



United States  
Department of  
Agriculture

Forest  
Service

Southwestern  
Region

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File Code: 1570-1

Date: May 13, 1999

Mr. and Mrs. Basso  
P.O. Box 187  
Heber, Arizona 85928

CERTIFIED MAIL-RETURN RECEIPT  
REQUESTED  
NO: Z 360 317 035

Re: Phoenix Park Wash Dam and Recreation Facilities Appeal #99-03-00-0035-A215  
Chevelon/Heber Ranger District, Apache-Sitgreaves National Forest

Dear Mr. and Mrs. Basso:

I have completed a review of your March 26, 1999, appeal of the Phoenix Park Wash Dam and Recreation Facilities Decision Notice (DN) and Finding of No Significant Impact (FONSI). The review was conducted in accordance with 36 CFR 215.

**Background:** On February 12, 1999, the Apache-Sitgreaves Forest Supervisor made a decision to implement the modified proposed action in the Proposed Lake Mogollon Environmental Analysis (EA). The project is located on the Chevelon/Heber Ranger Districts of the Apache-Sitgreaves National Forests. The legal notice of the decision was published in the White Mountain Independent on February 16, 1999. I received your appeal on March 29, 1999.

I have also received documentation of the informal resolution telephone conversation between the appellants and the Forest Supervisor (letter dated April 19, 1999). The original of this letter was sent to the appellants.

**Recommendation of the Appeal Reviewing Officer:** As required by 36 CFR 215, the Appeal Reviewing Officer has reviewed the appeal record and has forwarded his recommendation to me. A copy of the Appeal Reviewing Officer's letter is attached. The Appeal Reviewing Officer found that the project complies with applicable laws, regulations, and policy. He felt that the project is reasonable, provides increased riparian habitat over time, provides opportunities for water based recreation and seeks to reduce the impacts of recreation uses on existing wildlife habitat. The Appeal Reviewing Officer's recommendation is that the decision of the Forest Supervisor be affirmed.

**Appeal Issues:** The appellants contend that the project will: 1) impose impacts on the residents of Heber and Overgaard, 2) the project will damage the physical environment. Appellants also seek guarantees regarding uses of wells, riparian areas, and sewage handling facilities.



**Issue 1. Impacts to Heber and Overgaard.**

**Contention:** The appellants contend that the project will impose impacts on the residents of Heber and Overgaard, Arizona in the form of:

- 1) increased traffic,
- 2) increased elk-vehicle accidents,
- 3) higher property taxes, and
- 4) noise pollution.

**Response:**

- 1) Traffic could increase by up to 220 vehicles per day. This increase is within the design standards of State Route 260 (EA, p. 28);
- 2) The response to Comment #12 (Response to Comments Appendix, attached to Decision Notice Record at 207) states that vehicle accidents involving elk are attributed more to traffic speed than volume. However, an increase in green forage around the proposed lake might attract more elk, and thus increase the potential for elk-vehicle accidents ;
- 3) The response to comment #3 (Response to Comments Appendix, attached to Decision Notice, Record at 203) indicates that funding will not come from property taxes ;
- 4) The EA states that noise in the proposed recreation area will usually be less than 70 decibels (EA, p. 29).

The Forest Supervisor adequately analyzed and disclosed effects relative to traffic, elk-vehicle accidents, taxes, and noise. The Forest Supervisor is affirmed on this issue.

**Issue 2. Damage to the physical environment.**

**Contention:** The appellants contend that the project would cause damage to the physical environment including:

- 1) deterioration or destruction of Phoenix Park Wash downstream from the lake,
- 2) the lowering of the sub-surface water table,
- 3) recreation related destruction of property due to ATV access to remote areas and
- 4) potential impacts to wildlife.

**Response:**

- 1) The proposed action was specifically modified to provide downstream flows to preserve and enhance riparian habitat (DN, p. 1). While the reservoir is being filled, riparian vegetation immediately downstream of the dam could be stressed and possibly die. Downstream

deterioration and destruction of Phoenix Park Wash will not occur. The scheduled slow release of water will provide the opportunity to establish and maintain an additional six to eight acres of deciduous riparian vegetation below the reservoir (EA, p. 17).

- 2) The EA states that wells for the recreation facility, operating at full capacity, would not adversely affect the area ground water levels (EA, p. 21).
- 3) The EA states, on page 35, that ATV's would be restricted to roads in the recreation area. The Forest Supervisor indicated that the recreation area would be fenced (Record at 212, also EA, p. 18).
- 4) Facilities will be located on the east side of the lake to protect the wildlife habitat values around Blevins Lake (EA, p. 23). The EA states that there will be some displacement of avian and mammalian species while the recreation area is in use. Other species will be attracted by the abundance of water, such as bald eagles. Foraging habitat in the open areas around Phoenix Park Wash will be maintained (EA, p. 23).

The Forest Supervisor adequately analyzed and disclosed the effects on Phoenix Park Wash, the water table, property, and wildlife. The Forest Supervisor is affirmed on this issue.

#### **Guarantees requested.**

If the project is implemented, the appellants requested these specific, legally binding guarantees from the Forest Service:

- 1) never use pumped sub-surface water to fill the reservoir,
  - 2) adhere to scheduled timing of releases to maintain downstream riparian areas,
  - 3) identify the number and depths of wells, with community agreement, and
  - 4) squarely address a description of the sewage handling facilities.
- 1) There is no proposal to use pumped sub-surface water to fill the reservoir. The Forest Supervisor stated in his April 19, 1999, letter that sub-surface water pumping will not occur (Record at 212).
  - 2) Programmed water releases are included in the modified proposed action by the DN. The program for release is included on pages 10 and 17 of the EA. The initial filling of the dam may impact downstream riparian areas temporarily. The long term health and increased size of downstream riparian areas will be improved by the project and program of releases.
  - 3) The only wells proposed for use are those required to support the recreation development. These wells would require permits and approvals from the Arizona Department of Water Resources.
  - 4) Sewage handling facilities are described on page 21 of the EA. Evaporative lagoons are common cost effective methods of handling sewage disposal and are located at a number of sites throughout the Southwestern Region. Any specific sewage treatment facility would require approval and permits from the Arizona Department of Environmental Quality.

The Forest Supervisor has the responsibility and authority to make decisions authorizing these types of facilities on National Forest System lands. These decisions are made through the National Environmental Policy Act process, with appropriate public involvement. It is inappropriate for the Forest Service to relinquish this authority over National Forest System lands through legally binding guarantees about potential future actions. The Forest Supervisor's selected action is consistent with the appellants' requests.

**Appeal Decision:** After reviewing the appeal record and considering the recommendations from the Appeal Reviewing Officer, I find that the Forest Supervisor was responsive to the issues, the decision fits with the management objectives of the National Forest and complied with applicable laws, regulations and policy. I affirm the Forest Supervisor's decision in the Phoenix Park Wash Dam and Recreation Facilities Decision Notice.

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

/s/ John R. Kirkpatrick

JOHN R. KIRKPATRICK  
Appeals Deciding Officer  
Deputy Regional Forester

Attachment

cc:

Apache-Sitgreaves NF  
Chevelon-Heber RD  
Appeals/Litigation R-3  
Recreation R-3  
Engineering R-3