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Forest
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File Code: 1570

Date: December 11, 1998

Mr. Mark A. McGinnis
Salmon, Lewis & Weldon, P.L.C.
4444 North 32nd Street, Suite 200
Phoenix, Arizona 85018

Reference: Coconino National Forest Plan
Amendment 12
Appeal # 98-03-00-0036-A217

Dear Mr. McGinnis:

This is my decision on your appeal filed for the Shadow Estates Homeowner's Association regarding the Decision Notice (DN) and Finding of No Significant Impact (FONSI) for Amendment 12 to the Coconino Forest Land and Resource Management Plan. The DN was signed by Acting Forest Supervisor Fred S. Salinas on June 24, 1998. This amendment provides new management direction for the Sedona/Oak Creek planning area. My review of your appeal was conducted pursuant to 36 CFR 217.

APPEAL SUMMARY

I received your Notice of Appeal on August 7, 1998, and notified you on August 18, 1998, that your appeal was timely and would be processed under 36 CFR 217. The District Ranger transmitted the Appeal Record (AR) containing all the relevant decision documentation to this office on September 25, 1998. Since much of your appeal concerns the legal rights in Parcel A, it was necessary to supplement the Appeal Record with the Canyon Shadows Plat.

APPEAL ISSUES AND FINDINGS

Issue 1: Unreasonable Hardships.

Contention: Trailhead activity places unreasonable hardships on the Shadow Estates Homeowner's Association (SEHA).

Response: The SEHA appeal raises a number of incidents of land use conflicts between homeowners and recreational users of the Soldier's Pass trailhead. The record (AR 80, 124, and 127) indicates that the FS has recognized these conflicts and made attempts to resolve them. The trailhead was already a public facility at the time the area was subdivided, and prior to home construction. Continued use of the trailhead is necessary for management of the wilderness even though the homeowners view its use as a hardship. Mitigation of impacts to private land, beyond the National Forest boundary may need to be addressed through project management,



but this is not within the scope of a Forest Plan amendment.

Finding: The Forest Supervisor is affirmed on this issue.

Issue 2: Public access to National Forest System Lands through Parcel A.

Contention: The Shadow Estates Homeowner's Association (SEHA) has a legal right to restrict access across Parcel A.

Response: The Canyon Shadows Plat dedication subjects "Parcel A" to an ingress-egress easement limited to types of travel permitted by the U.S. Forest Service on adjacent Coconino National Forest (Canyon Shadows plat, recorded September 30, 1980, at 10:35 a.m. in Book 21 of Maps and Plats, page 69, Yavapai County Courthouse). The Forest Service has the responsibility to provide access to National Forest System lands. The plat dedication permits the Forest Service to provide access limited by the types of travel permitted on adjacent Coconino National Forest. Shadow Estates Homeowner's Association has the same rights as the public under 36 CFR 212.8(g) to enter upon the Coconino National Forest and use existing roads and lands, such as the Parcel A easement and Soldier's Pass Trailhead, for all proper and lawful purposes subject to compliance with rules and regulations governing the roads or lands to be used.

The Sedona District Ranger has been working with the Shadow Estates Homeowner's Association and adjacent community to resolve issues regarding Soldier's Pass (AR 127). While several issues are in dispute, the District Ranger will continue working toward resolution with Shadow Estates Homeowner's Association.

Finding: Designation of Soldier's Pass as a "secondary trailhead" does not violate the easement identified on the plat, and the Forest Service has an unrestricted legal access through parcel A as documented on the plat of Yavapai County. The Forest Supervisor is affirmed on this issue.

Issue 3: Designation of Soldier Pass as a "secondary trailhead" rather than a "neighborhood link."

Contention (a): The "secondary trailhead" designation is inconsistent with stated goals and objectives in Amendment 12. The management emphasis for MA 24 is listed as strong community partnerships for stewardship of "Sedona's Backyard" and to support health, safety and quality of life. Another goal of the amendment is to ensure that harmony exists between residents and visitors and to provide residents with a sense of safety and security concerning National Forest lands directly adjacent to residential development. The decision to designate as a secondary trailhead will further increase use and therefore directly conflicts with the desire to mitigate the effects of tourism on the area; Soldier's Pass should be designated as a "neighborhood link" instead.

Response (a): Agency policy at Forest Service Manual (FSM) 2302 provides guidance "to protect the long-term public interest by maintaining and enhancing...public accessibility..." and "to promote public transportation and/or access to National Forest recreation opportunities." FSM provides further guidance at 2303, item 10: "manage recreation uses of National Forest System lands to meet national needs rather than to meet the needs of individuals or nearby communities." The decision notice does identify community relations as an important management objective and states "favor resolution of neighborhood issues by emphasizing community needs over visitor demands."(DN page 206-40 to 206-42). The DN also states that no single factor was predominant in making the decision and that proposed actions will not be popular with everyone (DN page 5). The AR indicates that Sedona receives very heavy use compared to other parts of the National Forest System, indeed, the Sedona area is one of the most heavily visited tourist areas in the State of Arizona (AR 50.2, 97.1, 97.5). The record (AR 57, 58, 97.1) indicates an unmet need for trails and trailheads in the Sedona area. The trailhead at Soldier Pass is an existing facility. Amendment 12 does not propose to increase the size of the current facility. Residents' concerns have been taken into account (AR 80, 97 page 94). The plan proposes expansion of the trail system in other areas to relieve pressure at some sites (AR 62 page 31 and 81 pages 20-21). Mitigation measures for the Soldier Pass site have also been addressed (AR 124).

Finding (a): On the issue of conflict with other plan objectives through designation of Soldier Pass as a secondary trailhead, I find that the Forest Supervisor has placed an inappropriate emphasis on community needs. Guideline 3 "favor resolution of neighborhood issues by emphasizing community needs over visitor demands" is inconsistent with agency policy, therefore, in accordance with 36 CFR 217.16 (b), amendment 12 shall be modified to strike guideline 3 on page 206-41.

Contention (b): The Recreation Opportunity Spectrum (ROS) objective of semi-primitive motorized for the Soldier's Pass Trailhead area cannot be maintained under a "secondary trailhead" designation.

Response (b): The DN displays goals for encounters with other hikers that are considered appropriate by ROS class. Amendment 12 at page 206-40 and map 3 indicate that the ROS objective for Soldier's Pass is a small pocket of semi-primitive motorized even though the ROS for the surrounding area is rural or roaded natural. For semi-primitive motorized the encounter goal is 15 people per day. For rural and roaded natural it is 15 people per hour (AR 97 page 81). Appellant suggests that because the trailhead capacity (20 cars) exceeds the ROS encounter goal (15 people per day) the ROS of semi-primitive is unachievable. It is indeed possible that the encounter level of 15 people per day will be exceeded. The Northern Arizona University study (AR 50.2, page 114) indicates that this number is already exceeded at times. However, it is generally known and accepted in ROS planning that a transition takes place between a trailhead and an area people hike into, and that in close proximity to the trailhead, encounters will be greater. Nevertheless, all users do not arrive at or depart from the trailhead at the same time or hike the same distance. All users at a given trailhead do not encounter each other. The ROS encounter number is a broad planning guideline, not an absolute measure (see FSM 2310.3, 2311.1 and the ROS Users Guide).

Finding (b): The ROS class of semi-primitive motorized on map 3 is inappropriate for the trailhead and should be changed to match the rural ROS class of the surrounding area, therefore, amendment 12 shall be modified on map 3 to change the ROS class for the Soldier's Pass trailhead to rural.

Finding Summary 3 (a) and (b): On the issue of designation of Soldier Pass as a secondary trailhead, the Forest Supervisor is affirmed. However in accordance with 36 CFR 217.16 (b), amendment 12 shall be modified to strike guideline 3 and change the ROS class for the Soldier's Pass trailhead to rural.

Issue 4: Lack of campfire restrictions.

Contention: The hazards associated with camping and campfires are not eliminated by designating Soldier's Pass a "secondary trailhead".

Response: The DN at page 206-42 and AR 114 state that campfires are prohibited in the Neighborwoods MA.

Finding: On the issue of campfire restrictions, the Forest Supervisor is affirmed.

DECISION

I thoroughly reviewed the appeal record regarding the issues raised in your appeal. My review decision hereby incorporates by reference the entire appeal record. I find the Forest Supervisor conducted a thorough process based on the National Environmental Policy Act regulations and Forest Service Policy to amend the Coconino National Forest Land and Resource Management Plan. The Supervisor is affirmed with respect to all issues and contentions made in your appeal. The Forest Supervisor is directed to modify amendment 12 as provided in the finding for issue 3.

This is the final administrative decision of the Department of Agriculture unless the Chief, on his own initiative, elects to review the decision within 15 days of receipt (36 CFR 217.17 (d)) . By copy of this letter I am notifying all parties to the appeal of my decision.

Sincerely,

/s/ John R. Kirkpatrick

JOHN R. KIRKPATRICK
Appeal Reviewing Officer
Deputy Regional Forester, Resources

cc:

Coconino National Forest
Sedona Ranger District
R3 recreation
R3 appeals