United States Department of Agriculture | **Forest Service** | **Northern Region** | **200 E. Broadway P.O. Box 7669 Missoula, MT 59807**

File Code: 1570 (251-1)
#00-01-00-0098

Date: January 23, 2001

Page Wellcome
P. O. Box 610
Cardiff-By-The-Sea, CA 92007

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Mr. Wellcome:

This letter is my review decision of your Notice of Appeal (NOA) on the decision to implement a new Recreation Fee Schedule for your recreation residence lot, Group B, Lot 130, located at Echo Lake, on the Beaverhead-Deerlodge National Forest. The recent appraisal and the fee based on the appraisal are at issue. You were notified of your right to administrative review (appeal) and your responsibilities in filing that appeal in the letter dated January 24, 2000, that accompanied your Bill for Collection. A discussion of the appeal process is presented in the Forest Supervisor's Responsive Statement.

My review was conducted pursuant to, and in accordance with, 36 CFR 251, subpart C. My responsibility as Reviewing Officer is to ensure the analysis and decision are in compliance with applicable laws, regulations and policy. Information that was acquired during Mr. Bernard Everett's oral presentation on October 13, 2000, here in Missoula, and by you and several other appellants in Butte on October 16 and 17, 2000, is included in the appeal record. This review decision hereby incorporates by reference the entire administrative appeal record.

I. SUMMARY

On April 6, 2000, I notified you that several appeals were being consolidated pursuant to 36 CFR 251.95(b), due to significant similarities in their issues. The issues for the following appellants are similar and are consolidated for review.

Appeal Number	**Appellant(s)**
#00-01-00-0037	Estate of George P. Wellcome
#00-01-00-0098	**Page Wellcome**
#00-01-00-0038	Dorothy Dire
#00-01-00-0039	Ronald and Catherine Eccleston
#00-01-00-0040	William F. Antonioli
#00-01-00-0041	Andrew and Charen McFarland
#00-01-00-0042	Marvin F. Cline
#00-01-00-0043	Norman and Patricia Olson

#00-01-00-0044	Bernard J. and Charmaine Everett
#00-01-00-0045	Donald L. Gillespie
#00-01-00-0046	Paula B. Jermunson
#00-01-00-0047	Dodge and Kathleen Leary
#00-01-00-0048	Mildred Williams
#00-01-00-0049	Stephen C. Neal
#00-01-00-0050	John Pahut

The Forest Supervisor for the Beaverhead-Deerlodge National Forest succinctly summarized the history of the appraisal process as it has affected you in her Responsive Statement dated July 12, 2000. I will reference this document throughout my review. In addition to this record of the process, I am incorporating information I received during the oral presentations. This information completed the appeal record, and I closed the record on October 19, 2000.

II. OVERVIEW OF ISSUES AND RELIEF REQUESTED

The following issue, identified from your Notice of Appeal, sums the concern you have as your being affected by the decision to increase fees based upon an appraisal of my lot (#130) as the typical lot, because the appraisal does not reflect a true and correct assessment of the appraised fee simple value of that lot near Echo Lake.

Appellant's contention under this issue is:

1. The comparable sales used for comparison purposes are properties where there is year-around access and the lots can be used for permanent residence unlike the appellant's lot, which is for summer-use only and no permanent residence. Non-similar lots were used for comparison.

During the oral presentation, you also argued that the subject lot is heavily treed making it difficult if not impossible to protect improvements from fire. You also stated that the Forest Service is generally unwilling to allow recreation residence permittees to clear and fireproof their lots, making them less desirable to prospective buyers at the appraised value.

The relief requested is to reduce the fair market value of the affected recreation residence lot to a value reflecting partial yearly use on a non-permanent resident basis. In this case, it should be one-third the current fee because the lot can only be used June through September and two-thirds of the year is inaccessible.

III. REVIEW FINDINGS

I have thoroughly reviewed the appeal record, including the concerns raised in your Notice of Appeal, the notes from the appeal resolution meeting of March 20, 2000, the Forest Supervisor's Responsive Statement, and my notes and filed exhibits from the oral presentations on October 13, 16 and 17, 2000. I wish to commend you on the level of interest you have demonstrated, energy and financial resources you have expended, and genuineness with which you have expressed your concerns.

However, the Forest Supervisor and her staff have also dedicated considerable time and energy attempting to resolve your appeals. I agree with the Forest Supervisor's resolution process and the analysis and discussion in her Responsive Statement, and I will not reiterate those arguments here.

During the oral presentations, I listened with considerable interest as you and several others expressed concerns about the appraisal process, its outcome and how that has affected you individually and recreation residence permittees, in general. I empathize with you and your concerns over increased fees.

From the appeal record, I have developed my response to your appeal point and contention. I have relied heavily on the previous work of the Forest Supervisor, in particular her July 12, 2000, Responsive Statement.

1. *The comparable sales used for comparison purposes are properties where there is year-around access and the lots can be used for permanent residence unlike the appellant's lot, which is for summer-use only and no permanent residence. Non-similar lots were used for comparison.*

I have thoroughly reviewed this issue and find that the Forest Service contract appraiser, Ms. Kim Johnson, who is an accredited rural appraiser and a Montana Certified General Appraiser #487, has based her appraisal on comparable properties. The Forest Supervisor provides a lengthy discussion on this issue in her July 12, 2000, Responsive Statement. Please refer to this document for further information. I can add nothing substantive and will not repeat her arguments here.

I would also like to address the following concern you raised in your oral presentation on October 16, 2000. I understand your concern over protection of your investments on your recreation residence lots at Echo Lake during the dangerous fire season of 2000. You have stated: "The subject lots (Page Wellcome, Echo Lake, Group B, #130, and the estate of George P. Wellcome, Echo Lake, Group D, #133) are heavily treed making it difficult if not impossible to protect improvements from fire. The Forest Service is generally unwilling to allow recreation residence owners to clear and fireproof their lots, making them less desirable to prospective buyers at the appraised value."

The Forest Supervisor has not provided any arguments on this point because I received this concern at your oral presentation. Since most lots in the Georgetown and Echo Lake areas are forested, the fact that they are forested and subject to a common wildfire threat is intrinsic to the value of comparable sales of similar properties with timber cover. The appraised values adequately reflect this concern.

It is incumbent upon you, and other area permittees to work with the Forest Supervisor and her staff as you contemplate improving your ability to protect area improvements from wildfire. Each request to remove trees, underbrush and other potentially hazardous vegetation will need to be addressed by the Supervisor's staff to determine what can be done and how it shall be done. I

suggest that you contact the Beaverhead-Deerlodge National Forest Supervisor on this issue prior to the 2001 fire season.

IV. DECISION

After a careful review of the appeal record, including exhibits and notes from the oral presentations, I find the Forest Supervisor's decision to be reasonable and in conformance with applicable laws, regulations and policy. I find that the Forest Supervisor has appropriately discussed and addressed your concern on comparable sales in her decision. I affirm the Beaverhead-Deerlodge National Forest Supervisor's decision to base the calendar year 2000 recreation residence permit fees for your Echo Lake lot on the existing, approved Forest Service appraisal. Your request for relief is denied.

This is the final determination of the Department of Agriculture, unless the Chief of the Forest Service, on his own initiative, elects to review the decision within 15 days of receipt (36 CFR 251.87(e) and 251.100).

Sincerely,

/s/ Gary A. Morrison

GARY A. MORRISON
Reviewing Officer
Director of Recreation, Minerals,
Lands, Heritage and Wilderness

cc:
Beaverhead-Deerlodge NF
R-1, Appeals
WO, Appeals
WO, Land Uses

United States Department of Agriculture | **Forest Service** | **Washington Office** | **14th & Independence SW**
P.O. Box 96090
Washington, DC 20090-6090

File Code: 1570 (L)
00-01-00-0098-A251

Date: February 6, 2001

Mr. Page Wellcome
P. O. Box 610
Cardiff-By-The-Sea, CA 92007

Dear Mr. Wellcome:

We have received Reviewing Officer Gary A. Morrison's January 23, 2001, decision letter and accompanying documentation. You are appealing the Beaverhead-Deerlodge National Forest Supervisor's decision to implement a fee increase for your recreation residence special-use permit on Lot 130, Group B, in the Echo Lake area, Beaverhead-Deerlodge National Forest.

I find the actions taken by the Reviewing Officer are consistent with current statutory regulations concerning the fee determination and appraisal process for your special-use permit.

Therefore, I have elected not to review this decision. This action is consistent with 36 CFR 251.100(c) of the Secretary of Agriculture's Appeal Regulations, and constitutes the final administrative determination of the Department of Agriculture.

I urge you to contact and work with Forest Supervisor Kaiser concerning your wildfire improvement plans prior to the 2001 fire season.

Sincerely,

/s/ Sally D. Collins (for)

PAUL BROUHA
Reviewing Officer for the Chief