



United States
Department of
Agriculture

Forest
Service

Southwestern
Region

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File Code: 1570-1 (2800)

Date: July 19, 1999

Mr. J.F. Burke
P. O. Box 97
Chino Valley, AZ 86323

CERTIFIED MAIL - Return Receipt Requested
Z 095 964 430

Re: Appeal #99-03-00-0041-A215, Mineral Withdrawal, Hassayampa River Drainage,
Bradshaw Ranger District, Prescott National Forest.

Dear Mr. Burke:

This is my review decision on the appeal you filed regarding the decision made by Forest Supervisor, Michael R. King, on February 24, 1999. The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 215 appeal regulations.

BACKGROUND

On February 24, 1999, the Responsible Official issued a Decision Notice and Finding of No Significant Impact in which he decided to implement Alternative D. This alternative proposes the withdrawal of the recreation areas and the upper Hassayampa River, with the possibility of revocation of any or all of the withdrawals (during the 20 year withdrawal period) should the mineral potential of the lands improve significantly.

Pursuant to 36 CFR 215.16, a meeting was held on June 11, 1999, in an attempt to resolve this appeal informally. Present at this meeting were; District Ranger Ernest Del Rio, District Geologist and Project Leader Bev Everson, Bob Heck, Noel Riner, Bryan Timm, Stan Van Order and yourself. The record reflects that informal resolution of the appeal was not reached.

My review of this appeal has been conducted pursuant to and in accordance with 36 CFR 215.17. I have thoroughly reviewed the appeal record, including the recommendation of the Appeal Reviewing Officer, regarding this appeal. My review decision hereby, incorporates by reference the appeal record. My review and findings are enclosed.



APPEAL DECISION

After a detailed review of the records and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision to implement Alternative D.

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

Sincerely,

/s/James T. Gladen
JAMES T. GLADEN
Appeal Deciding Officer
Deputy Regional Forester, Resources

Enclosure

cc: Forest Supervisor, Prescott NF
District Ranger, Bradshaw RD
Lands and Minerals R3
Appeals and Litigation R3

REVIEW AND FINDINGS
of the
J.F. Burke's Appeal #99-03-00-0041-A215
regarding
Mineral Withdrawal, Hassayampa River Drainage

ISSUE 1: The Forest Service did not establish a purpose and need to support the decision for the proposal and there is nothing in the record to establish any validity.

Contention: "First, it has been determined, by the District Forester, that an Environmental Impact Statement is 'NOT NECESSARY' for consideration of the proposal. If there is no need of an EIS to establish some scientific or environmental need for this proposal, what does establish its cause. We see nothing in the document to establish any validity."

Response: The record includes existing condition assessments of the riparian areas of the upper Hassayampa River drainage prepared by Ron Stein, Prescott National Forest Soil Scientist, Riparian Coordinator, dated December 18, 1996. The assessments indicate degraded riparian conditions in the project area. Those findings are incorporated in the Environmental Analysis (EA) prepared for this withdrawal proposal. The purpose and need, as stated in the EA, is to provide resource protection for the Hassayampa River.

Based on the EA the responsible official determines whether or not to prepare an environmental impact statement (40 CFR §1501.4(c)). The responsible official found that there were no significant impacts from the selected alternative and determined that an environmental impact statement would not be prepared. The finding and determination are attached to the decision notice.

Finding: The EA adequately states the purpose and need for action and provides sufficient evidence to support the responsible official's finding of no significant impact. The finding of no significant and determination to not prepare an environmental impact statement is documented and included with the decision notice.

ISSUE 2: The Forest Service is ignoring the importance and interests that the Hassayampa River area holds for mineral exploration, particularly for the small operations miner.

Contention: The appellant purports the Hassayampa River is the only remaining major drainage in the geographic vicinity that provides a feasible and "proven" area for placer deposits.

Response: The EA addresses the fact that the proposed withdrawal would prohibit the public from prospecting and rock hounding, and would limit education opportunities as well, in the withdrawal area. While it is recognized that prospecting is important to a number of individuals, the Forest Service is obligated and it is within the agency's authority to evaluate the overriding need to withdraw the area for the improvement of its riparian qualities.

Findings: Regardless of the perceived limited availability of mining opportunities, the degradation of the water quality and the adverse environmental effects of continued mining on

the Hassayampa River, warrants withdrawal of the subject area from mineral entry. The Forest Service has the discretion to recommend withdrawing fragile and valuable resource areas for protection purposes.

ISSUE 3: The Forest Service is placing an unwarranted burden on prospectors to seek opportunities for proven deposits in numerous other areas of the Forest.

Contention: The appellant states that the withdrawal proposal "would seem to encourage prospectors to scatter out, throughout the forest in search of the intimated 'other' proven deposits.

Response: The study results in the EA, indicate the need to restore the riparian areas and to maintain them in a satisfactory condition through the elimination of mining activities. This proposal would necessitate those individuals who do not already possess a valid existing right to mine, to seek other opportunities within the Forest. This reduced activity will in turn, improve water quality, allow revegetation, and help stabilize soil in the riparian environment of the Hassayampa River.

Findings: The decision to propose a mineral withdrawal is a sound and prudent proposal, as the cumulative effects of the mining and other types of uses of the river corridor have resulted in dramatic degradation of the area.