



**United States
Department of
Agriculture**

**Forest
Service**

**Beaverhead-Deerlodge
National Forest**

File Code: 1570 (251 appeal)
Route To:

Date: July 14, 2000

Subject: Responsive Statement, Echo Lake Recreation Residence Appeals – Bernard and Charmaine Everett; and Jackie Malee and Charles Dresher

To: Appeal Deciding Officer, Kathy McAllister

In accordance with 36 CFR 251.94 (b) I am hereby submitting the responsive statement for an Echo Lake recreation residence appeal. The following person appealed the lot value determined by appraisal as directed by Forest Service policy, effective June 17, 1994 (Federal Register Vol. 59, No. 105, June 2, 1994).

Appellant	Appeal #	Typical Lot
Bernard and Charmaine Everett	00-01-00-0044	Lot 103 - Monahan
Jacqueline Malee	00-01-00-0061	Lot 103 - Monahan

Seven appeals were filed by Echo Lake recreation residence permittees. The above two appeals will be addressed in one responsive statement because their appeal points are identical. The remainder of the Echo Lake appeals will be addressed in separate responsive statements.

The R.O. group the recreation residence appeals based on similarities. (Appeal Record, Docs. 7, 8, 9). These groupings differ from how the appeals were grouped for purposes of preparing responsive statements.

The appeal record is contained in two 3-ring binders with several sections. An index of the project file is attached to this letter. The project file will be delivered to your office the week of July 10, 2000. References are made throughout this letter to the appeal record. **Please note:** the same appeal record will be used for all the Echo Lake appeals.

Decision Being Appealed

On January 24, 2000, District Ranger Bob Gilman sent the appellant a letter enclosing their Bill for Collection for the calendar year 2000 rental fee for their recreation residence special-use permit (Appeal Record, Docs. 2 and 3). Please note that the appellants paid their Bill for Collection. The bill reflected the lot value determined by appraisal as directed by Forest Service policy: Federal Register Vol. 59, No. 105, June 2, 1994. (Appeal Record, Doc. 20). This appraisal was completed on September 18, 1997 by Ms. Kim Johnson, ARA, Phoenix, AZ, under contract number 53-84M-5-00433 awarded by the Forest Service. The appellants disagreed with the appraisal results, but did not have a second appraisal done at their own expense.



The Pintler District Ranger is unique on the Beaverhead-Deerlodge in having authority to reissue recreation residence permits. This presents a problem in the permit appeal process. It makes the appeal reviewing officer and the person in charge of the appraisal of the fees the same person, the Forest Supervisor. In order for the appeal to be reviewed by people not involved in the appraisal, the appeal was forwarded to the Regional Appeal Deciding Officer, Kathy McAllister. (Appeal Record, Doc. 4).

Decision Documentation Addressing Decision Being Appealed:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 2	2720/5410 letter dated 5-29-98 notifying permittees of appraised values of their lots and associated Bills for Collection
Document 3	2720 decision letter dated 1-24-00 transmitting Bills for Collection to recreation residence permit holders for their special use permit.
Document 4	Representative 1570 letter acknowledging receipt of appeal and informing appellants their appeal will be forwarded to the Regional Appeal Deciding Officer, Kathy McAllister.
Document 20	Federal Register Vol. 59, No. 105, June 2, 1994.

Background Information

Recreation residence lots are appraised at 20-year intervals. Similar lots are combined into a single group and one typical lot is appraised per group. The appraisal provides an estimate of fair and equitable cash market value for a typical lot (rather than all individual lots) within groups that have essentially the same or similar value characteristics. The value estimate for the typical lot is then applied to all lots in the group. In the appraisal process, lots are treated as if in fee ownership and restricted to a recreation residence lot use. Holder provided improvements on and to the lot are excluded from the appraisal.

Several typical lots were used for the Echo Lake group. Lot 103 (Monahan) was the typical lot used for the appellants' lot values.

Appeal Resolution Meeting

Recreation residence permittees were involved throughout the appraisal process. They were also involved in attempts to resolve the issues surrounding their appeals of their recreation residence lot fee. Appellants were invited to a meeting that was held on March 20, 2000 to discuss what had been done to date on the appraisals and to discuss possible resolutions to the appeals. (Appeal Record, Docs 4 and 14). A follow-up letter was sent to all appellants on March 31, 2000 summarizing what happened at the March 20 meeting. That letter included a form on which the appellants could indicate if they would like to participate in the process outlined at the meeting (Appeal Record, Doc 15). The appellants indicated they wanted to participate in the process. I sent a letter to all appellants on May 16, 2000 transmitting the notes from the March 20 meeting. (Appeal Record, Doc 16). This letter to the Everetts and Malee was for information

purposes because they decided not to pursue a second appraisal. Based on their responses, I proceeded with processing their appeals. (Appeal Record, Doc 13).

Decision Documentation Addressing Attempts At Appeal Resolution:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 4	Representative 1570 letter acknowledging receipt of appeal and informing appellants of the 3-20-2000 meeting.
Document 14	Attendee list from March 20, 2000 meeting
Document 15	Representative 1570 letter dated 3-31-00 to all appellants summarizing March 20 meeting. Includes a form for the appellant to indicate if they would like to participate in the process.
Document 16	Representative 1570 letter dated 5-16-00 to all appellants summarizing the meeting between the Forest Supervisor and the two appraisers. Includes a form for the appellant to indicate how they would like to proceed with their appeal.
Document 13	Representative 1570 letter dated June 13, 2000 informing appellants the Forest was proceeding with the appeals process.

Decision Documentation Responding to Points of Appeal

Contention 1: *The fair market value of appellant's lot should be one-half the value established by the Forest Service contract appraiser.*

Decision Documentation Addressing Contention 1:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 2	2720/5410 letter dated May 29, 1998 notifying permittees of appraised values of their lots and associated Bills for Collection
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson
Document 29	Standard Appraisal Review Report of Ms. Johnson's appraisal dated 3-30-98
Document 20 Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.
Document 21	Recreation Residence Lot Appraisal Specifications

Appellants' lot values were determined by appraisal as outlined in the Federal Register, Volume 59, No. 105, 33.3, dated June 2, 1994 (Appeal Record, Doc. 20, Page 1). The appraisal was completed on September 18, 1997 by Ms. Kim Johnson, ARA, Phoenix, AZ, under contract number 53-84M-5-00433 awarded by the Forest Service. Ms. Johnson's appraisal was then reviewed and accepted by John Hickey, ARA, Regional Review Appraiser, in conformance with Federal Register direction – Volume 59, No. 105, 33.32. (Appeal Record, Doc. 29).

The Recreation Residence Lot Appraisal Specifications direct that “the appraisal shall provide an estimate of fair and equitable cash market value for a typical lot, a lot within a tract or group of tracts, as if in fee ownership and restricted to a recreation residence lot use, excluding all holder provided improvements on and to the lot”. (Appeal Record, Doc. 21, Section 2.4). The specifications go on to direct that “cash market value shall be based upon the typical lot(s) use as a recreational residence homesite and shall be supported by confirmed recent transactions of comparable properties having similar uses, but adjusted for differences from the subject lot(s). (Appeal Record, Document 21, Section 2.46, Item 3).

The Forest Service gave the appellant a rental fee based on the appraisal conducted by Ms. Kim Johnson, who is an accredited rural appraiser and a Montana Certified General Appraiser #487. Ms. Johnson states in her appraisal that “the estate appraised is the unencumbered fee simple title of the typical sites as if held in private ownership, restricted to recreation residence uses, subject to the more stringent of applicable local police powers or permit restrictions of a like nature.” (Appeal Record, Doc. 23, page 8). She defines the scope of the appraisal and discusses the fact that sales, listings, and offers to buy from the subject area were researched. She personally inspected all sales used in direct comparison to the subjects. (Appeal Record, Doc. 23, pages 8 and 9). She discusses in greater detail the data analysis she conducted to arrive at the fair market value of the rights and privileges authorized. She found that the private sale covenants, conditions, and restrictions (CC&R’s) and the permit restrictions have many similarities. In most cases, developers, purchasers, and property owners see the CC&R’s as a positive attribute. The property owners view the restrictions as a way of maintaining the quality of the neighborhood and enhancing property values. The existence of the CC&R’s and market acceptance of such restrictions compares to the Forest Service permit restrictions that are considered as part of the appraisal, with one exception. The permit restrictions specify the subject sites can only be used as part-time residences and not as primary residences for the holders of the permits. This difference is reconciled by the fact that purchasers of these sites, as well as most other similar sites in the area, are not usually purchasing primary home sites. Once cabins or homes are built, the sites are used as vacation homes. Since the sites are purchased for part-time use, Ms. Johnson feels they compare favorably with the part-time restriction incorporated in the Forest Service permits. (Appeal Record, Document 23, page 21 and 22).

Throughout her appraisal, Ms. Johnson cites the sales she used. This sale data is also contained in the Sale Data Book for Recreation Residence Sites (Appeal Record, Doc. 28)

Ms. Johnson has followed the direction outlined in the Recreation Residence Lot Appraisal Specifications and in the Federal Register, Vol. 59, No. 105, page 28730, section 33.3. Her appraisal is based upon the fair market value of the rights and privileges authorized under the appellants’ permits. Her appraisal was reviewed and accepted by Regional Review Appraiser John Hickey. Ms. Johnson achieved the purpose of the appraisal.

The appellants cite no evidence of the lot value of \$22,000 that they feel should be used to determine their rental fees. They apparently reached a conclusion on the value of their lots without the benefit of a professional appraisal. The value is speculation. Therefore, I feel Ms. Johnson’s appraisal should be used for calculating their permit fees.

Contention 2: The lots are undevelopable. Appellants contend the Forest Service appraiser ignored state and county zoning laws relative to the development of property for parcels under one and two acres in size. They feel their lots will not accommodate the development of a residence. If a purchased site will not accommodate a residence, the value of the site is less than one that will.

Decision Documentation Addressing Contention 2:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 21, Page 5	Recreation Residence Lot Appraisal Specifications
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson
Document 30	John Hickey’s Appraisal Review dated 1-13-00

The Recreation Residence Lot Appraisal Specifications, section 2.46, Item 8, clearly state “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”. (Appeal Record, Doc. 21, page 5). Ms. Johnson believes there may be some market recognition for size. However, it is very subtle and she does not believe the difference can be reliably quantified. She says it should be noted that overall, the subject lots are slightly smaller than the sales. However, the effective size of the subject lots is similar to the sales. In the private subdivisions, the lots are contiguous to one another and usually are bounded on all sides by neighboring lots. In the Forest Service summer home groups, there are frequently vacant lots among the group. Since the Forest Service is not issuing new permits, these lots will remain vacant for the foreseeable future. In most cases the backs of the lots abut non-permitted National Forest land, rather than a lot. This also enhances the effective size of the lot. In Ms. Johnson’s opinion, the effective size of the subject lot is similar to the sales. (Appeal Record, Doc. 23, page 25). This analysis demonstrates the lots are developable.

Ms. Johnson considered state and county zoning laws relative to the development of property for parcels under one and two acres in size. Ms. Johnson noted the lot has electricity and telephone lines available. Septic systems or outdoor toilets are the normal means of sewage disposal. She notes the current permittees of the typical lot draw water from the lake and that deeper, groundwater well drilling in the area has not been successful. She acknowledged there are sales in the area that include rights to common or shared wells. However, these sales were not used in the appraisal. (Appeal Record, Doc. 23, page 25). The property is to be appraised under the more stringent of the local zoning or the permit restrictions. There is no applicable local zoning so the permit restrictions are considered to be more stringent. The Forest Service permit restricts the use of the property to a personal recreation residence site. (Appeal Record, Doc 23, page 12). The Recreation Residence Lot Appraisal Specifications section 2.46, Item 9 acknowledge the government often authorizes off lot improvements on non-permitted land in addition to the on-lot residence structure.

John Hickey, Regional Review Appraiser, prepared an Appraisal Review of the Georgetown Lake cabin sites. These sites are in close proximity to the Echo Lake Group. Mr. Hickey states in his Appraisal Review (Appeal Record, Doc 30, Item 6, page 4) that even though the county zoning laws require at least 1.0 acre in Granite County and 2.0 acres in Deerlodge county before sewer and water systems may be developed, the Forest Service recognizes that the permittees enjoy a much larger area than the permitted area. Also, lots were surveyed and permitted much earlier than the local zoning laws were established. Consequently, the “undevelopable lot size” assumption is incorrect. This assessment of the zoning law situation is not specific to the Georgetown group and can be applied to the Echo Lake group.

Contention 3: Tract value modifications have been made in select cases outside of the contract appraisal process for select tracts while ignoring similar or more compelling evidence on the appellant’s permitted property.

Decision Documentation Addressing Contention 3:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 27, Page 42	Real Estate Appraisal of Georgetown Lake Recreation Residence Sites – prepared by K. Johnson
Document 18	2720/5410 letter dated December 10, 1998 to John Hickey summarizing the changes in the Georgetown Tract E
Document 19	2720 letter dated December 18, 1998 to Tauno and Delores Murto explaining the changes made in the Georgetown Tract E
Document 20 Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.

This contention refers to an adjustment made to lots in a Georgetown Lake group. This issue is addressed in Ms. Johnson’s Georgetown Lake appraisal.

The Forest initially proposed to use the appraisal groups established for the last scheduled appraisal, which grouped all of Georgetown Lake Tract E into one group. This Tract E contained the Kosena, Murto, Carnevale, and Riley lots. The Murto lot was the typical lot used for appraisal purposes. At the request of Mr. Kosena, the Forest Service decided to take the Kosena lot out of this group because of its wetness problems due to rising water levels resulting from additions to the Georgetown Lake dam. (Appeal Record, Doc. 18). The Forest Service assumed that the Murto lot (Lot 2) would continue to serve as the typical lot for the three remaining lots (Lots 1-3).

Ms. Johnson described the Kosena lot in her appraisal as suffering from serious wetness problems because it is so close to the level of the lake. (Appeal Record, Doc. 27, page 51). There were no sales at Georgetown Lake that had this same situation, so Ms. Johnson used comparisons between lot sales at Hebgen Lake that had wetness problems similar to the subject lot (Kosena). She applied an adjustment of minus 40% to the sales to account for the wetness of the subject lot. She did not make an adjustment for lot size.

When the contract appraisals were completed, the Lot 2 permittees (Tauno and Delores Murto) questioned the disparity in appraised values between their lot and the immediately adjacent Lot 4 (Kosena). The Murtos strongly disagreed with the Forest Service assessment that the wetness problem was limited to the Kosena lot. The Murtos said the rising water levels affected their lot in the same way as the Kosena lot. They explained the new lake level initially inundated much of their lot and caused their cabin foundation to settle. They further stated they had gone to considerable expense to mitigate the rising water's effects by hauling in truckloads of shore line fill and rip-rap to raise their cabin's foundation. (Appeal Record, Doc. 18).

John Hickey, Regional Review Appraiser, reviewed the Murto lot and found these explanations to be valid. Mr. Hickey contacted the Forest Service contract appraiser Ms. Johnson. She agreed these previously unknown permittee-provided improvements had significantly influenced her valuation of Lot 2, and the lot value should be discounted accordingly (Appeal Record, Doc 18). The Federal Register (Appeal Record, Doc 20, Section 33.3, Item 3g) says that adjustments for improvements furnished by permittee holders should not be made.

Based on the information supplied by the Murtos and John Hickey, Forest Supervisor Austin concluded there was little difference between Lots 2 and 4. She decided to use Lot 4 (Kosena) as the typical lot to represent all four lots in the tract (Lots 1-4) for purposes of appraisal because the high water situation affected all four lots to some degree, and there was no apparent means to equitably determine differences in the effects on each lot. (Appeal Record, Docs. 18 and 19) This demonstrates the value of the Murto lot was reduced because of wetness problems, and not for size, as is alleged by the appellant.

Contention 4: *There is a correlation between the size of the property and the value of the property. However, the Forest Service appraiser found no correlation as such.*

Decision Documentation Addressing Contention 4:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson
Document 21, Section 2.46, Item 8	Recreation Residence Lot Appraisal Specifications

Ms. Johnson established in her appraisal that there are some variations in sale prices with regard to lot size. However, in the sales of comparable lots that she researched, the larger lot also had more tree cover than the smaller lots. She believes there may be some market recognition for size. However, it is very subtle and she does not believe the difference can be reliably quantified. She says it should be noted that overall, the subject lot is slightly smaller than the sales. However, the effective size of the subject lot is similar to the sales. In the private subdivisions, the lots are contiguous to one another and usually are bounded on all sides by neighboring lots. In the Forest Service summer home groups, there are frequently vacant lots among the group. Since the Forest Service is not issuing new permits, these lots will remain vacant for the foreseeable future. In most cases the backs of the lots abut non-permitted National

Forest land, rather than a lot. All of these circumstances enhance the effective size of the lot. She felt the effective size of the subject lot was similar to the sales and made no adjustments. (Appeal Record, Doc. 23 page 25). Her reports indicate she followed the direction in the Recreation Residence Lot Appraisal Specifications.

The Recreation Residence Lot Appraisal Specifications state, “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.” (Appeal Record, Doc. 21).

Contention 5: The Forest Service appraisal is not based upon the fair market value of the rights and privileges authorized under appellant’s permits, and therefore is in contravention of 36 CFR 251.57(1).

Decision Documentation Addressing Contention 5:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 20 Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.
Document 21, Section 2.4, 2.6	Recreation Residence Lot Appraisal Specifications
Document 22	36 CFR 251.57
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson
Document 28	Sale Data Book for Recreation Residence Sites
Document 29	Standard Appraisal Review Report of Ms. Johnson’s appraisal dated 3-30-98

The appellants’ contention is vague. We interpret this contention to mean that permit restrictions have not been adequately recognized in the appraisal.

The Code of Federal Regulations states “Special use authorizations shall require the payment in advance of an annual rental fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management practices. (Appeal Record, Doc. 22, section 251.57.).

The Recreation Residence Lot Appraisal Specifications direct that “the appraisal shall provide an estimate of fair and equitable cash market value for a typical lot, a lot within a tract or group of tracts, as if in fee ownership and restricted to a recreation residence lot use, excluding all holder provided improvements on and to the lot”. (Appeal Record, Doc. 21, Section 2.4). The specifications go on to direct that “cash market value shall be based upon the typical lot(s) use as a recreational residence home site and shall be supported by confirmed recent transactions of comparable properties having similar uses, but adjusted for differences from the subject lot(s). (Appeal Record, Document 21, Section 2.46, Item 3).

The Forest Service has given the appellants their rental fees based on the appraisal conducted by Ms. Kim Johnson, who is an accredited rural appraiser and a Montana Certified General Appraiser #487. Ms. Johnson states in her appraisal that “the estate appraised is the unencumbered fee simple title of the typical sites as if held in private ownership, restricted to recreation residence uses, subject to the more stringent of applicable local police powers or permit restrictions of a like nature.” (Appeal Record, Doc. 23, page 8). She defines the scope of the appraisal and discusses the fact that sales, listings, and offers to buy from the subject area were researched. She personally inspected all sales used in direct comparison to the subjects. (Appeal Record, Doc. 26, pages 8, 9). She discusses in greater detail the data analysis she conducted to arrive at the fair market value of the rights and privileges authorized. She found that the private sale covenants, conditions, and restrictions (CC&R’s) and the permit restrictions have many similarities. In most cases, developers, purchasers, and property owners see the CC&R’s as a positive attribute. The property owners view the restrictions as a way of maintaining the quality of the neighborhood and enhancing property values. Analysis of sales from a number of areas does not indicate variations in price due to CC&R’s. The existence of the CC&R’s and market acceptance of such restrictions compares to the Forest Service permit restrictions that are considered as part of the appraisal, with one exception. The permit restrictions specify the subject sites can only be used as part-time residences and not as primary residences for the holders of the permits. This difference is reconciled by the fact that purchasers of these sites, as well as most other similar sites in the area, are not usually purchasing primary home sites. Once cabins or homes are built, the sites are used as vacation homes. Since the sites are purchased for part-time use, Ms. Johnson feels that although there are differences between the subject’s permit restrictions and private property CC&R’s, market reactions to the restrictions would be similar. (Appeal Record, Doc. 23, pages 21-22).

Throughout her appraisal, Ms. Johnson cites the sales she used. This sale data is also contained in the Sale Data Book for Recreation Residence Sites (Appeal Record, Doc. 28)

Ms. Johnson has followed the direction outlined in the Recreation Residence Lot Appraisal Specifications and in the Federal Register, Vol. 59, No. 105, page 28730, section 33.3 (Appeal Record, Doc. 20 and 21). Her appraisal is based upon the fair market value of the rights and privileges authorized under the appellants’ permits. Her appraisal was reviewed and accepted by Regional Review Appraiser John Hickey. (Appeal Record, Doc. 29)

Contention 6: The Forest Service Bill for Collection is not based upon an appraisal of the fee simple value of appellants’ lots.

Decision Documentation Addressing Contention 6:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 21, Section 2.45	Recreation Residence Lot Appraisal Specifications
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson

Document 20	Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.
Document 2		2720/5410 letter dated 5-29-98 notifying permittees of appraised values of their lots and associated Bills for Collection
Document 29		Standard Appraisal Review Report of Ms. Johnson’s appraisal dated 3-30-98

The Recreation Residence Lot Appraisal Specifications identify the purpose of an appraisal: “The appraisal purpose is a cash market value estimate of the fee simple interest of the National Forest System effective land area authorized by a permit, but without consideration as to how the permit would, or could, affect the fee title of the lot(s) within a recreation residence tract, or the designated typical lot(s) within a recreation residence tract grouping.” The specifications go on to say “Estate appraised is the unencumbered fee simple title of the typical lot(s) as if held in private ownership, zoned to a recreation residence use, and subject to all applicable local governmental police powers. Restrictions imposed by the permit itself must be compared to the local controls on private land and proper adjustments made accordingly.” (Appeal Record, Doc. 21).

The appellants were notified of the appraised value of their lot. (Appeal Record, Doc. 2). The Bill for Collection (Appeal Record, Doc. 2) sent to the appellant reflects the fee simple value of their lot which is based on the appraisal conducted by Ms. Kim Johnson, who is an accredited rural appraiser and a Montana Certified General Appraiser #487. Ms. Johnson states in her appraisal that “the estate appraised is the unencumbered fee simple title of the typical sites as if held in private ownership, restricted to recreation residence uses, subject to the more stringent of applicable local police powers or permit restrictions of a like nature.” (Appeal Record, Doc. 23, page 8).

Ms. Johnson followed the direction outlined in the Recreation Residence Lot Appraisal Specifications and in the Federal Register, Vol. 59, No. 105, page 28730, section 33.3 (Appeal Record, Docs. 20 and 21). She appraised the unencumbered fee simple title value of the typical sites. Her appraisal was reviewed and accepted by Regional Review appraiser John Hickey. (Appeal Record, Doc. 29). Ms. Johnson achieved the purpose of the appraisal by following the Recreation Residence Lot Appraisal Specifications and the direction in the Federal Register.

Contention 7: It is a violation of Forest Service appraisal policy and requirements for an appraiser to conduct an appraisal if they are not familiar with the property they are appraising.

Decision Documentation Addressing Contention :

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson
Document 20 Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.

Document 29	Standard Appraisal Review Report of Ms. Johnson's appraisal dated 3-30-98
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The appellants contend that the Forest Service appraiser, Ms. Kim Johnson, resides in and is familiar with properties in Arizona and therefore she is not familiar with properties in the Echo Lake area.

The Federal Register Vol. 59, No. 105, June 2, 1994, Section 33.3 outlines the process for determining the fair market value of recreation residence lots. (Appeal Record, Doc. 20). The direction is to use appraisals made by professional appraisers.

Ms. Kim Johnson does work for Headquarters West, Ltd. in Phoenix, AZ. Ms. Johnson is an Accredited Rural appraiser and is a Professional Montana Certified General Appraiser, certification number 487. Ms. Johnson also worked as a real estate appraiser for the USDA Forest Service in Phoenix from 1991 to 1995. (Appeal Record, Doc. 23, page 31). Her state of residence has no bearing on whether she is qualified to appraise recreation residence lots.

Ms. Johnson states that her appraisal report is made following her on-site inspection of the subject property and the sales, and a study of the area. (Appeal Record, Doc. 23, page 2). In the Scope of the Appraisal section of her appraisal report, she states she researched sales, listing, and offers to buy from the subject area. She personally inspected all sales used in direct comparison to the subject. These sales were confirmed with the buyer, seller or a party knowledgeable of the transaction. (Appeal Record, Doc. 23, pages 9 and 10). Not every lot in a recreation residence group is appraised. Similar lots are combined into a single group and one typical lot is appraised per group. The appraisal provides an estimate of fair and equitable cash market value for a typical lot (rather than all individual lots) within groups that have essentially the same or similar value characteristics. The value estimate for the typical lot is then applied to all lots in the group.

This demonstrates Ms. Johnson was familiar with the property she appraised. In addition, Ms. Johnson appraised three additional recreation residence lots in the Echo Lake area.

Ms. Johnson's appraisal reports were reviewed and accepted by Regional Review appraiser John Hickey. (Appeal Record, Doc. 29).

Contention 8: The lots do not have lake frontage. However, the Forest Service's appraiser identified the lots as having lake frontage.

Decision Documentation Addressing Contention 8:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 21, Section 2.45	Recreation Residence Lot Appraisal Specifications
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson

The Recreation Residence Lot Appraisal Specifications, section 2.46, Item 9, address the lake frontage issue. They state that private transactions typically convey the full use and enjoyment of all the land down to the actual frontage on a natural attraction subject to local planning and zoning setback requirements and public safety zones. Similarly, shoreline strips or feature protection zones are retained by the government to adequately provide for the incidental and emergency use of the public but not to the exclusion of the holders effective use area. In other words, if the permitted area does not extend to the edge of the lake, stream, or other natural attraction, and a public use strip exists between the lot boundary and the natural feature, the appraiser is to consider the effective area of the authorization and not merely the described lot itself. (Appeal Record, Doc 21, page 5).

Ms. Johnson assessed the typical with regard to proximity to Echo Lake and lake frontage. She describes the site as only a short distance from the lake with a view of the lake, and considers the subject lot to have lake frontage. Lake frontage sales were used in direct comparison to the subject. Ms. Johnson identifies the range of sale prices for lake view lots as \$42,500 to \$65,000. The range of sale prices for lake frontage lots is \$75,000 to \$85,000. Differences in “quality” of lake frontage were addressed by bracketing. (Appeal Record, Doc. 23, pages 12 and 23).

Ms. Johnson considered the “public access strip” that lies between the permit area and the lake shore when conducting her appraisal. According to the Forest Service plat, the subject lot is setback slightly from the lake shore. The sales have full lake frontage. It has been argued on occasion that the public access strip is a detriment to the value of the subject lots when compared to private lots that have full lake frontage. The lot owner still enjoys use of the property to the lake, even though the use may, on occasion, be shared with others. In addition, no one can build a structure on the strip to inhibit the view. In very few instances does the market recognize a reduction in sale prices due to a public access strip between the lot and the water. In recent years, easements that effectively create a public access strip are increasingly common and are generally accepted by buyers. In the case of Echo Lake, the permittees themselves are major users of the public access strip as a walking path around the lake. Ms. Johnson felt it was not appropriate to make an adjustment for the public access strip between the subject lot and the lake shore. (Appeal Record, Doc. 23, pages 26 and 27).

Contention 9: Comparable sales from 1997 should have been used rather than the sales information from 1993 and 1994 that the Forest Service appraiser used. .

Decision Documentation Addressing Contention 9:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 23	Real Estate Appraisal of Echo Lake Lot 103 Recreation Residence Site – prepared by K. Johnson

Ms. Johnson presents in her appraisal report the sales information she used for determining the lot value. (Appeal Record, Doc. 23, page 20). The sales used in the analysis are, for the most part, very recent. All but two of the sales occurred in 1996 and 1997. Sales R1 and R2 took place in January, 1994 and June, 1995 respectively. (Appeal Record, Doc. 23, page 22).

The sales from 1994 and 1995 are addressed. Ms. Johnson notes there is some change in price levels, that at first glance, could appear to be related to changing market conditions. However, there are some differences between the properties that probably contribute to the variations in sale prices. The lot that sold in 1994 was thought to be the desirable of the three sales in that group. It had a higher elevation and superior views. Overall, she believes the comparisons of these two sales support a stable market during the time frame of the cited sales. She feels the sales that occurred in 1996 and 1997 support the indication of a stable market during 1996 and 1997. (Appeal Record, Doc. 23, page 23).

The Date of Value of Ms. Johnson's appraisal is September 18, 1997. (Appeal Record, Doc. 23, page 1).

I feel the appellants' are incorrect in their contention that the appraisal upon which the Forest Service relied limits the comparable sales information to the years 1993 to 1994. Ms. Johnson used sales from 1996 and 1997, and used September 18, 1997 as the Date of Value for her appraisal.

Should you have questions regarding the information presented in this letter please contact Cindy Tencick, Appeals and Litigation Coordinator, at (406) 683-3930.

/s/ Peri R. Suenram for
JANETTE S. KAISER
Forest Supervisor

Enclosure: Echo Lake Recreation Residence Appeals Record Index

cc:
Bernard J. and Charmaine Everett
Jacqueline Malee

ECHO LAKE

RECREATION RESIDENCE APPEALS

APPEAL RECORD DOCUMENTATION

VOLUME 1

SECTION A -- INDEX

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