



**United States  
Department of  
Agriculture**

**Forest  
Service**

**Beaverhead-Deerlodge  
National Forest**

**File Code:** 1570 (251 Appeal)  
**Route To:**

**Date:** July 7, 2000

**Subject:** Responsive Statement, Warm Springs Recreation Residence Appeal – Terrance Galle

**To:** Appeal Deciding Officer, Kathy McAllister

In accordance with 36 CFR 251.94 (b) I am hereby submitting the responsive statement for the Warm Springs 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).

<b>Appellant</b>	<b>Appeal #</b>
Terrance Galle	00-01-00-0062

The appeal record is contained in one 3-ring binder. An index of the project file is attached to this letter. The project file will be delivered to your office on July 11, 2000. References are made throughout this letter to the appeal record.

### **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 appellant paid the 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. 15). This appraisal was completed on September 17, 1997 by Ms. Kim Johnson, ARA, Phoenix, AZ, under contract number 53-84M-5-00433 awarded by the Forest Service. Appellant disagreed with the appraisal results, but did not have a second appraisal done at his 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:**

<b>APPEAL RECORD REFERENCE</b>	<b>SUBJECT MATTER</b>
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	1570 letter dated 3-16-00 acknowledging receipt of appeal and informing appellant their appeal will be forwarded to the Regional Appeal Deciding Officer, Kathy McAllister.
Document 15	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.

The typical lot used to determine the value of the appellant's lot was Spring Hill Group B.

**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, 12). 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

appellant could indicate if they would like to participate in the process outlined at the meeting (Appeal Record, Doc 13). The appellant indicated he 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. 14). This letter to Mr. Galle was for information purposes because Mr. Galle decided not to pursue a second appraisal.

**Decision Documentation Addressing Attempts At Appeal Resolution:**

<b>APPEAL RECORD REFERENCE</b>	<b>SUBJECT MATTER</b>
Document 4	1570 letter dated 3-16-00 acknowledging receipt of appeal and informing appellant of the 3-20-2000 meeting.
Document 12	Attendee list from 3-20-00 meeting
Document 13	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 14	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 Point of Appeal**

**Contention 1:** *The fee amount for the recreation residence permit is exorbitant. Appellant is not able to live on the property year round and the fees they pay seem to be unfair.*

**Decision Documentation Addressing Contention 1:**

<b>APPEAL RECORD REFERENCE</b>	<b>SUBJECT MATTER</b>
Document 2	2720/5410 letter dated 5-29-98 notifying permittee of appraised value of his lot and associated Bill for Collection
Document 15	Federal Register Vol. 59, No. 105, June 2, 1994.
Document 16, Section 2.4, 2.6	Recreation Residence Lot Appraisal Specifications
Document 17	Real Estate Appraisal of Spring Hill Group B Recreation Residence Site – prepared by K. Johnson
Document 18	Sale Data Book for Recreation Residence Sites
Document 19	Standard Appraisal Review Report of Ms. Johnson's appraisal dated 3-30-98

Appellant was notified of their lot value on May 29, 1998. (Appeal Record, Doc. 2). Their lot value was determined by appraisal as outlined in the Federal Register, Volume 59, No. 105, 33.3, dated June 2, 1994 (Appeal Record, Doc. 15, Page 1) and the Recreation Residence Lot Appraisal Specifications (Appeal Record, Doc. 16). This appraisal was completed on September 17, 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. 19).

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. 16, 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 16, 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. 17, 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. 17, 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. 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 17, pages 19-20).

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. 18)

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. Therefore, I feel Ms. Johnson's appraisal is valid for calculating permit fees.

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 Suenram for  
JANETTE S. KAISER  
Forest Supervisor

Enclosure: Warm Springs Recreation Residence Appeal Record Index

cc:  
Terrence Galle

# WARM SPRINGS RECREATION RESIDENCE APPEAL

## APPEAL RECORD DOCUMENTATION

### VOLUME 1

#### SECTION A -- INDEX

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
1	No Date	Appeal Record Index	2

#### SECTION B – NOTICE OF LOT VALUES AND ASSOCIATED BILLS FOR COLLECTION

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
2	5/29/98	Letter from USFS to permittee notifying them of appraised recreation residence lot values	2
	1/21/00	Bill for Collection for calendar year 2000 rental fee for recreation residence lot	1
3	1/24/00	Letter from USFS to permittee transmitting Bills for Collection	2

#### SECTION C – APPEAL ADMINISTRATION

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
4	No date	Representative letter from USFS to permittee notifying them appeal will be forwarded to the Regional Appeal Deciding Officer	1
5	4/4/00	Memo to Appeal Deciding Officer requesting extension to 5/1/00	1
6	5/1/00	Letter from USFS to Senator Baucus regarding recreation residence rental fees. Includes enclosure -- a Briefing Statement	4
7	3/2/00	Letter from USFS to appellant re: grouping appeals for one consolidated appeal decision	1
8	5/3/00	Letter from USFS to Linda Lombardi transmitting names of appellants	1
9	5/23/00	Memo to Appeal Deciding Officer requesting extension to 8/15/00	2
10	5/23/00	Letter from USFS to appellants notifying them request for an extension was granted	1
11	6/13/00	Letter from USFS to appellants notifying them the Forest is proceeding with the appeals process	1

<b>SECTION D – APPEAL RESOLUTION ATTEMPTS</b>			
<b>DOCUMENT NO.</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b># OF PAGES</b>
<b>12</b>	<b>3/20/00</b>	<b>Attendee list for 3/20/00 appeal resolution meeting with appellants</b>	<b>2</b>
<b>13</b>	<b>3/31/00</b>	<b>Representative letter from USFS to appellants re: 3/20/00 resolution meeting</b>	<b>2</b>
<b>14</b>	<b>5/16/00</b>	<b>Representative letter from USFS to appellants transmitting notes from Forest Supervisor's 4/20/00 meeting with appraisers Hickey and Stuckey</b>	<b>5</b>
<b>SECTION E – FEDERAL REGISTER; APPRAISAL SPECIFICATIONS; CFR'S</b>			
<b>DOCUMENT NO.</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b># OF PAGES</b>
<b>15</b>	<b>6/2/94</b>	<b>Federal Register, Vol. 59, No. 105</b>	<b>2</b>
<b>16</b>	<b>No Date</b>	<b>Recreation Residence Lot Appraisal Specifications</b>	<b>5</b>
<b>SECTION F – SPRING HILL GROUP B APPRAISAL</b>			
<b>DOCUMENT NO.</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b># OF PAGES</b>
<b>17</b>	<b>9/17/97</b>	<b>Georgetown Lake appraisal prepared by USFS contract appraiser Johnson</b>	<b>32</b>
<b>SECTION G – SALE DATA BOOK</b>			
<b>DOCUMENT NO.</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b># OF PAGES</b>
<b>18</b>	<b>No Date</b>	<b>Sale Data Book prepared by USFS contract appraiser Johnson</b>	<b>39</b>
<b>SECTION H – STANDARD APPRAISAL REVIEW REPORT</b>			
<b>DOCUMENT NO.</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b># OF PAGES</b>
<b>19</b>	<b>3/30/98</b>	<b>Standard Appraisal Review Report for Spring Hill Group B prepared by Hickey</b>	<b>2</b>