United States Department of Agriculture | **Forest Service** | **Humboldt-Toiyabe National Forest** | **1200 Franklin Way Sparks, NV 89431-6432 (775) 331-6444 Fax (775) 355-5399**

File Code: 1570-1
#04-04-00-0050
Date: June 22, 2004

Patrick Fitzgibbons
Spring Mountain Volunteer Association
214 South Maryland Pkwy
Las Vegas, NV 89101

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Mr. Fitzgibbons:

In accordance with 36 CFR 215.17, I have reviewed the appeal record, the Environmental Assessment (EA) and Decision Notice/Finding of No Significant Issues (DN/FONSI) for the Sawmill Trailhead project located on the Humboldt-Toiyabe National Forest.

My review focused on the project documentation and the objectives raised in the appeal you filed on behalf of Spring Mountain Volunteer Association. I have also considered the recommendations of the Appeal Reviewing Officer regarding the disposition of your appeal. A copy of that recommendation is enclosed.

APPEAL DECISION

I am affirming District Ranger Steve Holdsambeck's decision.

I find that activities documented in the EA and DN/FONSI are in compliance with applicable laws, regulations, and policy.

This constitutes the final administrative determination of the United States Department of Agriculture under 36 CFR 215.18(c).

Sincerely,

/s/ Robert L. Vaught
ROBERT L. VAUGHT
Forest Supervisor

Enclosures

cc: Stephanie A. Phillips, Timothy E. Davis

United States Department of Agriculture | Forest Service | Intermountain Region | 324 25th Street Ogden, UT 84401-2310

File Code: 1570-1 **Date:** June 17, 2004
Route To:

Subject: Reviewing Officer Recommendation – Sawmill Trailhead Project, Appeal # 04-04-00-0050

To: Appeal Deciding Officer

This is my review and recommendation on the disposition of the appeal of the April 6, 2004 decision by District Ranger Steve Holdsambeck, Spring Mountains National Recreation Area, for the Sawmill Trailhead Project.

The Spring Mountain Volunteer Association filed the appeal. There were no interested parties to the appeal.

Background

The project is located on the Spring Mountain National Recreation Area, Humbolt-Toiyabe National Forest. The decision under appeal is to authorize construction of the Sawmill Trailhead facilities in the lower Lee Canyon area. The project area is fourteen acres with the planned construction activities taking place on approximately six acres. The project is intended to improve the quality of the visitor's experience by providing facilities that support use of the area while protecting sensitive natural and heritage resources.

Appellant's Request for Relief

The appellants request that the trailhead be moved to an alternative location. Appellants believe that there are other locations that will have less impact on the environment, particularly in regards to bio-diversity, several specific wildlife species, potential traffic problems and other public safety issues.

Appeal Summary

Appellants assert the following:

- Improper location of the project will cause irreparable damage to biodiversity hotspots.
- Location of the project will cause harm to several species of wildlife.
- The Forest Service did not adequately assess adverse impacts and ignored public comments.
- The Forest Service failed to consider other valid locations (alternatives) for the proposed trailhead.
- The Forest Service failed to consider traffic issues, safety issues, potential overuse of the site, the lack of a water source and the resulting impacts of these social issues.

Findings

As Appeal Reviewing Officer, my role is to review the substantive quality and correctness, or appropriateness of the project decision with respect to clarity, comprehension, effectiveness of public participation, and requested changes. My findings are based on my review of the decision and project record, pursuant to and in accordance with 36 CFR 215.19 to ensure that the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the appellants' issues and recommended changes, has been thoroughly reviewed.

1. Clarity of the Decision and Rationale

The Decision Notice was very straightforward - the decision is stated clearly and is supported by the analysis in the Environmental Assessment (EA) and the information in the appeal record. The decision is consistent with the stated purpose and need for the project and is responsive to the issues in the EA. Public comments were considered and evaluated in arriving at the decision.

The decision includes specific mitigation measures and standard operating procedures that will reduce the impacts of the project on sensitive environments. The noxious weed and invasive plant management plan that is required is an important part of protecting these environments.

2. Comprehension of Benefits and Purpose of the Proposal

The Purpose and Need and the Decision Framework are clearly stated in the Environmental Assessment. The need for action is linked to the Humboldt-Toiyabe National Forest Land and Resource Management Plan as amended by the Spring Mountains General Management Plan. The linkage of this proposed action to the stated objectives in these plans is specific, clear and inclusive.

3. Consistency of the Direction with Policy, Direction, and Supporting Information

The project is consistent with law and policy, as well as mission objectives for the agency and existing management direction for the area. The project is consistent with the Humboldt-Toiyabe National Forest Land and Resource Management Plan and the Spring Mountain General Management Plan.

The District Ranger considered a reasonable range of alternatives in reaching a decision on the proposed action and adequately and clearly assessed the site-specific impacts of the proposal. The EA provided adequate analysis of effects and provides the information needed to make reasoned choices and decisions as outlined in the Decision Framework.

4. Effectiveness of Public Participation Activities and Use of Comments

The District conducted thorough scoping and public involvement for this project. The appellants participated actively in this project since its inception and provided comments during scoping

and the notice and comment period. The District's response to comments attached to the DN, is generally comprehensive and inclusive of comments received. The comments were considered in reaching a decision on the project.

5. Requested Changes and Objections of the Appellant and Interested Party

The appellants request that the location of the trailhead be moved to a location where, they assert, impacts to critical bio-diversity and wildlife resources will be less. They suggest a site on the "Pahrump" side of the Spring Mountain Range and, if that is not feasible, a site three to five miles lower in Lee Canyon. The suggested location on the "Pahrump" side of the range does not meet the purpose and need statement in the EA nor does it address the objectives in the management plans for the area. From the appeal record, it is not clear where the exact location of the other suggested site is, but a reasonable range of alternatives (locations) in the general vicinity of Lee Canyon were discussed. The EA addresses the concerns under appeal, and the EA, DN, and appeal record, provide adequate analysis and supporting information to support the decision made.

Recommendation

I recommend that the decision made by District Ranger Steve Holdsambeck be affirmed.

/S/ Clark Tucker

Clark Tucker
Appeal Reviewing Officer

Sawmill Trailhead Project
Appeal #04-04-00-0050
Appellant: Pat Fitzgibbons for Spring Mountain Volunteer Association

APPEAL ISSUE #1: Improper location of project will cause irreparable damage to bio-diversity hotspots.

RESPONSE: Biodiversity hotspot is a term unique to the Spring Mountain National Recreation Area and tiers to the Toiyabe National Forest Land and Resource Management Plan (1986), as amended by the Spring Mountains General Management Plan (1986). It is specifically addressed by the Nature Conservancy's Spring Mountains National Recreation Area Biodiversity Hotspots and Management Recommendations (12/1994, pp. 31 and 44), and described further in the Conservation Agreement for the Spring Mountains National Recreation Area, Clark and Nye Counties (4/13/1998). The Conservation Agreement outlines the steps agencies need to take to address these areas during project design under National Forest Management Act (NFMA) and National Environmental Policy Act (NEPA) processes (Conservation Agreement, pp 3 and 29-40).

The District Ranger analyzed two alternatives in detail which disclosed the direct, indirect and cumulative effects of project activities on the two biodiversity hotspots likely to be impacted by this project (Environmental Assessment (EA), pp. 14-25).

The EA and Finding of No Significant Impact (FONSI) addressed effects to these biodiversity hotspots and acknowledged further impacts from unmanaged recreational use (EA, pp. 7, 19, and 22-23). Unmanaged recreation impacts will be analyzed and addressed with the Blue Tree Trail System Project. Once both projects are complete, impacts will be decreased because use will be directed away from these areas (FONSI, pp. 10; EA, pp. 21-23).

Direct impacts from the project, addressed in the EA, are greater than one mile from the nearest biodiversity hotspot; consequently, the decision to locate the Spring Mountain Trailhead at the proposed action site is appropriate and will not cause irreparable harm to these biodiversity hotspots (EA, p. 16).

APPEAL ISSUE #2: Forest Service (FS) failed to consider that the proposed site is located where there is a very sparse population of sage grouse, ringtail cats, gray squirrels, porcupine, and mule deer.

RESPONSE: Forest Service policy for sensitive species is found in FSM 2672.4 which directs the FS to review all Forest Service activities for possible effects on endangered, threatened, proposed, or sensitive species. The Biological Evaluation (BE) is the means of conducting the review and of documenting the findings. The Biological Assessment (BA) is the means of conducting the review and disclosing the effects on endangered, threatened, proposed and candidate species (U.S. Fish and Wildlife Service Endangered Species Act of 1973, Section 7).

Disclosure of effects from project activities is required for federally-listed, Forest Service Region 4 sensitive and MIS wildlife and plant species. The Biological Evaluation/Biological Assessment (BE/BA), referenced in the Decision Notice/Finding of No Significant Impact (DN/FONSI), addresses sage grouse as a Region 4 sensitive species and provides sufficient rationale as to why it was not carried through into the analysis of effects (BE/BA, pp. 3-4; DN/FONSI, p. 10). The ringtail cat, gray squirrel, porcupine and mule deer do not fall into any of these categories, are not a species of concern, and need not be addressed in the environmental analysis. Some of these species were addressed in the Response to Comments, specifically appellant's letters received in response to scoping (1/19/2004 and 2/2/2004).

The District Ranger had sufficient information within the supporting documentation to make an informed decision regarding species that needed to be addressed (BA/BE, pp. 3-5; MIS Report for the Sawmill Trailhead, pp. 1-2; Wildlife and Botany Specialist Report for the Sawmill Trailhead, pp. 1-4).

APPEAL ISSUE #3: The District Ranger and project coordinator brushed aside all adverse effects and comments in order to railroad this project through in this particular location, regardless of the destruction of the environment.

RESPONSE: The requirements for considering public input to proposed actions are found in the Code of Federal Regulations. The District Ranger shall consider all substantive written and oral comments submitted…" (36 CFR 215.6). The most important factor when reviewing public comments, including those that point out adverse effects, is whether or not each substantive opinion is captured and a response provided. Public comments serve to raise issues that guide the analysis of a proposal; they do not serve as votes whereby the majority opinion forms the conclusion of the environmental analysis.

The District Ranger reviewed the comment letters submitted during the scoping period, analyzed those comments, and also considered the comments received on the EA ((Issue Identification Table, 11/24/2003; Response to Public Comments, 3/11/2004). The District Ranger analyzed potential adverse effects of the proposed actions as set forth in the BE/BA for Flora and Fauna for the Sawmill Trailhead (3/19/04), the EA under Environmental Consequences (pp. 14-24), and discussed the analyses in the DN/FONSI under Mitigation Measures (pp. 6-7 and 9-10).

APPEAL ISSUE #4: The Forest Service failed to consider the alternatives of developing the project in three other locations: 1) two or three miles down the Lee Canyon Road, State Route 156, on the northwest or same side of the road; 2) the five mile long access road to lower Deer Creek Spring (FDR 560A) at the eleven and one-half mile highway marker on State Highway 156 on the southeast side of the highway; or 3) on the southeast side of the Spring Mountain Range, commonly known as the "Pahrump side." where there is plenty of space and there are currently no FS campgrounds, designated trailheads or other sorely needed facilities. This would remove some of the pressure off of the "Las Vegas" side of the range.

RESPONSE: NEPA requires the federal agencies to consider and evaluate a reasonable range of alternatives to the proposed action. The phrase "range of alternatives" refers to the alternatives discussed in environmental documents. It includes all reasonable alternatives, which must be rigorously explored and objectively evaluated, as well as those other alternatives, which are eliminated from detailed study with a brief discussion of the reasons for eliminating them (40 CFR 1502.14). What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case (40 CFR Parts 1500 - 1508 (1987); CEQ 40 Most Asked Questions # 1b, "Number of Alternatives," 46 Federal Register 18026).

The District Ranger identified issues through scoping and considered a range of alternatives. The District Ranger used the scoping process, as well as public comments to develop a range of alternatives that address the key issues (EA, pp. 6-7). In addition to the two alternatives considered in detail, the District Ranger considered, but eliminated from detailed analysis, five other alternatives to the proposed action (EA, p.12).

One alternative location suggested by appellants in their notice of appeal was a site approximately two or three miles down the Lee Road, State Route 156, on the northwest side of the road. It is not entirely clear what location the appellant meant, but this area is generally known as the "Blue Tree" area. The District Ranger did consider the general "Blue Tree" area as a possible location for the Sawmill Trailhead (E-mail from Norm Matson to Scott Lamoreux, et. al, 9/18/2002).

Another alternative location for the trailhead suggested by the appellants was along the access road to Lower Deer Creek, in the vicinity that the Las Vegas Trail Riders and other horse groups have their rendezvous annually. This location was not identified by Spring Mountain Association in its comments as a possible alternative site prior to this appeal, so the District Ranger had no opportunity to consider its merits (Response to Comments, 3/11/2004).

The Response to Comments specifically addressed the alternative of locating the project on the southwestern slope of the Spring Mountains. The analysis recognized that recreation pressure in the Sawmill area will increase as the population of Las Vegas grows. However, without developed sites such as the Sawmill trailhead, the adverse impacts from dispersed recreation will remain unmanaged and the area of impact will increase (EA, pp. 1-4). The District is in the process of preparing a landscape assessment for the Spring Mountains National Recreation Area. One of the outcomes will be the type and location of recreation opportunities in the southwestern area. Developing recreation sites on the southwestern slope is outside the scope of this project proposal (Response to Comments, p. 2).

APPEAL ISSUE #5: Forest Service failed to consider the effects of implementing the decision at a location with no water needed for both human consumption and wildfire protection.

RESPONSE: The subject of environmental effects is covered throughout the CEQ regulations, but the substantive requirements are found in 40 CFR 1502.16 – Environmental Consequences. Although these regulations are specific to EISs, they also provide excellent guidance for considering and disclosing environmental effects in an EA. Direction for refining an analysis is

discussed in the CEQ regulations. NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail; discuss only briefly issues other than significant ones; and use the scoping process not only to identify significant environmental issues deserving of study, but also to de-emphasize insignificant issues, narrowing the scope of the environmental impact statement accordingly (40 CFR 1500.1(b); 40 CFR 1500.4 (c) and (g)).

The proposed action included potable water in the design in the form of a water hydrant, which would require trenching, pipe installment and minor vegetation removal (EA, p.10). However, in the DN, the District Ranger chose to eliminate some of the components of the proposed action, including the hydrant (DN, p. 5). The soil and water issue refers to hydrological processes, not potable water. The effects analysis would not be changed by the inclusion or removal of the design feature of potable water. Potable water as an amenity was not identified as a significant issue, nor was it displayed in the effects. It is within the District Ranger's authority to select components of an alternative to implement. The decision is a combination of the Proposed Action and No Action alternatives. The rationale used by the District Ranger in removing the potable water component is found in the Response to Comments (p. 4) where it states: "We cannot provide…water at this site because we do not have water rights or a [water] distribution system to this site."

Wildfire concerns were addressed in the Response to Comments. Current fire restrictions in the area will help mitigate this increased use. In the proposed trailhead, fires are limited to pedestal grills and utility tables. During heavy fire danger, Forest closures apply in this area. Both Forest Service Law Enforcement and Fire Protection Patrols frequent this area and give citations to anyone violating the restriction. Fire danger in Lee Canyon has been addressed by the community fire zone plan which does not apply to this area. While the Forest agrees that reducing fire danger in Lee Canyon is important, this analysis is focused on the recreation needs in lower Lee Canyon Area (Response to Comments, p. 3).

APPEAL ISSUE #6: Forest Service failed to consider increased vehicle traffic in area, associated traffic hazards, and impact of Las Vegas population on the site.

RESPONSE: The District Ranger considered the effects of traffic in several locations, including the impact of the ever-growing population in Las Vegas. An e-mail from Norm Matson to Scott Lamoreux (9/18/2002) discussed traffic safety issues. The design narrative for Macks Canyon includes acceleration and deceleration lanes to be added to Lee Canyon Highway at the junction of Macks Canyon Road due to increased motor vehicle use of the intersection. On Trail Canyon and Macks Canyon, public safety is a significant issue and focuses on parking and traffic safety.

A Roads Analysis Process (RAP) was prepared for the project. Each of the 71 ecological, social, and economic consideration questions from the "Roads Analysis Handbook" was reviewed and summarized (RAP; 8/9/2002). Also considered were the Clark County Annual Average Daily Traffic at Portable Count Station 1992-2001 and the Sawmill Trailhead National Recreation Area Developed Canyon Traffic Count Information, Labor Day Weekend 2003.

Traffic impacts were not identified as a significant or key issue to be carried forth in the analysis; however it is clear that traffic impacts were discussed and considered in the design of the proposed action.