



File Code: 1570 (251-1)  
#00-01-00-0037

Date: January 23, 2001

Estate of George P. Wellcome  
C/o Page Wellcome  
P. O. Box 610  
Cardiff-By-The-Sea, CA 92007

CERTIFIED MAIL – RETURN RECEIPT  
REQUESTED

Dear Mr. Wellcome:

This letter is my review decision of your Notice of Appeal (NOA) on the decision to implement a new Recreation Fee Schedule for the recreation residence lot of George P. Wellcome, Group D, Lot 133, located at Echo Lake, on the Beaverhead-Deerlodge National Forest. The recent appraisal and the fee based on the appraisal are at issue. You were notified of your right to administrative review (appeal) and your responsibilities in filing that appeal in the letter dated January 24, 2000, that accompanied your Bill for Collection. An outline of the appeal process is presented in the Forest Supervisor's Responsive Statement, dated July 12, 2000.

My review was conducted pursuant to, and in accordance with, 36 CFR 251, subpart C. My responsibility as Reviewing Officer is to ensure the analysis and decision are in compliance with applicable laws, regulations and policy. Information that was acquired during Mr. Bernard Everett's oral presentation on October 13, 2000, here in Missoula, and your and other oral presentations held in Butte on October 16 and 17, 2000, is included in the appeal record. This review decision hereby incorporates by reference the entire administrative appeal record.

I. SUMMARY

On April 6, 2000, I notified you that several appeals were being consolidated pursuant to 36 CFR 251.95(b), due to significant similarities in their issues. The issues for the following appellants are similar and are consolidated for review.

**Appeal Number**

**Appellant(s)**

#00-01-00-0037  
#00-01-00-0098  
#00-01-00-0038  
#00-01-00-0039  
#00-01-00-0040  
#00-01-00-0041  
#00-01-00-0042

**Estate of George P. Wellcome**  
Page Wellcome  
Dorothy Dire  
Ronald and Catherine Eccleston  
William F. Antonioli  
Andrew and Charen McFarland  
Marvin F. Cline



#00-01-00-0043	Norman and Patricia Olson
#00-01-00-0044	Bernard J. and Charmaine Everett
#00-01-00-0045	Donald L. Gillespie
#00-01-00-0046	Paula B. Jermunson
#00-01-00-0047	Dodge and Kathleen Leary
#00-01-00-0048	Mildred Williams
#00-01-00-0049	Stephen C. Neal
#00-01-00-0050	John Pahut

The Forest Supervisor for the Beaverhead-Deerlodge National Forest succinctly summarized the history of the appraisal process as it has affected you in her Responsive Statement dated July 12, 2000. I will reference this document throughout my review. In addition to this record of the process, I am incorporating information I received during the oral presentations. This information completed the appeal record, and I closed the record on October 19, 2000.

## II. OVERVIEW OF ISSUES AND RELIEF REQUESTED

The following issue, identified from your Notice of Appeal, is consistent in the above appeals. "I am affected by the decision because it (appraisal) does not reflect a true and correct assessment of the appraised fee simple value of the lot I occupy near Echo Lake. The fee increase simply does not represent the fair market value of the rights and privileges authorized to me under my special use permit."

Appellant's contentions under this issue are:

1. The typical lot appraised is approximately one acre in size. The lot occupied by the appellant is approximately 1/3 of an acre. Therefore, the value of the appellant's lot should be 1/3 the value of the typical lot. There is a correlation between the size of the property and the value of the property.
2. During the oral presentation you argued that the subject lot is heavily treed making it difficult if not impossible to protect improvements from fire. You also stated that the Forest Service is generally unwilling to allow recreation residence permittees to clear and fireproof their lots, making them less desirable to prospective buyers at the appraised value.

The relief requested is to reduce the fair market value to 1/3 of the typical recreation residence lot (Kautzman, Lot #132) appraisal.

## III. REVIEW FINDINGS

I have thoroughly reviewed the appeal record, including the concerns raised in your Notice of Appeal, the notes from the appeal resolution meeting of March 20, 2000, the Forest Supervisor's Responsive Statement of July 12, 2000, and my notes and filed exhibits from your and other oral presentations on October 13, 16 and 17, 2000. I wish to commend you on the level of interest you have demonstrated, energy and financial resources you have expended, and genuineness with which you have expressed your concerns.

However, the Forest Supervisor and her staff have also dedicated considerable time and energy attempting to resolve your appeals. I agree with the Forest Supervisor's resolution process and the analysis and discussion in her Responsive Statement, and I will not reiterate those arguments here.

During the oral presentations, I listened with considerable interest as you and several others expressed concerns about the appraisal process, its outcome and how that has affected you individually and as recreation residence permittees, in general. I empathize with you and your concerns over increased fees.

From the appeal record, I have developed my response to your appeal points and contentions. I have relied heavily on the previous work of the Forest Supervisor, in particular her July 12, 2000, Responsive Statement.

- 1. The typical lot appraised is approximately one acre in size. The lot occupied by the appellant is approximately 1/3 of an acre. Therefore, the value of the appellant's lot should be 1/3 the value of the typical lot. There is a correlation between the size of the property and the value of the property.*

The Forest Supervisor has thoroughly discussed this issue in her Responsive Statement under Contention 1. In my review of the appeal record, I also noted that the size discrepancy contended in your appeal does not exist as you describe it. It appears that the size of the Wellcome Estate lot is 1 acre, and the typical lot (Kautzman) used in the appraisal is only 1/3-acre. Thus your contention of a reverse size difference is incorrect.

The Recreation Residence Lot Appraisal Specifications state in section 2.46, item 8, "The final estimate of value shall be on the basis of the total value for the typical lot, rather than a value per square foot, per front foot, etc. Normally, the unit of comparison in the appraisal of recreation residence lots shall be the lot. Permitted size is not an overriding factor where only one residence is allowed on a site. National Forest recreation residence lots often enjoy a much greater effective area than the permitted area." The Forest Service appraiser followed applicable law, regulation and policy, and properly used lot size in combination with other factors to appropriately value these recreation residence lots. The Beaverhead-Deerlodge National Forest Supervisor correctly considered the only valid appraisal, the one prepared by Ms. Kim Johnson, ARA, Phoenix, Arizona in determining annual rental fees.

- 2. I would also like to address the following concern you raised in your oral presentation on October 16, 2000. I understand your concern over protection of your investments on your recreation residence lots at Echo Lake during the dangerous fire season of 2000. You have stated:*

"The subject lots (Page Wellcome, Echo Lake, Group B, #130, and the estate of George P. Wellcome, Echo Lake, Group D, #133) are heavily treed making it difficult if not impossible to protect improvements from fire. The Forest Service is generally unwilling to allow recreation residence permittees to clear and fireproof their lots, making them less desirable to prospective

buyers at the appraised value.”

The Forest Supervisor has not provided any arguments on this point because I received this concern at your oral presentation. Since most lots in the Georgetown and Echo Lake areas are forested, the fact that they are forested and subject to a common wildfire threat is intrinsic to the value of comparable sales of similar properties with timber cover. The appraised values adequately reflect this concern.

It is incumbent upon you, and other area permittees, to work with the Forest Supervisor and her staff as you contemplate improving your ability to protect area improvements from wildfire. Each request to remove trees, underbrush and other potentially hazardous vegetation will need to be addressed by the Supervisor’s staff to determine what can be done and how it shall be done. I suggest that you contact the Beaverhead-Deerlodge National Forest Supervisor on this issue prior to the 2001 fire season.

#### IV. DECISION

After a careful review of the appeal record, including exhibits and notes from the oral presentations, I find the Forest Supervisor’s decision to be reasonable and in conformance with applicable laws, regulations and policy. I find that the Forest Supervisor has appropriately discussed and addressed your primary issues in her decision. I affirm the Beaverhead-Deerlodge National Forest Supervisor’s decision to base the calendar year 2000 recreation residence permit fees for your Echo Lake lot on the existing, approved Forest Service appraisal. Your request for relief is denied.

This is the final determination of the Department of Agriculture, unless the Chief of the Forest Service, on his own initiative, elects to review the decision within 15 days of receipt (36 CFR 251.87(e) and 251.100).

Sincerely,

/s/ Gary A. Morrison

GARY A. MORRISON  
Reviewing Officer  
Director of Recreation, Minerals,  
Lands, Heritage and Wilderness

cc:  
Beaverhead-Deerlodge NF  
R-1, Appeals  
WO, Appeals  
WO, Land Uses