



United States
Department of
Agriculture

Forest
Service

Beaverhead-Deerlodge
National Forest

File Code: 1570 (251 appeal)
Route To:

Date: July 12, 2000

Subject: Responsive Statement, Echo Lake Recreation Residence Appeal – Estate of George Wellcome

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
Estate of George Wellcome	00-01-00-0037	Lot 132 - Kautzman

Seven appeals were filed by Echo Lake recreation residence permittees. These 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 appellant disagreed with the appraisal results, and requested a second appraisal. (Appeal Record, Doc. 17). However, he did not have this second appraisal completed.

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 17	2720 letter dated 7-14-98 regarding appellant obtaining a second appraisal – transmits specifications and direction for the second appraisal
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 132 (Kautzman) was the typical lot used for the appellant's lot value.

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 Estate of George Wellcome was for

information purposes because they decided not to pursue a second appraisal. Based on their response, I proceeded with processing their appeal (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 13	Representative 1570 letter dated June 13, 2000 informing appellants the Forest was proceeding with the appeals process.
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.

Decision Documentation Responding to Points of Appeal

Contention 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.*

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 20 Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.
Document 21	Recreation Residence Lot Appraisal Specifications
Document 26 Page 4	Real Estate Appraisal of Echo Lake Lot 132 Recreation Residence Site – prepared by K. Johnson
Document 29	Standard Appraisal Review Report of Ms. Johnson's appraisal dated 3-30-98
Document 31	Special Use Permit for Kautzman
Document 32	Survey Map of Kautzman Lot
Document 33	Special Use Permit for Estate of George Wellcome

The typical lot used to determine the appellant's lot value was the Kautzman lot, #132 in the Echo Lake Group. Ms. Johnson identifies the size of this lot as 0.33 acres. (Appeal Record, Doc. 26, page 4). The permitted area for the Kautzman lot is also identified as 0.33 acres. (Appeal Record, Doc. 31). The survey map also identifies the lot as 0.33 acres. (Appeal Record, Doc. 32). The permitted area for the Estate of George Wellcome lot is 1.00 acres. (Appeal Record, Doc. 33). Based on this information, the appellant's contention appears incorrect.

The Recreation Residence Lot Appraisal Specifications address the issue of value as related to size. They clearly 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". (Appeal Record, Doc. 21, page 5).

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. The subject lot is adjacent to another Forest Service recreation residence lot on the easterly side. On the southerly side the subject abuts unpermitted National Forest land. On the westerly side, there is unpermitted area between the subject and the next platted lot. In addition, the next lot is vacant. Since the Forest Service is not issuing new permits, these lots will remain vacant for the foreseeable future. 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. 26 pages 24 and 25).

The Forest Service has given 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. 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 summarized the size range of comparable sites she used and estimated the value of the typical lot. (Appeal Record, Doc. 26, pages 20, 24, 26). 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 appellant's permit. Her appraisal was reviewed and accepted by Regional Review Appraiser John Hickey. (Appeal Record, Doc. 29)

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:

Page Wellcome, for the Estate of George Wellcome

ECHO LAKE

RECREATION RESIDENCE APPEALS

APPEAL RECORD DOCUMENTATION

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8	4/6/00	Letter from USFS to appellants re: grouping appeals for one consolidated appeal decision	2
9	3/24/00	Letter from USFS to appellants re: grouping appeals for one consolidated appeal decision	1
10	5/3/00	Letter from USFS to Linda Lombardi transmitting names of appellants	1
11	5/23/00	Memo to Appeal Deciding Officer requesting extension to 8/15/00	2
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		them request for an extension was granted	
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