



File Code: 1570 (251 appeal)
Route To:

Date: July 12, 2000

Subject: Responsive Statement, Echo Lake Recreation Residence Appeal – Page Wellcome

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
Page Wellcome	00-01-00-0098	Lot 130 - Wellcome

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 appellant 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 130 (Wellcome) 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 Page Wellcome was for information purposes because he decided not to pursue a second appraisal. Based on his response, I proceeded with processing his 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 comparable sales used for comparison purposes are properties where there is year-round access and the lots can be used for permanent residence unlike the appellant's lot, which is summer-use only and no permanent residence. Non-similar lots were used for comparison.

Decision Documentation Addressing Contention 1:

APPEAL RECORD REFERENCE	SUBJECT MATTER
Document 22	36 CFR 251.57
Document 21, Section 2.4, 2.6	Recreation Residence Lot Appraisal Specifications
Document 25	Real Estate Appraisal of Echo Lake Lot 130 Recreation Residence Site – prepared by K. Johnson
Document 20 Page 1	Federal Register Vol. 59, No. 105, June 2, 1994.
Document 28	Sale Data Book for Recreation Residence Sites
Document 29	Standard Appraisal Review Report of Ms. Johnson's appraisal dated 3-30-98

The appellant's contention covers two points: 1) Knowledgeable sellers and buyers would give less value to a lot which can be used only part of year and 2) Year-round access for a permanent residence has a greater value than the limited use of appellant's lot.

The Code of Federal Regulations states "Special use authorizations shall require the payment in advance of an annual rental fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management practices. (Appeal Record, Doc. 22, section 251.57.).

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 home site 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 has given 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. 25, 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. Two of the factors considered in the research were access and season of use. She personally inspected all sales used in direct comparison to the subjects. (Appeal Record, Doc. 25, 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. 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 these sales compare favorably with the part-time restriction incorporated in the Forest Service permits. (Appeal Record, Doc. 25, pages 17).

Ms. Johnson states in her appraisal, “One aspect of the permit restrictions that differs significantly from the CC&R’s is the restriction to a part-time residence. Further, the appraisal contract specifications indicate the highest and best use to be a recreation residence site that cannot be used as a permanent and sole place of residence. The sales do not have this restriction. However, the vast majority of homesites in the area are occupied on part-time bases. Generally, the sales were purchased for vacation or second homes. Although they could legally be occupied year around, this is not the intention of the owners. Because the buyers of lots in the area are purchasing lots to serve as part-time residences, they are comparable to the subject.” (Appeal Record, Doc. 25, page 21).

Ms. Johnson addresses access in her appraisal. She notes there is public road access to the subject site, which is similar to the public road access to the private subdivisions. The Forest Service recreation residence groups must provide internal road maintenance on their lots. This is a similar situation in the private subdivisions. The main road to the subject lot is not plowed in the winter. In this respect, it differs from the sales. The sales are all closer to winter-maintained

roads, which can be a benefit. However, it can also be a detriment. (Appeal Record, Doc. 25, page 25). Ms. Johnson states, “The vast majority of the residents – both Forest Service permits and private lot owners – only use their cabins and houses seasonally. While they are away in the winter, the chances of being vandalized or burglarized increase when winter traffic is possible. Because of the seasonal nature of most occupancies, I do not believe it is appropriate to make an adjustment for access. I will, however, consider it when estimating the value of the subject from within the range of indications of the sales.” (Appeal Record, Doc. 25, page 25).

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 appraised the lot for its highest and best use: a recreation residence site that cannot be used as a permanent and sole place of residence. (Appeal Record, Doc. 25, page 15).

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 (Appeal Record, Doc. 20 and 21). Her appraisal is based upon the fair market value of the rights and privileges authorized under the appellant’s permit. Her appraisal was reviewed and accepted by Regional Review Appraiser John Hickey. (Appeal Record, Doc. 29)

Mr. Wellcome requests his fee be reduced from \$1,360 to \$454. Mr. Wellcome apparently reached a conclusion on the value of his lot without the benefit of a professional appraisal. The value 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:
Page Wellcome

ECHO LAKE

RECREATION RESIDENCE APPEALS

APPEAL RECORD DOCUMENTATION

VOLUME 1

SECTION A -- INDEX

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
1	No Date	Appeal Record Index	3

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 permittees notifying them of appraised recreation residence lot values	7
	1/21/00	Bills for Collection for calendar year 2000 rental fee for recreation residence lot	7
3	1/24/00	Letter from USFS to permittees transmitting Bills for Collection	2

SECTION C – APPEAL ADMINISTRATION

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
4	3/16/00	Letters from USFS to permittee notifying them appeals will be forwarded to the Regional Appeal Deciding Officer	5
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 appellants re: grouping appeals for one consolidated appeal decision	2
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	
13	6/13/00	Letter from USFS to appellants notifying them the Forest is proceeding with the appeals process	1

SECTION D – APPEAL RESOLUTION ATTEMPTS

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
14	3/20/00	Attendee list for 3/20/00 appeal resolution meeting with appellants	2
15	3/31/00	Letter from USFS to appellants re: 3/20/00 resolution meeting	12
16	5/16/00	Representative letter from USFS to appellants transmitting notes from Forest Supervisor's 4/20/00 meeting with appraisers Hickey and Stuckey	5

SECTION E – APPRAISAL CORRESPONDENCE

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
17	7/14/98	Letters from USFS to appellants who requested a second appraisal – transmits specifications and direction for the second appraisal	2
18	12/10/98	Memo from Forest Supervisor to Hickey re: appraisal changes to Murto and Kosena lots	2
19	12/18/98	Letter from USFS to Tauno Murto re: appraisal changes to his lot	2

SECTION F – FEDERAL REGISTER; APPRAISAL SPECIFICATIONS; CFR'S

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
20	6/2/94	Federal Register, Vol. 59, No. 105	2
21	No Date	Recreation Residence Lot Appraisal Specifications	5
22	No Date	36 CFR 251.57	2

VOLUME 2

SECTION G – ECHO LAKE APPRAISALS			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
23	9/18/97	Echo Lake Lot 103 (Monahan) appraisal prepared by USFS contract appraiser Johnson	39
24	9/18/97	Echo Lake Lot 129 (Ash) appraisal prepared by USFS contract appraiser Johnson	38
25	9/18/97	Echo Lake Lot 130 (Wellcome) appraisal prepared by USFS contract appraiser Johnson	38
26	9/18/97	Echo Lake Lot 132 (Kautzman) appraisal prepared by USFS contract appraiser Johnson	39
SECTION H – GEORGETOWN LAKE APPRAISAL			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
27	9/18/97	Georgetown Lake appraisal prepared by USFS contract appraiser Johnson	69
SECTION I – SALE DATA BOOK			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
28	No Date	Sale Data Book prepared by USFS contract appraiser Johnson	39
SECTION J – STANDARD APPRAISAL REVIEW REPORTS			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
29	3/30/98	Standard Appraisal Review Reports for Echo Lake prepared by Hickey	8
SECTION K – APPRAISAL REVIEW			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
30	1/13/00	Appraisal Review of Stuckey's appraisal, prepared by Hickey	6
SECTION L – WELLCOME APPEAL DOCUMENTATION			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
31	12/15/88	Kautzman Special Use Permit cover page	1
32	7/24/80	Kautzman plat	1
33	9/20/90	Wellcome Special Use Permit cover page	1

ECHO LAKE

RECREATION RESIDENCE APPEALS

APPEAL RECORD DOCUMENTATION

VOLUME 1

SECTION A -- INDEX

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
1	No Date	Appeal Record Index	3

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 permittees notifying them of appraised recreation residence lot values	7
	1/21/00	Bills for Collection for calendar year 2000 rental fee for recreation residence lot	7
3	1/24/00	Letter from USFS to permittees transmitting Bills for Collection	2

SECTION C – APPEAL ADMINISTRATION

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
4	3/16/00	Letters from USFS to permittee notifying them appeals will be forwarded to the Regional Appeal Deciding Officer	5
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 appellants re: grouping appeals for one consolidated appeal decision	2
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	
13	6/13/00	Letter from USFS to appellants notifying them the Forest is proceeding with the appeals process	1

SECTION D – APPEAL RESOLUTION ATTEMPTS

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
14	3/20/00	Attendee list for 3/20/00 appeal resolution meeting with appellants	2
15	3/31/00	Letter from USFS to appellants re: 3/20/00 resolution meeting	12
16	5/16/00	Representative letter from USFS to appellants transmitting notes from Forest Supervisor's 4/20/00 meeting with appraisers Hickey and Stuckey	5

SECTION E – APPRAISAL CORRESPONDENCE

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
17	7/14/98	Letters from USFS to appellants who requested a second appraisal – transmits specifications and direction for the second appraisal	2
18	12/10/98	Memo from Forest Supervisor to Hickey re: appraisal changes to Murto and Kosena lots	2
19	12/18/98	Letter from USFS to Tauno Murto re: appraisal changes to his lot	2

SECTION F – FEDERAL REGISTER; APPRAISAL SPECIFICATIONS; CFR'S

DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
20	6/2/94	Federal Register, Vol. 59, No. 105	2
21	No Date	Recreation Residence Lot Appraisal Specifications	5
22	No Date	36 CFR 251.57	2

VOLUME 2

SECTION G – ECHO LAKE APPRAISALS			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
23	9/18/97	Echo Lake Lot 103 (Monahan) appraisal prepared by USFS contract appraiser Johnson	39
24	9/18/97	Echo Lake Lot 129 (Ash) appraisal prepared by USFS contract appraiser Johnson	38
25	9/18/97	Echo Lake Lot 130 (Wellcome) appraisal prepared by USFS contract appraiser Johnson	38
26	9/18/97	Echo Lake Lot 132 (Kautzman) appraisal prepared by USFS contract appraiser Johnson	39
SECTION H – GEORGETOWN LAKE APPRAISAL			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
27	9/18/97	Georgetown Lake appraisal prepared by USFS contract appraiser Johnson	69
SECTION I – SALE DATA BOOK			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
28	No Date	Sale Data Book prepared by USFS contract appraiser Johnson	39
SECTION J – STANDARD APPRAISAL REVIEW REPORTS			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
29	3/30/98	Standard Appraisal Review Reports for Echo Lake prepared by Hickey	8
SECTION K – APPRAISAL REVIEW			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
30	1/13/00	Appraisal Review of Stuckey's appraisal, prepared by Hickey	6
SECTION L – WELLCOME APPEAL DOCUMENTATION			
DOCUMENT NO.	DATE	DESCRIPTION	# OF PAGES
31	12/15/88	Kautzman Special Use Permit cover page	1
32	7/24/80	Kautzman plat	1
33	9/20/90	Wellcome Special Use Permit cover page	1