



File Code: 1950-1/1570-1/2230

Date: September 20, 2004

Daniel A. Bryant, P.A.
Post Office Box 2300
Ruidoso, NM 88355

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 7002 0860 0000 3017 4338**

Subject: Appeal # 04-03-08-0002-A215, Sacramento, Dry Canyon, Davis Allotment Grazing Allotment, Lincoln National Forest

Dear Mr. Bryant:

We received your hand-delivered appeal of the Environmental Impact Statement and Record of Decision for the Sacramento, Dry Canyon, and Davis Allotment signed by Sacramento District Ranger, Frank R. Martinez, on July 28, 2004. In accordance with 36 CFR §215.13(c), *“the appellant is responsible for submitting an appeal on or before the last day of the filing period.”* Your hand-delivered notice of appeal, dated September 15, 2004, was received on the same date.

The official notice of this decision was published on July 30, 2004, in the Alamogordo Daily News. The appeal period runs 45 days following publication, and in this instance the appeal period closed on September 13, 2004. In accordance with 36 CFR §215.15(a), *“an appeal Deciding Officer shall dismiss an appeal without review when: (1) the appeal is not received or postmarked within the 45-day appeal filing period in accordance with 36 CFR §215.13...”*, therefore, your appeal is dismissed.

The appeal regulations do not permit the flexibility to grant an extension of time on your appeal (36 CFR §215.13(d)).

Additionally, 36 CFR 251 Subpart C defines who may appeal a written decision under its provisions. As defined at §251.80(a) *“This subpart provides a process by which those who hold or, in certain instances, those who apply for written authorization to occupy and use National Forest System lands, may appeal a written decision by an authorized Forest Service Official with regard to issuance, approval, or administration of the written instrument.”* The regulation at 36 CFR 251.89(a), similar to 36 CFR 215, does not allow for extension of the filing period. Therefore, without standing and regardless of filing after close of the filing period, your appeal under Part 251 is denied.

This dismissal decision constitutes the final administrative determination of the Department of Agriculture (36 CFR §215.18(c)).

/s/ Jose M. Martinez
JOSE M. MARTINEZ
Forest Supervisor

cc: Patrick L Jackson, David M Stewart, Frank R Martinez, Larry Cosper, Ron Hannan, Don G DeLorenzo

