



United States  
Department of  
Agriculture

Forest  
Service

Southwestern  
Region

517 Gold Avenue, SW  
Albuquerque, NM 87102-0084  
FAX (505) 842-3800  
V/TTY (505) 842-3292

---

File Code: 1570/2300

Date: March 27, 2000

Forest Guardians  
c/o John C. Horning  
1411 Second Street  
Santa Fe, NM 87505

RE: Appeal #99-03-00-0106-A217, Environmental Assessment, Decision Notice and Finding of No Significant Impact for the Pecos Wild and Scenic River Management Plan, Santa Fe National Forest

Dear Mr. Horning:

This is my decision on your appeal filed on behalf of Forest Guardians, concerning Forest Supervisor Leonard Atencio's final Decision Notice and Finding of No Significant Impact (DN/FONSI) for the Pecos Wild and Scenic River Management Plan and Forest Plan Amendment. Your notice of appeal dated August 10, 1999, was received on August 11, 1999. The Plan provides new management direction for the Pecos Wild and Scenic River. My review of your appeal was conducted pursuant to 36 CFR §217.

### **BACKGROUND**

On June 6, 1990, the Pecos was congressionally designated as a component of the Wild and Scenic River System, under the Act of October 2, 1968, as amended [16 U.S.C. 1271-1287]. On October 7, 1998, Forest Guardians submitted a Complaint for Declaratory Injunctive Relief to the United States District Court, District of New Mexico. On February 4, 1999, the District Court issued the Settlement Agreement and Stipulation for Dismissal in which the Forest Service agreed to prepare a comprehensive management plan (CMP) for the Pecos Wild and Scenic River. The Environmental Assessment (EA) was released for public comment on February 12, 1999. The public comment period ran through March 19, but was later extended through March 29, 1999. The DN/FONSI was signed on June 22, 1999, and notice of the decision was published on June 28, 1999. By letter of October 26, 1999, you were informed that your appeal was timely and that I would exercise discretionary authority to establish a timeline for this and related appeals. By letter of November 24, 1999, you were sent a copy of that timeline.



**APPEAL DECISION**

After a detailed review of the record, I find that the CMP for the Pecos Wild and Scenic River lacks the necessary analysis directed by the Wild and Scenic Rivers Act and by Forest Service policy. Therefore, I am reversing Forest Supervisor Atencio's final DN/FONSI approving the Pecos Wild and Scenic River Management Plan and Forest Plan Amendment. It is premature to make a review decision on the adequacy of NEPA for the CMP.

**Instructions:**

I am directing Forest Supervisor Atencio to reanalyze and complete a CMP for the Pecos Wild and Scenic River to the standards prescribed within the Wild and Scenic Rivers Act and Forest Service policy interpreting the Act. The CMP should provide specific direction on what activities are proposed to resolve the problems identified as affecting the outstandingly remarkable values (ORV's) for which the river was designated, where these activities will occur, and when they will occur (i.e., an activity schedule) and the criteria for scheduling treatments. The CMP should address monitoring to determine whether the implemented treatments are correcting the problems identified. The CMP must present a clear vision of the management actions, prioritizations, and mitigations needed to protect and enhance ORV's. A revised Pecos Wild and Scenic River Management Plan and decision must be prepared within two years of this appeal decision.

This is the final administrative decision of the Department of Agriculture unless the Chief elects to review the decision within 15 days of receipt of this letter [36 CFR §217.7(d)(1) and §217.17]. By copy of this letter, I am notifying all parties to the appeal of my decision.

Sincerely,

/s/ James T. Gladen

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

cc:  
Santa Fe National Forest  
d.crittenden, Pecos Ranger District  
c.holbrook, R3 Recreation  
c.gonzalez, R3 Appeals  
s.segovia, W.O. Ecosystem Management  
j.stokes, W.O. Recreation

## **REVIEW AND FINDINGS**

of the

**Forest Guardian's Appeal #99-03-00-0106-A217**

regarding the

**Pecos Wild and Scenic River Management Plan**

**ISSUE 1:** The plan/EA violates Wild and Scenic Rivers Act.

**Contention:** A comprehensive management plan (CMP) is required to address (1) resource protection, (2) development of land and facilities, (3) user capacities, (4) other management practices. The plan/EA fails to address user capacities. FS regulations (policy) require that the plan include specific and detailed management direction. No such management direction has been established. Forest Plan standards and guidelines are inadequate to protect and enhance outstandingly remarkable values (ORV's). The management plan fails to enhance and protect ORV's.

**Response:** The plan/EA does not:

(1) adequately address resource protection. The plan/EA identifies problems on the ground related to recreational overuse or uncontrolled use, particularly on State land in the recreational section of the Pecos Wild and Scenic River. However, no specific management direction has been developed to resolve the problem(s). The plan fails to develop specific management actions sufficient to meet the Act's requirement to provide for the protection of ORV's.

(2) The plan does not adequately address development of land and facilities. It is not clear from the plan/EA what, if any, development of recreational facilities is appropriate to improve the degraded conditions identified.

(3) The plan fails to address user capacities as required by the Act. The plan/EA does not address recreational user capacities therefore, it is not possible to determine what specific management actions are appropriate for the recreational section of the Pecos Wild and Scenic River.

(4) Other Management Practices: see issue 2.

**Finding:** The Pecos Wild and Scenic River Management Plan is not a comprehensive management plan as required by the Wild and Scenic Rivers Act and as provided by Forest Service policy. It does not address resource protection, development of land and facilities, carrying capacity and other management practices with enough specificity to ensure enhancement and protection of ORV's.

**ISSUE 2:** Any level of cattle grazing within the river corridor is inconsistent with the Wild and Scenic rivers Act.

**Contention:** Due to current degraded ecological conditions, allowing cattle grazing does not meet the requirement to enhance and protect the values for which the river was designated.

**Response:** Grazing in the Wild section was analyzed in the Bear Lake allotment in 1995. Direct, indirect, and cumulative effects of cattle grazing were documented as having an insignificant effect on water quality, wildlife habitat, and heritage resources. The Wild section is stable, with abundant and diverse riparian vegetation, and has not been shown to be in a degraded condition. The recreational section of the river passes through four grazing allotments; however, cattle do not graze on federal lands in this section due to ownership patterns and steep terrain.

**Finding:** The record shows it is unlikely cattle grazing in the wild section contributes to degraded conditions downstream.

**ISSUE 3:** The plan /EA violates NEPA. An EIS is necessary.

**Contention:** The plan/EA violates NEPA because it includes an inadequate description of environmental impacts of the proposed plan.

**Response:** The development and approval of a Wild and Scenic River Management Plan does not in and of itself reflect the need for an EIS. Applying the guidance provided within 40 CFR 1508.27 and Forest Service policy, the decision as to whether an EIS is necessary should be based on the environmental assessment, which will evaluate whether effects are significant.

**Finding:** Until a CMP for the Pecos Wild and Scenic River (prepared within the guidelines and direction established by the Wild and Scenic Rivers Act and Forest Service policy interpreting the act) has been completed, it is premature to make a review decision on the adequacy of NEPA.