



File Code: 1570 (251 appeal)
Route To:

Date: July 14, 2000

Subject: Responsive Statement, Echo Lake Recreation Residence Appeal – Mary Ferriter

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
Mary Ferriter	00-01-00-0060	Lot 103 - Monahan

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, 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 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 Ms. Ferriter was for information purposes because she decided not to pursue a second appraisal. Based on her response, I proceeded with processing her 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 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 appellant's leased property does not have the value as reflected in the new annual fee.*

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 Page 4	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

Appellant's 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. 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, page 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 26, page 18).

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 appellant cites no evidence for a reduced lot value that she feels should be used to determine her rental fee. In fact, she did not cite a value she thought should be used in determining her

rental fee. The appellant did not pursue a second appraisal. Her contention that her leased lot does not have the value reflected in the new annual fee is speculation. Therefore, I feel Ms. Johnson's appraisal should be used 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 R. Suenram for
JANETTE S. KAISER
Forest Supervisor

Enclosure: Echo Lake Recreation Residence Appeals Record Index

cc:
Mary Ferriter

ECHO LAKE

RECREATION RESIDENCE APPEALS

APPEAL RECORD DOCUMENTATION

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6	5/1/00	Letter from USFS to Senator Baucus regarding recreation residence rental fees. Includes enclosure -- a Briefing Statement	4
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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
12	5/23/00	Letter from USFS to appellants notifying	1

		them request for an extension was granted	
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SECTION F – FEDERAL REGISTER; APPRAISAL SPECIFICATIONS; CFR'S

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