



United States  
Department of  
Agriculture

Forest  
Service

R3 Regional Office

333 Broadway SE  
Albuquerque, NM 87102  
FAX (505) 842-3800  
V/TTY (505) 842-3292

File Code:	1570-1/7700
Date:	September 24, 2003


«First\_Name» «Last\_Name»  
«Company\_Name»  
«Address\_Line\_1»  
«City», «State» «ZIP\_Code»

**CERTIFIED MAIL -  
RETURN RECEIPT REQUESTED**  
«Certified\_Receipt»

RE: Appeal #03-03-00-0038-A215, Viveash Fire Salvage Roads, Pecos/Las Vegas Ranger District, Santa Fe National Forest

Dear Mr. «Last\_Name»:

We received your appeal of the Supplement to the Record of Decision for the Viveash Fire Salvage Environmental Impact Statement on September 15, 2003. In accordance with 36 CFR 215.13 (c), *“the appellant is responsible for submitting an appeal on or before the last day of the appeal filing period. Where there is a question about timeliness of an appeal, the U.S. Postal Service postmark on a mailed appeal...will be used to determine timeliness.”*

The official notice of this decision was published in the *Albuquerque Journal* on July 29, 2003. The appeal period runs for 45 days following publication; and, in this instance, the appeal period closed on September 12, 2003. Your appeal was dated and postmarked September 15, 2003. In accordance with 36 CFR 215.15(a), *“an appeal Deciding Officer shall dismiss an appeal without review when: (1) the appeal is not postmarked or the facsimile is not date imprinted within the 45-day appeal filing period in accordance with section 215.13...;”* therefore, your appeal is dismissed.

I understand from discussions with Allen Fowler of the Santa Fe National Forest staff, that «Appellant» contacted him by telephone on September 10, 2003, and asked when the appeal period ended for the Viveash Fire Salvage Roads Decision. After reviewing the file, Mr. Fowler indicated that the 45<sup>th</sup> day was September 13, 2003 (Saturday), and the appeal would be due the following Monday, September 15, 2003. As indicated above, the actual end of the filing period for this decision was September 12, 2003.

It is unfortunate that Mr. Fowler inadvertently provided incorrect information as to the end to the appeal period. Mr. Fowler made an innocent mistake and was not trying to prevent you from filing a timely appeal. In the legal notice, the Forest Service directed you to the proper regulation (36 CFR 215 parts 200 to 299, Revised as of July 1, 2003), which includes instructions on how to calculate the time periods for filing of appeals. In addition, you have filed many other administrative appeals under this regulation and are aware of the appeal filing requirements. An error on the part of a Forest Service employee does not relieve you from the responsibility of meeting the filing timeframes in accordance with the regulations. I conclude that you had sufficient information to file a timely appeal.



The appeal regulations do not permit me the flexibility to grant an extension of time on your appeal (36 CFR 215.13(d)). I encourage you to submit your written appeal by mail or facsimile well before the close of the 45-day appeal-filing period.

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

Sincerely,

/s/ Abel M. Camarena  
ABEL M. CAMARENA  
Appeal Deciding Officer,  
Deputy Regional Forester

cc: Christina Gonzalez, Mathew O'Grady, Chris Napp, Joe Reddan, Gilbert Zepeda