



United States
Department of
Agriculture

Forest
Service

Humboldt-Toiyabe
National Forest

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File Code: 1570-1
#08-04-17-0007 A215
Date: November 27, 2007

Walter Bell
290 Blue Camas Road
Markleeville, CA 96120

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Dear Mr. Bell:

In accordance with 36 CFR 215.18, I have reviewed the appeal record, Environmental Assessment (EA), Decision Notice and Finding of No Significant Impact (DN/FONSI) for the Alpine Winter Recreation Project on the Carson Ranger District.

My review focused on the project documentation and the issues raised in the appeal you filed. In reviewing your appeal, I have 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 the decision by Carson District Ranger Gary Schiff.

I find that the activities documented in the EA, DN/FONSI, and the project record are in compliance with applicable laws, regulations, and policy. A more detailed response to the appeal issues is enclosed.

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

Sincerely,

/s/ Edward C. Monnig
EDWARD C. MONNIG
Forest Supervisor

Enclosures
cc: Dave Marlow



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APPEAL ISSUE 1: The decision fails to consider appellants' comments.

RESPONSE: Regulations directing agency solicitation and response to comments are provided in 36 CFR 1503 and FSH 1909.15(11). The district solicited comments from appellants through project scoping and through the comment period for the May 2007 Notice of Proposed Action (NOPA) consistent with 36 CFR 1503.1(4) which states: "Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected" (Alpine Winter Recreation Project Scoping Document, 2/2007, EA, p. 2).

Appellants provided the District written comments on project scoping on March 5, 2007, and comments on the NOPA on June 15, 2007 (email from Walter Bell with response attachment, 3/5/007; email from Walter Bell with response attachments, 6/15/007). The District reviewed and considered these comments and shared them with the Alpine County Ad Hoc group for additional comments (meeting notes, 9/25/2006, 10/16/2006, and 1/22/2007).

The District met with appellants and Alpine County on June 11, 2007, for additional discussion and comment on the proposal. Through these efforts the District incorporated many comments as documented in the June 11, 2007, meeting notes entitled "Comments on Proposed Action on Winter Recreation Plan for Alpine County." Further documentation of consideration of appellants' comments is provided through correspondence from Alpine County to appellants which states: "The County and the Forest Service have taken into consideration your comments regarding trespass issues, noise, resource degradation, and public safety" (letter from Henry C. Veatch, Chair, Alpine County Board of Supervisors, to Mr. and Mrs. Dave Van Den Berg, 6/21/2007).

Appellants also submitted comments after the DN/FONSI was signed regarding desired mitigation steps to address their concerns and avoid the need for an appeal of the decision (email from Walter Bell with response attachment, 10/9/2007). The District provided a written response on additional efforts taken by the District in response to appellants' concerns (letter from David Marlow, Acting District Ranger, to Walter Bell, 10/11/2007).

The District considered appellants' comments in the planning and decision phase of the Alpine Winter Recreation project, in accordance with regulations and agency policy (36 CFR 1503; FSH 1909.15[11]). This included the full disclosure of consideration of comments in the DN/FONSI under the Public Involvement section which states: "We received comments from both groups and individuals who were represented by the 'Winter Recreation Strategy Group' and those who were not. All were considered carefully and addressed to the best of our ability within our jurisdiction."

APPEAL ISSUE 2: The Forest Service has yet to obtain the required interagency commitments that would allow for appellants suggested mitigation to be achieved.

RESPONSE: The District has consistently disclosed that "the Forest Service would make recommendations to other state and local agencies based on discussions at staff level" as part of

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the Alpine Winter Recreation Project (Alpine Winter Recreation Project Scoping Document, p. 2; Notice of Proposed Action, pp. 1-2; EA, p. 2). These recommendations to other agencies were disclosed in the EA and the DN/FONSI notes that “. . . other agencies have land management and other responsibilities in the area. While we support actions [as noted in this document], which other agencies may decide to consider, we expect those agencies will consider potential impacts and implement changes independent of this document” (EA, pp. 5-7; DN/FONSI, p. 1).

Appellants submitted comments after the DN/FONSI was signed regarding desired mitigation steps they wanted to be implemented to address their concerns and avoid the need for an appeal of the decision (email from Walter Bell with response attachment, 10/9/2007). The District provided a written response to these comments, which included additional efforts taken by the District in response to appellants’ concerns (letter from David Marlow, Acting District Ranger, to Walter Bell, 10/11/2007). These additional efforts included District actions to pursue interagency commitments including contact with California Department of Transportation on Highway 88 parking concerns, Alpine County on speed limits between Snopark and Hope Valley, and application for grants through the California Green Sticker program to improve law enforcement coverage (letter from David Marlow, Acting District Ranger, to Walter Bell, 10/11/2007; meeting notes “NFS Alpine Winter Recreation Plan Expansion of Hope Valley Snow Park to include Overnight Parking [RV Park] Resident Request for Mitigation Steps,” 10/16/2007; handwritten meeting notes with Walter, Katie, Dave, Terri and Marnie, 10/24/2007).

The District has shown a commitment to work with other agencies on achieving mitigation measures and has communicated these efforts to the appellants (letter from David Marlow, Acting District Ranger, to Walter Bell, 10/11/2007).

APPEAL ISSUE 3: Local homeowners were not invited to be on the joint study group and their perspectives as residents of the Hope Valley/Blue Lakes Road area were not considered.

RESPONSE: A joint study group looked at the current conditions of winter recreation in Alpine County and identified issues and possible solutions. The joint study group is referred to in the project record as the Alpine County Ad Hoc Winter Recreation Dialog and/or the Winter Recreation Strategy Group.

Public notice and comment on National Forest System projects and activities is addressed in regulation (36 CFR 215.1-6). Comments from Mr. Bell were accepted and considered as part of the analysis for Environmental Assessment (EA) (letters from Mr. Bell, et. al., to Marnie Bonesteel, 3/5/2007 and 6/15/2007). The District used comments from all perspectives to refine the proposed action, purpose and need, and to develop the issues analyzed in the EA (EA, p. 2). The District Ranger acknowledged in his decision that the District received comments from groups and individuals represented by the joint study group and also those that were not. The District considered all comments carefully and addressed them to the best of its ability and within jurisdictional authority (DN/FONSI, p. 2). Efforts by the Forest Service to address the concerns of the homeowners, as listed in the October 9, 2007, appeal, will continue (letter to Mr. Bell from David Marlow, Acting District Ranger, 10/11/2007).

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The Forest Service did not control the discussions of the joint study group. The Forest Service did not decide who was a member of the joint study group (memo to the joint study group, 8/18/2007). Several local homeowners were involved during the public involvement process associated with the EA, as evidenced by documentation contained in the project record.



File Code: 1570-1

Date: November 20, 2007

Route To:

Subject: Reviewing Officer Recommendation, Alpine Winter Recreation Project, Appeal #08-04-17-0006-A215

To: Appeal Deciding Officer

This is my review and recommendation on the disposition of the following appeal on the Alpine Winter Recreation Project Decision Notice and Finding of No Significant Impact (DN/FONSI), signed August 27, 2007.

There were two appeals filed on this project: Peter Browning on behalf of the High Sierra Hikers Association and Kati and Walter Bell as lead appellants, on behalf of adjacent homeowners Connie and John Shelton and Jean and Dave Van Den Berg.

Project Background

This project is located in Alpine County, California on the Carson Ranger District, Humboldt-Toiyabe National Forest. The decision is intended to create conditions where high quality winter recreation opportunities will exist in Alpine County. Because of the outstanding scenery and generally favorable snow conditions, Alpine County is an increasingly popular destination for back-country and cross-country skiers, snowshoers and snowmobilers. A recent U.S. District Court decision remanded the decision for winter travel management in the Forestdale area to the Forest Service (FS) for further evaluation.

In reconsidering the plan for Forestdale, the FS decided to address winter travel management planning on a larger scale in order to provide more opportunities to balance motorized and non-motorized use. In regard to recent collaborative efforts, the FS has worked with a winter recreation strategy group representing a wide variety of viewpoints. Based on these and other discussions, the District concluded that there is a growing demand for improved parking, restroom facilities, overnight camping, day use, and, in some cases, separated motorized and non-motorized areas.

Appellant's Request for Relief

The appellant, Peter Browning on behalf of High Sierra Hikers Association, requests relief in the form of a reversal of the decision made on August 27, 2007, DN/FONSI signed by District Ranger Gary Schiff. The appellant believes that this decision violates the Federal Advisory Committee Act (FACA) and the National Environmental Policy Act (NEPA).

The appellants, Kati and Walter Bell, acting as lead appellants on behalf of adjacent homeowners, believe that the FS actions and written commitments to date on the requested mitigation steps are insufficient to ensure that these mitigation steps will be completed in such a



manner to avoid the negative impacts of the overnight parking area on homeowners living adjacent to this project.

Appeal Summary

Following is a summary of the appeal issues raised by the two appellants.

Appellant High Sierra Hikers Association appeal issues:

- FS violated FACA by assembling a very small group to recommend and advice. The Environmental Assessment (EA) alternatives were limited to those recommendations by the group and the input from others was not considered.
- The project requires an Environmental Impact Statement (EIS) because of the increase in motorized access throughout vast portions of the County and the significant effects of snowmobile activities and direct impacts resulting from construction activities
- The FS failed to consider any alternatives that would meet project objectives while protecting current non-motorized uses.

Appellant Kati and Walter Bell appeal issues:

- The decision fails to consider appellants comments.
- The FS did not obtain the required interagency commitments that would allow for appellants suggested mitigation to be achieved.
- Local homeowners were not invited to be part of the joint study group and their perspectives as residents were not considered.

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, in accordance with 36 CFR 215.19.

1. Clarity of the Decision and Rationale

The District Ranger's decision is clearly described in the DN/FONSI. The rationale for the decision is logical and the analysis to determine no significant impacts is appropriate. The decision is consistent with the stated Purpose and Need.

2. Comprehension of Benefits and Purpose of the Proposal

The Purpose and Need are clearly defined and the District followed the direction from the previous U.S. District Court decision, which was to review the process of providing winter recreation activities in the area.

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

I find the decision to be consistent with the agency policy and Forest Plan direction. The EA and DN/FONSI and the project record adequately disclose the environmental effects and provide sufficient evidence and analysis to make a reasoned and informed decision.

4. Effectiveness of Public Participation Activities and Use of Comments

Through the scoping and comment period, no additional issues were brought forward; therefore, no additional alternatives needed to be addressed. The public participation was very adequate. All participants had the opportunity to comment and attend meetings. The FS had no involvement in establishing the joint study group and no involvement in inviting the public to the joint study group. The District has promoted a great deal of cooperation with Alpine County and the surrounding community.

5. Requested Changes and Objections of the Appellant

The appellant requests reversal of the decision. In my review of the appeal, I did not find that the appellants presented a compelling argument in contrast to the information provided in the EA and DN/FONSI, which the District Ranger used to make his decision. I feel the decision and record adequately address and refute the appellant's rationale for reversing the decision.

Recommendation

Based on my review of the EA, DN/FONSI, and supporting documentation in the project record, I recommend that the decision made on August 27, 2007, by District Ranger Gary Schiff be affirmed.

s/Jack L. Isaacs
Jack L. Isaacs
Appeal Reviewing Officer