



**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: 1570/2720

Date: June 11, 1998

Dr. Jack Yarnold
Ascend Guide Services
6648 E. Corrine Drive
Scottsdale, AZ 85254

Re: Appeal No. 98-03-0018-A251, Tonto National Forest
Performance Evaluation of 1997 Special Use Permit

Dear Dr. Yarnold:

This is my review decision on the appeal filed on behalf of Ascend Guide Services. You appealed the Forest Supervisor's decision to give you a probationary rating for your performance in 1997 on your annual special use permit.

Item 1: Permit Signature :

Contention:

Ascend Guide Services assumed Joshua Reed's signature was desired on the permit because the permit's signature block indicated Vice President rather than President. There was no intended wrong doing.

Response:

Ascend Guide Services received a rating of unacceptable for not adhering to the provisions of the permit, citing in part an inappropriate certification of the signature. The certification of the signature as that of President Brannon Reed does contradict the signature on the permit which is that of Joshua Reed. However, the authorized officer signed the permit, thereby accepting the signature of the vice president. I find that this item should not affect the performance rating.

Item 2: Guide Certification:



Contention:

Ascend did not provide certification for seven of the ten guides listed on page 1 of their 1997 operating plan because they never guided within the Tonto National Forest.

Response:

Appellant claims that the seven un-certified guides were not used on the National Forest. The performance evaluation form rates Ascend on the following criteria:

3.a. "All guides properly certified before serving in that capacity..." The record does not show that un-certified guides actually conducted trips on the national forest. Therefore the rating of unacceptable on element 3.a is not supported.

However, the operating plan does require that all guides employed be certified (exhibit B at page 5, item 19) and the record shows that Ascend did not provide certification for each guide employed (see appeal, item 2). The appellant did not comply with their operating plan, therefore this item could influence their rating of unacceptable on element 1.i. "adheres ..to all provisions of the special use permit and annual operating plan." (See finding for item 8). In the future, appellant should remove the names of guides that do not guide on the National Forest from the operating plan for the permit.

Items 3-7: Familiarity with the Operating Plan:

Contention:

Citations listed in items 3 through 7 were clerical errors made by the manager.

Response:

The service days listed in the annual use report (shown in the record at exhibit D) do not match the service days on page 8 of the permit (record at exhibit A) therefore the record supports that clerical errors were made in reporting service days. Additionally, the operating plan states that "A copy of this operating plan will be brought with each trip leader on all trips" (see record at exhibit B, page 3, item 13). The appeal at items 2 and 3 indicates that Mr. Yarnold is both manager and trip leader. As trip leader and manager, it is Mr. Yarnold's responsibility to be familiar with the operating plan and the record shows that he was not. The performance evaluation element 3.c. states "Personnel familiar with provisions of the Special Use Permit and operating Plan, and adhere to them." I find that the rating of less than satisfactory on performance element 3.c. is supported by the record.

Item 8: Authorized Use:

Contention:

Ascend assumed that their permit covered the Verde River.

Response:

Service days are shown in the permit at clause X.A. and authorized use is shown on the face of the permit (record at exhibit A). In neither case does it indicate authorized use for the Verde River. The annual use report (exhibit D) documents service days for canoeing on the Verde River. Conducting activities not authorized by the permit is grounds for revocation under clause V.B. I find that the unacceptable rating for performance element 1.i. is appropriate.

Item 9: Advance notification of climbing trips:

Contention:

Appellant was never appraised on this score.

Response:

The record at Exhibit B, 1997 Operating Plan, page 2, item 7, states "notify Forest Service Contact at Globe for all climbing trips." I find that Ascend has not complied with their operating plan on this point and that it is appropriate to consider this in giving an unacceptable rating for performance element 1.i.

Decision:

I affirm the probationary rating given by Forest Supervisor Chuck Bazan.

In accordance with the provisions of 36 CFR 251.99 and 251.100, a copy of this appeal decision has been sent to the Chief of the Forest Service who will decide, within 15 days of receipt of this decision, whether or not to exercise discretionary review of this decision.

Sincerely,

/s/John R. Kirkpatrick
JOHN R. KIRKPATRICK
Reviewing Officer
Deputy Regional Forester