



File Code: 1570
Appeal #98-01-11-0001

Date: *

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alan C. Bryan
Attorney
Crowley, Haughey, Hanson, Toole & Dietrich
P.O. Box 2529
Billings, MT 59103-2529
Dear Mr. Bryan:

I have received the Notice of Appeal you submitted on behalf of Bruce and Debbie Bateson, dated July 22, 1998, appealing Gardiner District Ranger John Logan's denial of a special use authorization for access across national forest land. The applicable appeal rule in this matter can be found at 36 CFR 251, Subpart C--Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands. The appeal rule at 36 CFR 211.18 was superceded a number of years ago. Pursuant to 36 CFR 251.92 I must dismiss this appeal. Bruce and Debbie Bateson are not eligible to appeal because they are not, (a) currently a holder of a written authorization to occupy and use national forest land seeking relief from a written decision related to that authorization, or (b) applying in response to a written solicitation (36 CFR 251.86).

I have however read the Notice of Appeal and the attached letter from John Logan denying your authorization for a special use permit. I find that John's reasons for denial are consistent with laws, regulations and Forest Service policy. I disagree that this is in violation of the Alaska National Interest Lands Conservation Act, the General Mining Law or the various other laws you mention designed to protect our heritage resources.

I am concerned with your statements that acquiring access across Gerald Bateson's property, as John suggests in his letter, will destroy tepee rings, Indian artifacts, and other priceless evidence of Native American life and culture. I'm certain this would not be John's intent and I would encourage you to show him these sites and demonstrate why they would be unavoidable if not allowed the requested access across the National Forest. Perhaps the district staff could help in finding a solution that protects these resources while still minimizing the encumbrance to public land.

My decision to dismiss this appeal is subject to discretionary review by the Regional Forester as provided under 36 CFR 251.87(d).

Sincerely,

/s/ David P. Garber

DAVID P. GARBER
Forest Supervisor

