



United States
Department of
Agriculture

Forest
Service

Lolo National Forest
(406)329-3750

Building 24
Fort Missoula
Missoula, MT 59804

File Code: 1570/2830
Date: July 15, 1998

Steve Hicks
711 North C
Livingston, MT 59047

Dear Mr. Hicks:

This letter is my review decision of your Notice of Appeal (NOA) filed in protest of the Ninemile District Ranger's April 3, 1998 decision regarding access into Mr. Lewis' property.

My review is conducted pursuant to, and in accordance with, 36 CFR 251. My responsibility as Reviewing Officer is to ensure the analysis and decision are in compliance with the applicable laws, regulations, and orders. This review decision hereby incorporates by reference the entire administrative appeal record.

I. Summary

On April 3, 1998, the District Ranger issued a decision describing the methods of access you and Mr. Lewis would be allowed to use in order to access the area of Mr. Lewis' mineral rights. The access allowed was foot or horseback travel for an initial trip and use of motorcycles to pack in a camp and equipment for a later more in-depth geologic reconnaissance.

On April 8, 1998, you appealed this decision. On May 26, 1998 I agreed to review your appeal. On June 18, 1998, the District Ranger issued a Responsive Statement (RS) to your NOA. You replied to the RS on June 29, 1998. I closed the appeal record on July 8, 1998.

II. Overview of Issues and Relief Requested

The central issue outlined in your NOA is whether walking, bicycling, or using stock within the proposed Great Burn wilderness area is reasonable access to Mr. Lewis' mineral rights.

Your requested relief is to allow the use of motorcycles to access Mr. Lewis' mineral rights for the initial trip.

III. Review Findings



I have thoroughly reviewed the appeal record, the concerns raised in your NOA, the District Ranger's RS, and your reply to the RS. I agree with the statements and conclusions in the RS. The following review discussion pertains specifically to those points of the RS, to which you replied on June 29, 1998.

Contention: You state that Forest Service regulations and the Lolo Forest Plans regulating motorcycle use may apply to recreationists, hunters, and berry pickers but they do not apply to Mr. Lewis' right to use and access his mineral rights.

Response: I agree with the District Ranger's conclusion in his RS (p. 1). Mr. Lewis and yourself were not denied the use of motorcycles but were given a set of parameters by which motorcycles could be used. For an initial "scouting" trip when no equipment or camp are to be packed in, hiking, stock use, or mountain bikes are a reasonable and historic means of access into the Great Burn area. Mr. Lewis and yourself are allowed to use motorcycles to pack in a camp and equipment. Mr. Lewis' right to reasonable access to his mineral rights is not denied.

IV. Decision

I affirm the Ninemile District Ranger's decision that an initial trip where no equipment or camp is carried, that hiking, stock use or mountain biking into the Great Burn is reasonable access and that motorcycle use would be permitted to pack in any equipment or camp. The decision is reasoned and in conformance with applicable laws and regulations. Your request for relief is denied.

This determination may be appealed to the Regional Forester for a second level of review within 15 days of my decision in accordance with 36 CFR 251.87. The appeal must be fully consistent with 36 CFR 251.90, " Notice of Appeal Content", and include reasons for appeal. Appeals may be filed with: Regional Forester, USDA Forest Service, P.O. Box 7669, Missoula, MT 59807. Simultaneously, send a copy of the Notice of Appeal to myself at Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59804.

Sincerely,

/s/ Charles C. Wildes

CHARLES C. WILDES
Reviewing Officer
Forest Supervisor