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Forest
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File Code: 1570-1/2700

Date: June 6, 2002

Richard and Nancy Holmes
4214 Arizona Avenue
Los Alamos, NM 87544

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER:**

Re: 7.75 Million Gallon Water Tank Relocation Project, Appeal # 02-03-00-0015-A215

Dear Mr. And Mrs. Holmes:

This is my review decision on the appeal you filed regarding the Decision Notice and Finding of No Significant Impact approving the 7.75 Million Gallon Water Tank Relocation Project located on the Espanola Ranger District adjacent to Los Alamos, New Mexico.

BACKGROUND

Forest Supervisor Leonard Atencio issued a decision on March 5, 2002, to approve a permit for installation of a 7.75 million gallon water tank on a site above Arizona Avenue on National Forest System lands. The purpose of the project is to provide a sufficient gravity fed water supply to meet firefighting needs.

Forest Supervisor Leonard Atencio 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 seek informal resolution of the appeal. The record reflects that informal resolution 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 and the recommendation of the Appeal Reviewing Officer. My review decision incorporates the appeal record.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer recommended that the Responsible Official's decision be affirmed and that your request for relief be denied. The evaluation concluded: (a) decision logic and rationale were generally clearly disclosed; (b) the benefits of the proposal were identified; (c) the proposal and decision are consistent with agency policy, direction and supporting information; (d) public participation and response to comments were adequate.



APPEAL DECISION

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Water Tank Relocation Project.

This 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: Santa Fe National Forest

REVIEW AND FINDINGS

of the

Holmes Appeal

#02-03-00-0015-A215, Water Tank Relocation Project

ISSUE 1: Decision Notice (DN) and associated Response to Public Comments inadequately address some important comments made during the comment period.

Discussion: The Project Record (PR) (PR #5, PR #8, PR #13) indicates that the responses to the public comments addressed specifically those points raised in the appellants' comments. The regulatory requirements of the National Environmental Policy Act regarding scoping (PR #2, PR #4,) and public notification have been followed throughout the development of the Environmental Analysis (EA)(PR #6).

Finding: Public comments have been addressed sufficiently to support the decision reached in the document.

ISSUE 2: The DN incorporates new information not available during the public comment period. The appellants have new information not available during the public comment period.

Discussion: The information provided by the appellants was considered in the NEPA process. The EA followed the required procedure for conducting environmental analysis under NEPA, including scoping (PR #2), issue identification (PR #6), opportunities for public comment (PR #7, PR #2, PR #3, PR #4), and responses to those comments (PR #9). The DN discusses additional mitigation measures responsive to comments received on the EA. (PR #35)

Finding: A review of the record indicates that information provided by the appellants was considered during the NEPA process.

ISSUE 3: Cumulative effects from dust and diesel fumes, reduced air quality are not properly addressed in the DN or the EA or an Environmental Impact Statement (EIS).

Discussion: Cumulative effects associated with roads (noise, dust, and traffic) have been described and disclosed in a supplement to the EA (Appeal Record #38). Specifically construction of the new tank site and relocation would result in a temporary increase in truck traffic, dust and noise in the vicinity of the construction site and along the transportation routes. In conjunction with other construction projects currently in progress or planned for the future, the proposed project would have a noticeable but short-term (2-4 months) cumulative impact on the northwest community. Mitigation measures designed to minimize the effects of construction traffic dust and diesel fumes were discussed. (PR #6, pp. 3-31 and 4-3)

Finding: Cumulative effects have been described and disclosed as required by the National Environmental Policy Act. In addition, mitigation measures including air quality monitoring have been identified to minimize effects on air quality.

ISSUE 4: The DN and EA contain significant factual errors and inconsistencies as well as spelling and grammatical errors collectively indicating carelessness in their preparation.

Discussion: The EA (PR #6) is an environmental effects disclosure document. The review of the pages referenced indicates that errors either do not exist or are not of a magnitude that misrepresents the analysis, effects disclosure, or the decision resulting from it.

Finding: The EA adequately discloses the environmental effects and supports the Finding Of No Significant Impact.

ISSUE 5: The DN and EA depend heavily on a flawed public opinion survey.

Discussion: The response to comment 4 (Appeal Record #9, pg.6), states, “The survey in which 11 people were asked their perception of the project was not conducted as a statistically significant public opinion survey. Rather it was conducted under Forest Service methodology for assessing the visual impacts of the proposed action and alternatives. The results of this survey should not be construed as to represent the opinions of significant portions of any population.”

Finding: The survey was appropriately used in the assessment of impacts to the scenic resource according to accepted methodology commonly used by the Forest Service.

ISSUE 6: The DN and EA are vague on critical issues and significant changes are being made to this project that have not been subject to NEPA.

Discussion: The appellants did not identify changes to the project that were not addressed. The EA appropriately describes the proposed action and the issues. The EA (PR #6) describes and discloses the effects of implementing the proposed action. There is no documentation in the project record that suggests substantive changes have been made that should have been subject to NEPA.

Finding: The EA and DN are consistent with the requirements of the National Environmental Policy Act.

ISSUE 7: The haul route details such as road visibility, road width, and road widening are addressed in the DN but not in the EA.

Discussion: The details pertaining to road visibility is addressed in the EA on page 1-7 which references the Visual Resources Assessment prepared by URS Group, Inc. Road improvements and road widening are addressed in the EA (Appeal Record #6, pg. 2-3, *Site Selection and preparation*). Visibility, width and widening were also addressed in comments back to Mr. Holmes on January 11, 2002, by Mr. Glasco (comments #13 and 14, Appeal Record #13).

The area in question contains several roads and trails that are visible from Los Alamos and surrounding areas. The widening of this road is necessary for the movement of large equipment to transport the disassembled tank and construct the tank site. This widening would not significantly change the view shed and the change would be short-term, as the road will be narrowed again upon completion of the project. Trees removed during widening are for the most part burned and would eventually be removed, long-term, in the natural decay process. trees will be planted upon final road restoration which should mitigate the visual impact of the road after a few years. The roadbed is at or very near, natural ground, with no large cuts or fills to visually impact the surrounding area. Surfacing material, if used, will be removed and natural conditions will further allow for the road to blend into the natural terrain.

Finding: Road visibility, width, widening, and mitigation measures are described sufficiently in

the EA and supporting documents.

ISSUE 8: Trails not adequately addressed in the DN, EA, or an EIS.

Discussion: The trail system that is affected by the project is described throughout the EA (Appeal Record #6) in the description of alternatives, the comparison of alternatives, and the environmental consequences. Mitigation measures are proposed to minimize the visual impacts the tank will have on Mitchell Trail. These mitigation measures include closing Mitchell Trail during construction. A decision to relocate Mitchell Trail was deferred until after the tank is in place to allow further assessment of the need for relocation. (PR #35)

Finding: The trail system, effects, and mitigation measures are adequately described in the EA and supporting documents.

ISSUE 9: The ownership of the lands must be clarified. If the National Park Service owns part of the proposed construction road, they must be a part of the NEPA process.

Discussion: The National Park Service was consulted with as part of the NEPA process. The EA (Appeal Record #6) addresses the entire road system including those portions on National Park lands and those sections on National Forest System lands.

Finding: The EA addresses the proposal on all agencies' lands and is consistent with the requirements of NEPA.

ISSUE 10: EA does not analyze probability of failure of proposed tank and related network.

Discussion: The appellants base a request for analyzing the “probability of failure of the proposed tank and related network, compared to the probability of failure of a pump-driven system with improved infrastructure and emergency electrical backup”, on the EA Response to Comments, Comment #1 from Mr. Carl Sykes (PR #9, page 1). The FEMA/Forest Service response to this comment discusses the role of existing water system pump stations and generators in the event of a fire and writes, “failure of any one portion of the system could cripple the water system.” The appellants surmise from this discussion that the existing water system infrastructure requires upgrading, and thus requests the EA analyze the probability of failure of the recommended action with the probability of failure of an improved infrastructure with back-up generators.

Finding: The EA clearly states the need for a water supply not dependent upon electricity. There is no basis for analyzing a water system dependent upon an external power source, which does not meet the purpose and need of the project.

ISSUE 11: Vibrations will lead to structural damage to house.

Discussion: In a personal e-mail to the appellants from Tim Glasco, Los Alamos County Department of Public Works (comment #10, Appeal Record #13), Mr. Glasco states the following: “If you feel there is a possibility that damage to your house could occur from construction related vibration, etc., we can videotape your house before the project begins. Any damage suffered to your home as a result of the project would, I assume, be repaired by the

County”. In addition, mitigation was offered during the informal disposition meeting to limit speeds, which should keep vibration to minimum levels.

Finding: The County has offered reasonable mitigation measures that would document possible damage and minimize the effects of vibration.

ISSUE 12: Damage to house due to gravel from road and debris from trucks.

Discussion: It is highly unlikely that speeds will be reached where this situation would occur. This is even indicated in an August 30, 2001, letter by the appellants, stating that the truck traffic behind the appellants’ house “will be...slow moving”. (Appeal Record #8)

In addition, during the May 6, 2002, informal disposition meeting, there was the offer to mitigate this possibility by restricting haul speeds and reinforcing the barriers on the curve.

If the trucks are slow moving, any rocks and material from the trucks that spill out will drop almost straight down due to gravity and stop in a very short distance. Barriers placed on the curve for stopping potential out-of-control trucks would also serve as a barrier to stop gravel and debris.

Finding: Mitigation measures to control haul speeds and install barrier on the curve should greatly reduce the possibility of damage to the appellants’ house.

ISSUE 13: The proposed number of hauls (8000) will create a safety hazard behind appellants’ house because of a sharp right-turn.

Discussion: In a personal e-mail and in response to the appellants’ question 2 (Appeal Record #13), Tim Glasco, Los Alamos County Department of Public Works, indicates there will be a barrier erected to prevent haul trucks from leaving the road near appellants’ house. The most effective barrier to protect the appellants’ house would be to install 4-ft diameter concrete manhole sections along the edge of the road, and fill the sections with dirt. When heavy truck traffic is over with, the pipe sections would be removed.

In addition, during the May 6, 2002, informal disposition meeting, there was the offer to mitigate this possibility by restricting haul speeds and reinforcing the barriers on the curve.

Highway safety studies and similar barriers in use on higher speed highways indicate that this type of barrier is a sufficient and reasonable safety practice.

Finding: Restricting hauling speeds and installing the type of barrier described above should prevent trucks from leaving the road at the curve section.

ISSUE 14: Funding estimates are flawed.

Discussion: Tables on pages 4-7 of Appeal Record #20 show a breakdown of unit costs used in the funding estimates. Cost estimates shown are consistent with unit costs bid in other local contracts or listed in nationally published cost estimating guides such as Means.

Finding: Cost estimates in the record appear reasonable and within standard guidelines. With the contract scheduled for this summer, significant increases in costs would be unlikely or minimal.

ISSUE15: Water supply requirements are overstated.

Discussion: The appellants state "... the determination of water supply requirements are excessively conservative and redundant, resulting in severely overstated supply needs." The appellants' concern related to water supply requirements has been previously addressed in the EA Response to Comments (PR #9, page 7) by FEMA/Forest Service. FEMA/Forest Service discussed how the water supply requirement is based on operational storage, fire suppression, and standby storage. The water storage requirement calculated in 1977 by Gordon Herkenhoff and Associates was 7.75 million gallons. In 2001, Camp Dresser & McKee Inc. calculated system requirements at 7.5 million gallons (the evaluation by Camp Dresser McKee is included. (PR #20) The engineering analysis appears consistent with accepted engineering practices.

This issue was also addressed in a personal e-mail to the appellants from Tim Glasco, Los Alamos County Department of Public Works (comments #15 and #16, PR #13). Mr. Glasco explained where the population estimates came from (water supply is based in part on population estimates), and how the "operating capacity was set to satisfy peak hour demand rates to ensure operational reliability." Mr. Glasco also informed the appellants that the "Engineering design criteria allow for some redundancy to ensure reliability under all operating conditions."

Finding: This issue has been previously addressed and is fully supported by the appeal record.

ISSUE 16: Coordination between County and other organizations with jurisdiction over the project was inadequate.

Discussion: The Los Alamos County (LAC) Long-Term Recovery, Redevelopment & Hazard Mitigation Plan adopted March 31, 2001, documents the LAC Interim County Administrator formally appointing a Community Planning Team that included several LAC departments, the NM Office of Emergency Management, the Federal Emergency Management Agency (FEMA), and Bandalier National Monument (NPS). The Planning Team consulted with the U.S.D.A. Forest Service (USFS), Department of Energy (DOE), U.S. Army Corps of Engineers, FEMA, National Park Service (NPS), Bureau of Indian Affairs (BIA), U.S. Geological Survey (USGS), Natural Resources Conservation Service (NCRS), NM Department of Health, NM Department of Forestry, NM Department of Environment, and NM Office of Emergency Management (Appeal Record #1). On June 6, 2001, scoping letters were sent to local, State, and Federal agencies (PR #1). Responses resulting from the scoping letters were considered in the project EA (PR #5).

The appellants question the County's coordination with the New Mexico Environment Department (NMED) for obtaining permits. The County is not required to submit an application to the NMED at this time. Per New Mexico Drinking Water regulations, NMAC 20.7.10.201 APPLICATIONS FOR PUBLIC WATER SYSTEM PROJECT APPROVAL:

- B. The applicant shall submit an application to the Department no less than 30 days prior to advertising the public water system project for bid or, if the project is not advertised for bid, not less than 30 days prior to entering into a construction contract, except that the

Department may permit an applicant to advertise for bids, enter into a construction contract, or commence construction of a public water system project prior to the submission of a written application if, in the judgment of the Department, exigent *circumstances warrant a waiver of the 30-day notice requirement.*

Finding: Coordination between LAC and other local, State, and Federal organizations was adequate and is well documented in the appeal record. Obtaining a permit for water system projects is not a part of the EA process.

ISSUE 17: Water supply safety was not adequately addressed.

Discussion: The appellant states, “More important than a few kids is the possibility of a real attack on our water supply through a water tank located deep in the forest. A tank close to houses is safe, but the proposed tank has no protection at all.”

The EA indicates that a 10-foot security fence with locking gate would be erected around the water tank to limit access to the facility. (PR #6, pages 2-6)

In addition, the County will be required to follow New Mexico Drinking Water Regulations, NMAC 20.7.10.400 GENERAL OPERATING REQUIREMENTS:

B. Security and protection of a public water system. Any part or component of a public water system such as . . . storage reservoirs, . . . shall be constructed, operated, and maintained to prevent unauthorized entry to, and contamination of, the water supply

Finding: The safety of the water supply has been addressed in the EA and will be required as part of the permitting process with the State.