statue of Jesus Christ is undoubtedly recognized as a symbol of Christianity. By permitting a display of this nature the Federal Forest Service appears to endorse religion over non-religion, and specifically prefers Christianity over all other faiths. This is a direct violation of the Establishment Clause of the First Amendment to the United States Constitution.

The statue of Jesus Christ cannot legally remain in Flathead National Forest. Several courts have ruled that government property may not contain religious images. See

Freedom From Religion Foundation v. City of Marshfield, 203 F.3d 487 (7th Cir. 2000) (Jesus statue surrounded by City park created perception of city endorsement of religion in violation of Establishment Clause); *Hewitt v. Joyner*, 940 F.2d 1561 (9th Cir. 1991) (immovable religious statuary depicting scenes from the New Testament in a public park were a violation of Establishment Clause).

Open Records Request

Pursuant to the Freedom of Information Act (5 U.S.C. §552), I am requesting the following:

1. A copy of any Forest Service policy, rule, procedure or any other written guidelines outlining the process for obtaining permission to erect private displays on public property such as Big Mountain in Flathead National Forest.
2. A copy of the application, contract, agreement or permit between the Flathead National Forest, Tally Lake District and the Knights of Columbus, or any other document permitting use of this land for the statue of Jesus Christ.

In order to determine our status under FOIA for the purpose of assessing fees, please be advised that the Freedom From Religion Foundation (FFRF) is a registered 501(c)(3) not for profit organization. We are willing to pay fees associated with the costs of the search and duplication of records, but request that we first be alerted to the total estimated amount. If you deny any part of this request, please cite each specific reason that you think justifies your refusal to release the information.

If you have any questions processing this request, you may contact me at the following telephone number (608) 256-8900.

Sincerely,



Stephanie A. Schmitt
Staff Attorney

cc: Lisa Timchak, Tally Lake Ranger District