



File Code: 1570 (215)  
#98-01-00-0132

Date: December 7, 1998

William A. Fairhurst, President  
Public Lands Access Association, Inc.  
105 3rd Avenue East  
Three Forks, MT 59752-0249

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Mr. Fairhurst:

This is my decision on disposition of the appeal you filed on behalf of the Public Lands Access Association, Inc. protesting the Cherry Creek Native Fish Introduction Decision Notice signed by the Gallatin National Forest Supervisor.

### 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 Forest Supervisor's decision be affirmed and your requested relief be denied.

#### 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 Forest Supervisor's November 3, 1998, transmittal letter (copy enclosed) and the Appeal Reviewing Officer's analysis and recommendation (copy enclosed). The transmittal letter provides specific page references



to discussions in the DN, the EA and project file which 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 Forest Supervisor, I find the objections were adequately considered in the EA/DN. I agree with the Appeal Reviewing Officer's analysis and conclusions in regard to your appeal objections. I find the Forest Supervisor has made a reasoned decision and has complied with all laws, regulation, and policy.

After careful consideration of the above factors, I affirm the Forest Supervisor's decision to authorize the Cherry Creek Native Fish Introduction Project. Your requested relief is denied.

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)