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Department of
Agriculture

Forest
Service

Southwestern
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File Code: 1570

Date: December 11, 1998

Ms. Barbara Vickers, President
Sedona Airport Supporters Association
P.O. Box 1717
Sedona, Arizona 86339-1717

Reference: Coconino National Forest Plan
Amendment 12
Appeal# 98-03-00-0032-A217

Dear Ms. Vickers:

Pursuant to 36 CFR 217, this is my decision on your appeal filed on behalf of the Sedona Airport Supporters Association and regarding the Decision Notice and Finding of No Significant Impact for an amendment to the Coconino Forest Land and Resource Management Plan. The decision notice is for Amendment 12 and was signed by Acting Forest Supervisor Fred S. Salinas on June 24, 1998. This amendment will provide new management direction for the Sedona/Oak Creek planning area.

My review of your appeal was conducted pursuant to and in accordance with 36 CFR 217. I thoroughly reviewed the appeal record regarding the disposition of your appeal. My review decision hereby incorporates by reference the entire appeal record.

APPEAL SUMMARY

I received your Notice of Appeal on July 15, 1998, and notified you on July 31, 1998, that your appeal was timely and would be processed under 36 CFR 217. I was notified by District Ranger, Ken Anderson, that you did meet with him to discuss possible resolution of your appeal on September 3, 1998. The Ranger, in his notes from the meeting, indicates that you dropped your appeal on the Dry Creek crossing issue. I received a letter from you dated October 20, 1998 in which you dropped all appeal issues except those involving airports, air tours or air space. Thus, I will deal only with issues 1, 3, 5 and 6 included in your July 15, letter. The District Ranger transmitted all the relevant decision documentation and Appeal Record (AR) to this office on September 25, 1998.

APPEAL ISSUES AND FINDINGS

Issue 1: The amendment contains defamatory charges against unnamed pilots.

Response: The rules in this issue are within Federal Aviation Administration (FAA) flight rules and advisories. In particular, Federal Air Regulations (FAR 91.119) established general operating and flight rules concerning minimum safe altitudes, and Federal Aviation



Administration Advisory Circular 91-36C provides advice on minimum levels over wilderness areas.

The Sedona District Ranger used independent research, Forest Service monitoring, professional opinion and public comments to determine and document a problem with low-level flights over the Wilderness (AR 5, 8.1, 27.1, 30.2, 32, 37.1, 48, 51, 54.1, 58.1, 67.1,2,3, 69.1,3, 93.1, 97.9, 109.2 and 126).

The Forest Service manages wilderness according to the Wilderness Act of 1964 for..."outstanding opportunities for solitude, or a primitive and unconfined type of recreation." Thus, the Forest Service has a responsibility to act when aircraft use of the airspace over Wilderness unreasonably interferes with the agency's ability to manage the land for its intended use (Griggs v. Allegheny County, 369 U.S. at 88-89 and E.g., Camfield v. United States, 167 U.S. 518, 525).

The FAA is recognized as the agency responsible for regulating air space and has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public. Concerning this issue, the Forest Supervisor appropriately chose a course of action to work with the FAA to gain compliance with its existing rules and advisories, and request that the FAA determine the need for further regulations or an airspace management plan.

Finding: The Forest Supervisor is affirmed on this issue.

Issue 2. New pages 206-32 states, "Eliminate vehicle crossings of Dry Creek unless water quality protection measures can be used." This is just plain silly. Dry Creek is just that.

Contention: Appellant contends water quality protection measures on Dry Creek are not necessary, since Dry creek is dry.

Finding: This issue was dropped from the appeal by Barbara Vickers in her October 20, 1998 letter to the Regional Forester.

Issue 3. Page 24 states, The NF lands contain world-class archeological ruins which may be subject to stress fractures from sonic booms or from...helicopters." Here the amendment suddenly moves from Wilderness land to ALL National Forest Service. By the use of "may," you are again defaming helicopters without putting forth any proof.

Contention: Appellant contends that by the use of "may" helicopters are defamed with out putting forth any proof.

Response: There is a body of research in the historic preservation field that documents the effects of low frequency vibrations, such as those produced by helicopters, on archaeological ruins and historic structures. The record shows that the potential effects of helicopter vibrations on archaeological ruins was identified as a concern early in the planning process (A.R. 14, 28, 53.1, 57, 67.3, 69.3, 72, 83 letter 203, 83 letter 245, 85.1, 97.6). In addition, the record

documents numerous incidents of helicopters flying and hovering close to archaeological ruins (A.R. 126).

The statement in question is listed in the DN/FONSI as one of a number of "situational factors" the Forest Supervisor considered in formulating recommendations regarding aircraft activity in the planning area. The record supports this as a reasonable concern.

Finding: The Forest Supervisor is affirmed on this issue.

Issue 4. New page 206-18 states, "Acquire private lands if the parcels (are) adjacent to NF lands." Think about that for a minute. What private land will be left after these acquisitions.

Contention: Appellant contends there will be no private lands left after the acquisitions proposed on new page 206-18.

Finding: This issue was dropped from the appeal by Barbara Vickers in her October 20, 1998 letter to the Regional Forester.

Issue 5. New page 206-28 states, "Encourage commercial tours to use private land." Of course, there is virtually NO private land left to be used, as the local Ranger well knows. And what does this do to our air space?

Contention: Encouraging commercial tours to use private land where no private land is available could negatively affect air space.

Response: The Forest Service regulates uses of National Forest System lands in accordance with 36 CFR 251 Subpart B. Uses requiring permits are described at 251.50. The FS does not require special use authorizations unless National Forests lands are being used (e.g. landing with regards to aviation). The guidelines at new page 206-28 have no effect on air space, however they would effect aviation activities that propose to land on NFS lands.

Finding: The Forest Supervisor is affirmed on this issue.

Issue 6. Finally, page 26 states, "I invite the aviation community to participate with the FAA and the FS in ensuring the ...protection of natural quiet in appropriate places." We can certainly subscribe to that. However, the Sedona area is a city, with one of the most beautiful airports in our country (which also brings over \$12 million per year into the local economy) and IS NOT an appropriate place for natural quiet!

Contention: The Sedona area is a city with one of the most beautiful airports in our country and is not an appropriate place for natural quiet.

Finding: We agree, Sedona is a city and the airport is beautiful. However, the city and the airport are outside the scope of this plan amendment. The Forest Service plan is for the restoration and protection of appropriate levels of natural quiet for National Forest Lands. Appellant has not

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disputed any issues of fact, law, regulation or policy relative to National Forest Lands affected by this decision.

DECISION

After a detailed review of the 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.

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 217.7(d)(1) and 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