



File Code: 1570 (215)
#98-01-00-0002

Date: November 12, 1997

Jeff Juel
The Ecology Center, Inc.
801 Sherwood, Suite B
Missoula, MT 59802

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dear Mr. Juel:

This is my decision on disposition of the appeal you filed on behalf of The Ecology Center, Inc. and Inland Empire Public Lands Council protesting the St. Joe District Ranger's Decision Notice for the Marble Mountain Mineral Material Sale on the Idaho Panhandle National Forests.

The District Ranger's decision adopts Alternative C. The decision will implement removal of common slab and flagstone rock with specified design criteria to address recreational and visual concerns, and provide additional protection to other resources. No rock would be removed from within the Theriault Research Natural Area. Vehicle traffic on Roads 216, 1938, and 1936 would be limited to 6-ton capacity trucks.

DECISION

After careful consideration of the Appeal Reviewing Officer's recommendation, I affirm the District Ranger's decision to implement Alternative C. Your requested relief is denied.

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, including the recommendation of the Appeal Reviewing Officer (copy enclosed) regarding the formal disposition of your appeal. My decision hereby incorporates by reference the entire appeal record.

APPEAL SUMMARY

You allege violations of the National Environmental Policy Act, the National Forest Management Act, the Forest Service Handbook, the Forest Plan, and the Administrative Procedures Act.

Your central objections relate to changing the character of Marble Mountain, lack of an appraisal for the value of the material, soils, competitive bidding for material, and compliance with recreation standards in the area. You request the decision be remanded and an Environmental Impact Statement be prepared.



An informal meeting was held, but no resolution was reached. No Interested Party comments were received.

APPEAL REVIEWING OFFICER RECOMMENDATION

The Appeal Reviewing Officer recommends the District Ranger's decision be affirmed and your requested relief be denied.

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.

Scope of Decision Documentation

Your objections correspond closely to comments you raised in scoping and during the comment period. Because of your early participation in the pre-decisional process, the District Ranger was able to analyze these concerns by incorporating them into the environmental analysis and consider them in making the decision.

Appeal Regulations at 36 CFR 215 allow for expanded opportunities for public involvement in Forest Service decisionmaking. The public is best served by mutual efforts to resolve differences during the decisionmaking process rather than after a decision is made.

Procedural Determination

I have thoroughly reviewed your arguments and the information referenced in the District Ranger's October 30, 1997, Transmittal Letter (copy enclosed). The Transmittal Letter provides specific page references to discussions in the Environmental Assessment (EA), the DN, and project file which bear upon your objections. The objections you raise in your appeal are similar to the comments you made on the EA. The project file indicates your objections were either addressed as environmental issues in the EA or are discussed in the DN. I specifically incorporate in this decision the references and citations contained in the Transmittal Letter. Based upon a review of the references and citations provided by the District Ranger, I find the objections you raised were adequately considered in the EA/DN and the District Ranger made a reasoned decision concerning those issues. I find the District Ranger has complied with all laws, regulations and policy.

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