



File Code: 1570 (215)
#00-01-00-0113

Date: October 13, 2000

Roger Flynn
Jeffrey C. Parsons
Western Mining Action Project
2260 Baseline Road, Suite 101A
Boulder, CO 80302

Michael Reisner
Northern Plains Resource Council
2401 Montana Avenue, Suite 200
Billings, MT 59101

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Messrs. Flynn, Parsons, and Reisner:

This is my decision on disposition of the appeal you filed on behalf of the Cottonwood Resource Council and the Northern Plains Resource Council regarding the Lodestar Mining and Exploration Decision Notice signed by the Big Timber District Ranger (Gallatin National Forest).

FINDINGS

Following is my evaluation of the objections raised in your appeal and your requested changes.

Scope of Decision

Decisions made in Forest Plans are subject to administrative review under 36 CFR 217 and are not subject to review in project or activity decisions [36 CFR 215.8(a)(1)]. These decisions are considered to be beyond the scope of the project-level decision, and the opportunity to challenge these decisions has been exhausted.

Similarly, Appellants may not request review of activities that are not “connected” to the project decision being challenged or ask that additional decisions be made that are not “ripe” for decision. Under NEPA, the Responsible Official has the discretion to propose actions and determine which actions warrant a decision and which do not. I have determined your objections are within the scope of the decision.

APPEAL REVIEWING OFFICER RECOMMENDATION

The Appeal Reviewing Officer has considered your arguments, the appeal record, and the transmittal letter and recommends the District Ranger’s decision be reversed and your requested relief be granted.



DECISION

My review of your appeal was conducted pursuant to, and in accordance with, 36 CFR 215.17 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. I have thoroughly reviewed the appeal record, your arguments, the information referenced in the District Ranger's September 13, 2000, transmittal letter (copy enclosed) and the Appeal Reviewing Officer's analysis and recommendation (copy enclosed). The transmittal letter provides the specific page references to discussions in the Environmental Assessment (EA), the DN and Project File that bear upon your objections. I specifically incorporate in this decision the appeal record, the references and citations contained in the transmittal letter, and the Appeal Reviewing Officer's analysis and recommendation.

Based upon a review of the references and citations provided by the District Ranger, I find the record does not adequately address the reasonableness of the proposed activities in terms of whether the operations constitute uses required for or reasonably incidental to mineral prospecting, exploration, or development. I agree with the Appeal Reviewing Officer's analysis and conclusions.

After careful consideration of the above factors, I reverse the District Ranger's decision to implement the Lodestar Mining and Exploration Project. Your requested relief is granted.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Kathleen A. McAllister

KATHLEEN A. MCALLISTER
Appeal Deciding Officer
Deputy Regional Forester

Enclosures (2)

cc:
Gallatin NF