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File Code: 1570/2720
Date: August 20, 2001

J. Kent MacKinlay
Warnock, MacKinlay & Associates, P.L.L.C.
1019 South Stapley
Mesa, AZ 85204

RE: Appeal #01-03-00-0038-A215, Bellemont Shooting Facility, Coconino National Forest

Dear Mr. MacKinlay:

This is my review decision on the appeal you filed regarding the Decision Notice and Finding of No Significant Impact which provide for: amending the Coconino National Forest Plan by allocating 860 acres for shooting range purposes; identifying the land as available for exchange out of Forest Service ownership to the Arizona Game and Fish Department; constructing some or all the shooting range facilities described in Alternative C, authorized by issuance of a special use permit to the Arizona Game and Fish Department; and not issuing the special use permit to the Arizona Game and Fish Department until the Forest formally accepts a land exchange proposal.

BACKGROUND

On May 15,2001, Forest Supervisor Jim Golden issued a Decision on the Bellemont Shooting Facility Project and Coconino Forest Plan Amendment #15. The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 215 appeal regulations.

Pursuant to 36 CFR 215.16, an attempt was made to discuss informal disposition 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. My review decision incorporates the appeal record.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer (ARO) found no violation of law, regulation or policy related to the issues raised in your appeal. However, the ARO expressed the concern that once the authorization for the shooting facility is issued, the proponent may have less incentive to pursue the land exchange. The ARO recommended that this decision be affirmed and that the land exchange process be expedited.

APPEAL DECISION

After a detailed review of the records documented in the enclosed review and findings and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Bellemont Shooting Facility Project. In accordance with the draft special use permit (AR 566a) the term of the permit will not exceed 2 years.

Although, I understand the ARO's concern regarding the incentive to pursue the land exchange, I feel the Arizona Game and Fish Department should be able to begin development of the shooting facility and I feel that further delay is not necessary. I note that the Forest Service and the Arizona Game and Fish Department have approved an Agreement To Initiate The Bellemont Land Exchange. This is an indication that the parties will proceed in good faith to complete the land exchange process by December 2003.

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

Sincerely,

JAMES T. GLADEN
Appeal Deciding Officer
Deputy Regional Forester, Resources

cc:
Forest Supervisor, Coconino National Forest
Duane L. Shroufe, AZG&F
Recreation Staff, R3
Appeals & Litigation Staff, R3

REVIEW AND FINDINGS

of

J. Kent MacKinlay's

Appeal #01-03-00-0038-A2l5

of the Bellemont Shooting Facility Project

ISSUE 1: Noise pollution.

Contention 1a: "We disagree with the conclusion that an absolute decibel level forms an acceptable measurement for determining noise pollution."

Response: A report by Acoustical Consulting Services declares that the U.S. Department of Housing and Urban Development has established an average sound level of 65-Day Night Level (DNL) as acceptable in a housing environment. (Project Record [PR] #211) Day Night average Sound level (DNL) is the 24-hour average sound level, in decibels, obtained after the addition of 10 decibels (dBA) to the sound levels occurring between 10pm and 7am.

Alternative C, selected for development by the Responsible Official, shortens the High Power Rifle Range by 400 yards and this results in moving the firing line an additional 0.2 miles north of the nearest private property. (PR #586.1 p.32) Thus, a total of approximately 0.4 miles of space will separate the High Power Rifle Range from the residentially zoned private property. (PR # 586.1 p.24) A follow-up study of Alternative C, by the Acoustical Consulting Service, documented the maximum noise level at 53-58 dBA. (PR #616)

A 12-foot earthen berm sound control mitigation measure **will be constructed** between the High Power Rifle and Silhouette Ranges and the appellant's property. (PRD#586.1 p.31)

Contention 1b: It is unclear how additional mitigation measures will be developed and implemented as required by the Department. Will the Forest Service have a continuing right to monitor the use of the range after the exchange?

Response: The Decision Notice states that additional NEPA analysis will be required for the eventual land exchange. The Responsible Officer will be guided by 36 CFR 254.3 (h) and (i).

Finding: The Arizona Game & Fish Department has commissioned extensive scientific studies to determine the magnitude of sound created at the proposed shooting facility, analyzed the effects on adjacent land owners, and recommended measures to minimize the amount of sound heard at the property line.

ISSUE 2: Safety issues and lower market values.

Contention 2a: "The safety issues inherent in a gun range, need no explanation."

Response: Since no specific safety issues have been raised, it is difficult to address this issue except to direct the reader to Section 3.4 in the Environmental Assessment that explains the measures taken to ensure a safe operation. However, there will be design and management action mitigation measures in place to protect the shooters and adjacent landowners. These measures include rock free backstops, allowing entry only on designated routes, having range masters and safety officers to enforce safety protocols and manage use, and monitoring levels of lead in the blood of the permanent shooting range staff. (PRD#586.1 p.63&65) Even now, in the adjacent undeveloped Coconino National Forest, it is a violation of 36 CFR 261.10 (d)(1), to discharge a firearm within 450 feet of a residence or occupied area.

Contention 2b: The appellant disagrees with a local appraiser, who determined that the installation of a gun range in a neighborhood would have no negative impact on property values. "Anyone considering residing in a neighborhood adjacent to a shooting range, is going to have some concern over safety issues and that concern is bound to translate into lower market values."

Response: A Consulting Report prepared in May 2000 for the Arizona Game & Fish Department by Kim Johnson an Arizona certified general appraiser concluded that "development of the proposed shooting range would not be likely to have and adverse impact on the market value APN 204-03-001E" (McCleve). (PRD#532)

Finding: Alternative C and the binding management mitigation measures contained in the Environmental Assessment, indicate that safety issues were taken into account when developing this project. The proper forum for discussion of land values is during the land exchange process between the Forest Service and the Arizona Game & Fish Department.

ISSUE 3: Environmental damage to the land through lead pollution.

Contention: Appellant attaches an undated newspaper article from *The Arizona Republic* that describes the massive cleanup effort required if a shooting range moves from a site.

Response: The National Shooting Sports Foundation's Facility Development Series, Number 2, contains a comprehensive discussion of the environmental aspects of construction and management of outdoor shooting ranges. (PR #563) Spent lead tends to attach to clay particles in the soil, especially if the soil is not acidic (i.e., pH greater than 6.5). Lead attached to clay has very little potential to enter groundwater, and only enters surface water attached to clay particles that are eroded into streams, ponds, etc.

The Arizona Game & Fish Department has committed to a soil monitoring program to determine if lead migration has occurred below the soil surface, to take measures to increase the pH and/or amend the soil to maintain lead in the top few inches if necessary, and to implement lead recycling. (PR #621 item 16)

The Arizona Game & Fish Department contracted with Environmental & Turf Services, Inc. to produce a Best Management Practices Plan for the proposed multipurpose shooting range at Bellemont, Arizona. This report was completed in October 1999 and revised in December 1999 (PR #434). Their conclusion was the site would have minimal potential for lead and arsenic to

oxidize and migrate to surface water and ground water. Further, the comprehensive Best Management Program they described in their report, will add an extra measure of assurance that environmental degradation by aging shot and bullets will be minimal. The report concludes on page 17 that no broad-scale modification of soil is necessary at the present time due to the soil's relative high clay content and the fairly neutral pH average of 6.4

Mr. Ronald W. Werhan, PE observed that "the soils in the area of the shotgun shotfall area are generally rocky and with heavy clays." This type of soil ground condition is not conductive to separation and removal of lead shot. However, as President of the Flagstaff Clay Target Shooters club, he committed his club to laying down an 18-inch layer of cindersand that will facilitate the easy extraction of the lead shot. (PR #113)

Finding: The Responsible Official has properly identified the potential health hazards associated with lead being introduced into the environment and the necessity for applying best management practices to control the effects of the action.

ISSUE 4: Dust created by vehicles using unpaved roads for an indefinite period.

Contention: The appellant believes that this development does not meet county zoning and development guidelines. "Part of the problem is that the AG&FD does not have a sufficient budget to adequately develop the facility, and lacks the funds to pave the roads."

Response: The orientation of the proposed range will take advantage of the prevailing winds (southwest) that would carry most of the dust away from both the nearest private property and the facility users. (EA, p. 53) Orientation maps are shown on pages 12 and 17 of the EA (PRD#586.1)

The Arizona Game & Fish Department acknowledges that "the proposed shooting range facility was designed with interior gravel roads and parking areas, which would be paved when funding is available and need is demonstrated." They also commit themselves to adhere to Coconino County Community Development and Public Works guidelines concerning both the frontage road access via old US Highway 66 and range interior roads and to acquire all necessary permits, reviews, or approvals.

Finding: The Arizona Game & Fish Department and the Coconino National Forest are committed to working with the Coconino County Board of Supervisors to conform to relevant access ordinances.