



**United States
Department of
Agriculture**

**Forest
Service**

**Southwestern
Region**

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Albuquerque, NM 87102-0084
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File Code: 1570-1 (FOR)

Date: August 27, 1998

Mr. Bryan Bird
Forest Guardians
1413 Second Street
Santa Fe, NM 87505

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED
Z 095 964 486

RE: Tio Timber Sale Appeal #98-03-00-0051-A215
Carson National Forest

Dear Mr. Bird:

We received your appeal of the Tio Timber Sale on August 25, 1998. According to my review of the documentation, your appeal is untimely. In accordance with 36 CFR 215.13(c), "the appellant is responsible for submitting an appeal on or before the last day of the appeal filing period. Where there is a question about timelines of an appeal, the U.S. Postal Service postmark on a mailed appeal...will be used to determine timeliness."

The appeal period closed on August 24, 1998. Your appeal was received on August 25, 1998, without a cancelled postmark. In accordance with 36 CFR 215.15(a), "an appeal Deciding Officer shall dismiss an appeal without review when: (1) the appeal is not postmarked or the facsimile is not date imprinted within the 45-day appeal filing period in accordance with section 215.13..." Therefore, your appeal is dismissed. The appeal regulations do not permit me the flexibility to grant an extension of time on your appeal (36 CFR 215.13(d)). I encourage you to submit your written appeal by mail or facsimile well before the close of the 45 day appeal filing period.

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

Sincerely,

/s/ John R. Kirkpatrick
JOHN R. KIRKPATRICK
Appeal Deciding Officer
Deputy Regional Forester, Resources

cc:
Carson NF, C. Gonzalez, FOR

