

File Code: 1570-1  
#97-04-00-0040

Date: August 29, 1997

Mr. A. G. Edwards, Jr.  
Saval Ranching Company  
Rural Route #1  
6 Bennington Battle Trail  
Wilton Center, NH 03086

CERTIFIED MAIL - RETURN  
RECEIPT REQUESTED

RE: Appeal 97-04-00-0040 of District Ranger Scott W. Bell's June 10 Decision Notice/Finding of No Significant Impact (DN/FONSI) for Supplement 015 to South California Mountain Exploration Project and Supplement #2 to Mahala Creek Exploration Project

Dear Mr. Edwards:

We have completed the review of your July 28, 1997 appeal of the DN/FONSI for Supplement 015 to South California Mountain Exploration Project and Supplement 02 to Mahala Creek Exploration Project, on the Humboldt-Toiyabe National Forests. The review was conducted in accordance with 36 CFR 215. This appeal decision incorporates the entire administrative review record by reference.

#### BACKGROUND

On June 10, 1997, District Ranger Scott W. Bell signed the DN/FONSI for Supplement 015 to South California Exploration Project and Supplement 02 to Mahala Creek Exploration Project. The legal notice was published on June 13. Your timely appeal was received on July 28. Although contacts were made, no informal disposition meeting was held. Interested party currents were received from Mr. R. Timothy McCrum, on behalf of Independence Mining Company, and have been considered in the appeal decision.

I have considered the recommendation of the Appeal Reviewing Officer (ARO) regarding the disposition of your appeal. A copy of the ARO's recommendation is enclosed.

#### APPEAL ISSUES

Your appeal issues are listed below and followed by my response.

Issue 1. Despite Forest Service stratagems to deny him, Appellant's Saval Ranching Company is lawfully entitled to use the entire East Independence Allotment.

Issue 2. Forest Service decisions perpetuate vast damage and decimation to East Independence Allotment.

Issue 3. DeBeers cartel has no legal or legitimate entitlement to mine within United States.

Issue 4. Forest Service Employees and others are permitting vast wrongful exploitation of public lands.

#### RESPONSE

The issues presented in this appeal are similar to the issues presented in Your appeal of the Dash Mining Project in March, 1996, and you have not provided any new information; therefore, my decision on these issues remains the same. I am enclosing a copy of my April 1, 1996, decision regarding the earlier appeal and am incorporating it herein by reference.

With regard to the response provided in my April 18, 1996 appeal decision as to the issue regarding the legality of the permitted mining operation, I refer you to Doe v. Waterloo Mining Co., 70 F.455 (9th Cir. 1895), where the Court held that a corporation organized under state laws may locate and patent claims irrespective of the ownership of the stock. Also this Issue was raised during the scoping process for this decision and determined to be outside the scope of this analysis.

Your appeal issues are also the subject of a lawsuit you filed in September, 1996, naming six present and former Forest Service employees as Individual defendants. Insofar as the issues in this appeal are the same as those raised in your complaint, it would be inappropriate for me to respond further to matters currently pending judicial review.

#### APPEAL DECISION

We have conducted a thorough review of your appeal, the appeal record, the Appeal Reviewing officer's recommendation, interested party comments, and applicable laws, regulations, and policy. Based on that review, I have determined that your appeal issues were previously raised during the review of the Draft Environmental Impact Statement for the Dash Mining Proposal and the scoping process for this Environmental Assessment and were determined to be outside the purpose and scope of the project. Since you have failed to present any further information or rationale to support this appeal or show that the Forest Service violated NEPA or any other environmental law, I affirm the District Ranger on all appeal issues.

This decision constitutes the final administrative determination of the Department of Agriculture.

Sincerely,

/s/ Jack A. Blackwell  
JACK A. BLACKWELL  
Appeal Deciding Officer  
Deputy Regional Forester

Enclosure

**United States  
Department of  
Agriculture**

**Forest  
Service**

**Intermountain  
Region**

**324 25th Street  
Ogden, UT 84401-2310**

Reply to: 1570-1

Date: August 27, 1997

Subject: Appeal 97-04-00-00-40 of District Ranger Scott W. Bell's June 10 Decision Notice/Finding of No Significant Impact (DN/FONSI) for Supplement #15 to South California Mountain Exploration Project and Supplement 02 to Mahala Creek Exploration Project

To: Jack Blackwell, Appeal Deciding Officer

As Appeal Reviewing officer for appeal #97-04-00-0040 of District Ranger Scott Bell's decision regarding Supplement #15 to South:Califor-nia Mountain Exploration and Supplement #2 to the Mahala Creek Exploration Projects, I have considered the appeal issues and interested party comments, and have reviewed the appeal record.

In 1996, Mr. Edwards submitted an appeal of the decision to approve the Dash Mining Project;. As in that appeal, Mr. Edwards believes that damage to his ranch and livestock operation will occur if this project is approved. From *my* review of this appeal, I do not find the appellant has raised any new issues, or provided any new information or rationale to support his request that all mining exploration and other related activity within the East Independence Grazing Allotment be terminated and that this decision be withdrawn.

In addition, Mr. Edwards has filed a lawsuit centering around these same allegations and naming six past and present Forest Service employees as individual defendants.

Based on my review, I believe the District Ranser's decision is appropriate and should be upheld.

/s/ Vern R. Fleisher

VERN R. FLEISHER  
Appeal Reviewing Officer