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Department of  
Agriculture

Forest  
Service

Southwestern  
Region

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**File Code:** 1570-1/2330

**Date:** August 2, 1999

Mr. Jay Christensen  
5541 Gatewood Dr.  
Klamath Falls, OR 97603

CERTIFIED MAIL --  
RETURN RECEIPT REQUESTED

Re: Appeal #99-03-00-0060-A215 of the Decision Notice and Finding of No Significant Impact for The Use of Helicopters in Blue Range Primitive Area for Mexican Wolf Reintroduction, Apache-Sitgreaves National Forests

Dear Mr. Christensen:

This is my review decision on the appeal you filed regarding the decision to authorize helicopters in the Blue Range Primitive Area for the reintroduction of the Mexican wolf.

### **BACKGROUND**

Forest Supervisor John Bedell issued a public notice of decision for the use of helicopters in the Blue Range Primitive Area for Mexican wolf reintroductions May 4, 1999. Supervisor Bedell selected the proposed action to authorize the use of helicopters for the release of wolves in the Blue Range Primitive Area. The Forest Supervisor is identified as the Responsible Official whose decision is subject to administrative review under 36 CFR 215 appeal regulations.

As directed in 36 CFR 215.16, you were contacted on June 25, 1999, in an attempt to seek informal resolution of the appeal. The record reflects that informal resolution of the appeal was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.17. I have thoroughly reviewed the appeal record, including the recommendations of the Appeal Reviewing Officer regarding the disposition of this appeal. My review decision incorporates the appeal record.

### **APPEAL REVIEWING OFFICER'S RECOMMENDATION**

The Appeal Reviewing Officer has recommended that the Responsible Official's decision be affirmed. The evaluation concluded: (a) decision logic and rationale were generally clearly disclosed; (b) the benefits of the proposal were identified; (c) the proposal and decision are consistent with agency policy, direction, and supporting information; (d) public participation and response to comments were adequate; and (e) all of the major issues raised by the appellant were adequately addressed in the project record.



Mr. Jay Christensen

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**APPEAL DECISION**

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision concerning the use of helicopters in the Blue Range Primitive Area for wolf reintroduction.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Louis Volk Jr. for  
JAMES T. GLADEN  
Appeal Deciding Officer  
Deputy Regional Forester, Resources

cc:  
Forest Supervisor, Apache-Sitgreaves NF  
R3, A&L (Gonzalez)  
R3, Recreation (Beckley, Holbrook)

Enclosure

**REVIEW AND FINDINGS**  
**of**  
**Jay Christensen Appeal #99-03-00-0060-A215**  
**of the**  
**Use of Helicopters in Blue Range Primitive Area for Mexican Wolf Reintroduction**  
**Decision**

***Issue 1. Tiering of higher level plans:***

*Contention:* "There is no clear statement as to how the decision in the EA [environmental assessment] tiers to the Apache-Sitgreaves or the Apache Forest Plan."

*Response:* See page 2 of EA Appendix A (Response to Comments). It states, "The EA is tiered programmatically to the Apache-Sitgreaves Forest Plan and the ROD/FEIS [record of decision/final environmental impact statement] for Reintroduction of the Mexican Wolf within its Historic Range in the Southwest United States (USDI), November, 1996. The Forest Plan at page 69 directs: "Implement threatened and endangered species recovery plans" . The wolf recovery plan establishes a recovery area which includes the Blue Range Primitive Area. This area is identified in figure 2-2 of the FEIS.

*Finding:* The EA is appropriately tiered to the Apache-Sitgreaves Forests Plan EIS and the EIS for the Mexican wolf reintroduction.

***Issue 2. Purpose and Need for Action:***

*Contention:* "There is no clear statement of the "Purpose and Need" for the action".

*Response:* The EA states that none of the wolves from penned sites in the first release are still in the wild and that additional wolves must be released to continue the reintroduction program. The EA goes on to state that release of wolves in more remote areas is expected to enhance wolf survival, and that release into the remote Blue Range Primitive Area (Blue) will require techniques which will minimize risk to transplanted animals while protecting values associated within the Blue.

*Finding:* The Responsible Official adequately defined the purpose and need for action.

***Issue 3: Decision to be Made.***

*Contention (a):* "The EA does not state who delegated the authority (to approve helicopters in the Blue) and what the delegation actually says."

*Response (a):* The letter dated December 3, 1998, from Regional Forester Towns to Forest Supervisor Bedell gave temporary authority to the Forest Supervisor to approve helicopter use within the Blue to implement the Mexican wolf reintroduction program. This letter is part of the administrative record (record at 7). The EA states that the Forest Supervisor will make the decision, his delegation of authority is irrelevant to an EA (EA p. 2).

*Finding (a):* The Forest Supervisor has been delegated the authority to approve helicopters within the Blue for the purpose of ferrying wolves to the release sites. The EA appropriately identifies the Forest Supervisor as the decision maker.

*Contention (b):* "Why is the public not given the sites and times." Appellant contends that this information is necessary to a decision.

*Response (b):* The Forest Supervisor's decision to authorize helicopter use in the Blue includes conditions under which flights will be allowed. Conditions include: only transporting wolves; not transporting personnel and/or equipment for other purposes, avoiding livestock; avoiding private lands and Peregrine falcon eyries by two miles; and landing where minimal vegetation clearing is needed (EA p. 2). The above conditions are specific to the times and locations by which the wolves may be transported. Environmental effects have been disclosed for helicopter use at any time or location under these conditions.

*Finding (b):* Conditions for timing and location of helicopter use are been adequately identified and analyzed and the effects are disclosed.

**Issue 4: Issues.**

*Contention (a):* "It is extremely hard to track the issues through the EA."

*Response (a):* Four issues are identified in the EA on page 3. Environmental consequences related to each issue are addressed, by issue number, in the EA on pages 4-7.

*Finding (a):* Issues are clearly tracked through the EA by numbering the issues and then assigning corresponding numbers in the effects disclosure.

*Contention (b):* Appellant suggests numerous issues should have been explored such as: threats by federal officials against local citizens; safety of small children; impacts on small rural communities; and feelings that wolves are being treated with higher regard than people.

*Response (b):* Issues of this nature are outside the scope of this analysis. This analysis was conducted in support of the decision whether or not to authorize the use of helicopters in the Blue. Appellant's issues are with the wolf reintroduction decision, which was analyzed and disclosed in the EIS and ROD for Reintroduction of the Mexican Wolf within its Historic Range in the Southwest United States (USDI), Novemeber, 1996

*Finding (b):* Appellant's suggested issues are outside the scope of the analysis under review.

**Issue 5: Alternatives considered in Detail:**

*Contention:* "...the problem is that the Purpose and Need has not been properly identified and many of the issues have not been identified or used in the formulation and evaluation of alternatives or documented in the EA. In the case of this EA, only two alternatives are displayed and no alternatives are shown as eliminated from detailed study."

Response: The decision to be made is whether or not to authorize the use of helicopters in the Blue, and if so, under what conditions would they be authorized. The formulation of alternatives is driven by significant issues identified in scoping (40 CFR §1501.2(c)). For an alternative to be reasonable, it must meet the stated purpose and need, and address one or more issues. Additional alternatives therefore would be various helicopter authorizations (e.g. different conditions of approval).

Finding: The Responsible Official considered a reasonable range of alternatives which responded to the stated purpose and need for action, and the significant issues identified during the analysis.

**Issue 6: No Action Alternative:**

Contention: "The No Action Alternative has been misstated on page 4 of the EA. Rather than depicting the No Action Alternative as one which continues current management, including no release of wolves within the Blue, the Forest presented the No Action Alternative, particularly during the discussion of impacts, as the no use of helicopter alternative..."

Response: The decision to be made is whether or not to authorize the use of helicopters in the Blue, and if so, under what conditions would they be authorized. Therefore, no action means no helicopter authorization. The decision to reintroduce wolves into the Blue was made in 1996 based on the Reintroduction of the Mexican Wolf within its Historic Range in the Southwest United States Environmental Impact Statement. Wolves may be reintroduced in to the Blue without the use of helicopters.

Finding: The Responsible Official appropriately defined the "No Action Alternative" as to not authorize the use of helicopters for the reintroduction of wolves in the Blue.

**Issue 7: Vegetation:**

Contention: "Certainly you do not maintain the wilderness qualities by using chain saws and other equipment to cut down trees and other vegetation."

Response: The EA states that the selected action will not create permanent helispots but may involve removing small amounts of vegetation with hand tools. Minimal or no ground disturbance is expected, and work will conform to minimal impact techniques, supervised by a Forest Service Wilderness Ranger (EA p. 4). The use of chainsaws was not proposed nor considered in the EA.

Finding: The selected alternative will adequately protect wilderness values in the Blue.

**Issue 8: Wildlife:**

Contention: "...the effects on the pack stock are not even mentioned." "Is there no concern for elk populations and secondary concerns about people who enjoy viewing elk or hunting elk?"

Response: The Reintroduction of the Mexican Wolf within its Historic Range in the Southwest United States Environmental Impact Statement addresses concerns for wildlife populations and

human safety. The EA is tiered to the wolf EIS. Therefore, appellant's issues have been previously analyzed in a broader environmental document (40 CFR §1508.28).

*Finding:* Appellant's concerns were addressed in the EIS for the wolf reintroduction and are outside the scope of this analysis.

**Issue 9: Impacts to Primitive Character of the Blue:**

*Contention:* Appellant contends that clearing vegetation and landing aircraft in the Blue violates Sec. 4(c) of the Wilderness Act, and furthermore, requires a forest plan amendment.

*Response:* The project area is located within the Blue. The Wilderness Act provides for the identification of primitive areas and the recommendation of these areas to Congress for reclassification as wilderness. The Act specifically states that areas classified as primitive on the date of the Wilderness Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of the Act until Congress has determined otherwise. The Blue is administered as a primitive area under regulation at 36 CFR §293.17 which provides for the landing of aircraft by other Federal agencies.

The Responsible Official found the selected action to be consistent with the Apache-Sitgreaves Forests Plan (decision notice p. 4). The EA discloses that the selected action is consistent with the Forest Plan goal of working toward recovery of listed species, and Forest Plan direction for management of Management Area 8, which includes the Blue (EA p. 7).

*Finding:* The decision does not violate the Wilderness Act. The decision is consistent with the Apache-Sitgreaves Forests Plan and does not require a Forest Plan amendment.

**Issue 10: Human Health and Safety Impacts:**

*Contention:* "The safety of a two mile buffer simply isn't that reassuring."

*Response:* Appellant's concerns over wolf releases and human safety are addressed in the Reintroduction of the Mexican Wolf within its Historic Range in the Southwest United States Environmental Impact Statement. The EA under review is tiered to the wolf EIS therefore, appellants issue has been previously analyzed in a broader environmental document (40 CFR §1508.28).

*Finding:* Appellant's concern was addressed in the EIS for the wolf reintroduction and is outside the scope of this analysis.

**Issue 11: National Forest Management Act Findings:**

*Contention:* The Forest Plan consistency findings discussion in the EA needs to be expanded. Appellant contends that the proposed action is not consistent with the Forest Plan.

*Response:* Impacts on the primitive character of the Blue are disclosed in the EA. Impacts are limited to sights and sounds of aircraft and recovery personnel modifying the primitive

environment for a few minutes to a few hours during wolf release. The EA acknowledges that recreationists might experience a loss of remoteness during these periods. The EA also predicts that the long term primitive recreational experience would be enhanced by the presence of wolves. The Responsible Official found the selected action to be consistent with the Apache-Sitgreaves Forests Plan (decision notice p. 4). The EA discloses that the selected action is consistent with the Forest Plan goal of working toward recovery of listed species, and Forest Plan direction for management of Management Area 8, which includes the Blue (EA p. 7).

*Finding:* The decision is consistent with the Apache-Sitgreaves Forests Plan and does not require a Forest Plan amendment.

***Issue 12: Consultation with Others:***

*Contention:* "Although not stated, my assumption is that consultation with the US F&WS will eventually happen." "In any case, your own NEPA regulations require you to identify Cooperating Agencies or members of the public. This was not done."

*Response:* The record indicates that the US Fish and Wildlife Service concurred with the Forest Service's finding of no effect on Mexican spotted owls and peregrine falcons and a discountable effect on loach minnows. The EA lists agencies and persons consulted on page 8, consistent with regulation (40 CFR §1508.9(b)). The record indicates that there were no cooperating agencies in this analysis for the use of helicopters. It should be noted that the USDA, Forest Service was a cooperating agency in the US Fish and Wildlife analysis for the wolf reintroduction, documented in the Reintroduction of the Mexican Wolf within its Historic Range in the Southwest United States Environmental Impact Statement.

*Finding:* US Fish and Wildlife Service was appropriately consulted and the EA adequately discloses agencies and persons consulted.

***Issue 13: Other:***

*Contention (a):* "The Environmentally Preferred Alternative" was not identified. This is a CEQ requirement."

*Response (a):* Identification of an environmentally preferable alternative is a requirement for records of decision in cases requiring environmental impact statements, not decision notices involving environmental assessments (40 CFR 1505.2(b)).

*Finding (a):* There is no requirement that the decision notice identify the environmentally preferable alternative.

*Contention (b):* "Item 6 under Finding of No Significant Impact (Decision Notice) states: "The Action does not set a precedence for use of helicopters into other areas managed as wilderness..." The fact is that if this decision is allowed to stand, it will be used as an example of the Forest Service allowing the degradation of wilderness resources, for many other purposes."

Response (b): The landing of aircraft (which includes helicopter use) and the use of motorboats is allowed for in regulation (36 CFR §293.17). This provides for the administrative needs of the Forest Service, use by other Federal agencies and in emergencies.

Finding (b): The decision to authorize helicopter use in reintroducing Mexican wolves into the Blue does not set any precedent for future actions (40 CFR §1508.27).