

INTERIOR BOARD OF LAND APPEALS

Larry Griffin

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LARRY GRIFFIN

IBLA 92-548

Decided June 14, 1993

Appeal from a decision of the Area Manager, Clear Lake Resource Area, California, Bureau of Land Management, permanently closing part of a road in a recreation area to vehicular use.

Affirmed.

1. Environmental Quality: Environmental Statements--Federal Land Policy and Management Act of 1976: Land-Use Planning--National Environmental Policy Act of 1969: Environmental Statements--Public Lands: Administration

A BLM decision to implement a management plan by closing part of a road on public lands in a recreation area to motor vehicle use in order to promote other recreational activities beyond the closure point will be affirmed where the decision was made after a reasoned analysis of all relevant factors, including the impact of closure on the human environment and alternatives to closure, and where the decision is supported by the record, and there has been no showing of compelling reasons for modification or reversal of the decision.

APPEARANCES: Larry Griffin, Ukiah, California, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Larry Griffin has appealed from a September 12, 1991, decision of the Area Manager, Clear Lake Resource Area, California, Bureau of Land Management (BLM), permanently closing part of Mendo Rock Road in the North Cow Mountain Recreation Area to motor vehicles.

The lands within the Cow Mountain Special Recreation Management Area were withdrawn from settlement, location, sale, and entry under the public land laws by Congress in 1927 for "recreational purposes, * * * preserving the right of the public to hunt and fish * * *, and securing favorable conditions of water flows" (44 Stat. 1359 (1927)). In the mid-1970's, the area was divided into the North Cow Mountain Recreation Area (managed for non-off road vehicle (ORV) use) and the South Cow Mountain Recreation Area (managed for ORV use). The northern recreation area includes approximately 27,000 acres of public land in Mendocino and Lake Counties, California. Access to the area is provided by Mill Creek Road, which runs over a paved surface 3-1/2 miles east from Ukiah, California, and connects with Mendo Rock Road just outside the western boundary of the recreation area. Mendo

Rock Road is a graded dirt road 12.5 miles long that provides access to the northern half of the recreation area, including the Willow Creek day use area, a rifle range, Mendo Rock Overlook, and the Mayacmas campground. On April 30, 1977, Mendo Rock Road (along with much of the northern recreation area) was closed to motor vehicles at a point about 9 miles from its junction with Mill Creek Road and about 6.7 miles from the western boundary of the recreation area. See 42 FR 17183 (Mar. 31, 1977). A gate was installed at that point, which was about 1.2 miles beyond a water tank maintained by the California Department of Forestry and Fire Protection (CDF). The tank is located along the road about 5.5 miles from the western boundary of the recreation area. The gate was removed by vandals sometime in 1977. A closure sign was then erected.

In the late 1980's, BLM saw a need for development of a new management plan with respect to the North Cow Mountain Recreation Area. The last plan (Cow Mountain Planning Unit Management Framework Plan (MFP)) was completed in 1976. Since then, some of the facilities had been destroyed or fallen into disrepair and the area had experienced an increase in visitation, leading to user conflicts. BLM determined that development of a new management plan was "necessary" in order to "relieve some of the user conflicts, * * * prevent unacceptable resource damage, and * * * accommodate the needs of increasing numbers of people wanting to use the area" (Final Recreation Area Management Plan for the North Cow Mountain Recreation Area (Plan) at 3). BLM decided in 1976 to manage much of the northern recreation area, including that involved here, "as a 'backcountry' recreation zone where non-vehicular recreation will be emphasized" (MFP Summary at 22). This decision was first implemented by closing Mendo Rock Road to motor vehicles at a point about 2 miles beyond the CDF water tank. Id. at 23.

As a preliminary to revision of the MFP, management alternatives were identified and addressed during a period of sustained public review. Following public scoping meetings in February 1990, a task force, composed of members of the public, BLM, and State and local agencies, was organized. A preliminary draft plan was formulated by BLM and reviewed by the task force. Controversy surrounded vehicle restrictions on Mendo Rock Road within the recreation area and a "tentative compromise" was reached at an April 9, 1991, task force meeting (Plan at 38). Under that compromise, the road would be closed during the spring season (from April 1 to June 15) at the CDF water tank and the road would be permanently closed at a point about 1.2 miles beyond that. See id. This compromise was included in a draft plan, which was subjected, beginning April 24, 1991, to a 30-day public comment period. See Draft Recreation Area Management Plan for the North Cow Mountain Recreation Area (Draft Plan) at 21.

At a final task force meeting on June 6, 1991, vehicle restrictions on Mendo Rock Road were again debated. The task force "generally agreed" that the road should be permanently closed at the first wildlife pond, a point about 3.3 miles beyond the CDF water tank (Plan at 39). No consensus was reached on seasonal closure of the road at the CDF tank. Id. The Plan was made final in September 1991. BLM also prepared, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. § 4332(2)(C) (1988) and implementing regulations, an

Environmental Assessment (EA) to assess the environmental impact of various management strategies for the recreation area, including closure of Mendo Rock Road and alternatives thereto. See Plan at 48-58.

On September 12, 1991, the Area Manager issued her Finding of No Significant Impact (FONSI)/Decision Record, approving the Plan, which established a management program designed to achieve stated management goals for the recreation area. She adopted the goal of providing adequate access for the purpose of enhancing opportunities for recreation, including target shooting, hunting, camping, and sightseeing, while simultaneously separating conflicting uses and maintaining the natural characteristics of the area, including stabilizing soils and sustaining healthy wildlife populations. See Plan at 13, 14. To achieve these objectives, the Area Manager determined that Mendo Rock Road should be maintained from the boundary of the recreation area, past the Willow Creek day use area, rifle range, Mendo Rock Overlook, and Mayacmas campground, to the CDF water tank. See Plan at 23. Past that point, the road would not be maintained, but would remain open to vehicular use for about 3.3 miles. Id. at 25. At the first wildlife pond, the road would be permanently closed to vehicular use by a gate, but access beyond that point on foot and by horseback would be permitted. Id. The gate would be about 2.1 miles beyond the location where the road had originally been closed to vehicular use, as designated in the 1976 MFP. Id. In the end, the effect would be to close off about 1.4 miles of the road to motor vehicles. Continuing closure of this section of the road was intended to continue to "[e]mphasiz[e] the non-vehicular recreation pursuits" in the recreation area. Id. Griffin appealed from the September 1991 FONSI/Decision Record.

On appeal, he objects only to the portion of the Plan that permanently closes the 1.4-mile section of Mendo Rock Road to vehicular use. He contends that closure of this portion of the road will "severely limit" use by hunters of the area of public land served by the road since the road provides vehicular access over rough terrain to that area. Griffin also asserts that the road is necessary for longstanding users who, because of their age, are presumably no longer able to reach their destination on foot. He suggests, as a solution, that BLM open the road only during the 6-week deer hunting season.

[1] Management of the public lands to implement a land-use plan is generally committed by section 202(e) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1712(e) (1988), to the discretionary authority of the Secretary of the Interior and, by delegation, to BLM (43 CFR 8000.0-4 (management for recreational purposes)). See Wilderness Society, 90 IBLA 221, 232 (1986). This authority includes authority to close all or part of an area of the public lands to motor vehicles to protect natural resource values in the area. See 43 CFR 8000.0-2 and 8364.1; California Association of Four-Wheel Drive Clubs, 38 IBLA 361, 370 (1978), aff'd, California Association of Four-Wheel Drive Clubs v. Andrus, No. 79-1797-N (S.D. Cal. Aug. 5, 1980), aff'd, (9th Cir. Jan. 22, 1982). BLM may do so simply to protect the "backcountry" character of an area. A decision by BLM in the exercise of its discretionary authority will be affirmed by the Board where BLM has made a reasoned analysis, taking into account all

relevant factors (including less stringent alternatives to the proposed action), the decision is supported by the record, and compelling reasons for modification or reversal of the decision have not been demonstrated. See Lands of Sierra, Inc., 125 IBLA 15, 20 (1992); Gerry Zamora, 125 IBLA 10, 14 (1992); High Desert Multiple-Use Coalition, 124 IBLA 125, 128 (1992); Magic Valley Trail Machine Association, Inc., 57 IBLA 284, 287 (1981); California Association of Four-Wheel Drive Clubs, *supra* at 367-68.

BLM considers all relevant factors in deciding whether to go forward with a proposed action by complying with section 102(2)(C) of NEPA and the implementing regulations requiring that a Federal agency consider the impact of a proposed action on the "quality of the human environment" and alternatives thereto to determine whether it is required to prepare an environmental impact statement. 42 U.S.C. § 4332(2)(C) (1988); see Howard B. Keck, Jr., 124 IBLA 44, 50, 53 (1992); California Wilderness Coalition, 101 IBLA 18, 21 (1988), vacated in part on other grounds, (On Reconsideration), 105 IBLA 196 (1988). That was accomplished here. The decision whether and where to close Mendo Rock Road was the subject of BLM's environmental review process, culminating in preparation of the EA. In the EA, BLM considered the environmental impact of closing the road to vehicular use at the point identified in the Plan and alternatives thereto. See Plan at 50-52. The alternatives were seasonal closing (from October 15 until June 15) from the CDF tank to a point about 2 miles beyond it and permanently closing the road from that point on (Alternative C), and leaving the road open to its terminus and upgrading and maintaining it past the CDF tank (Alternative D). See *id.* at 51, 52. BLM also considered a no action alternative that would leave the road open to its terminus but not improve or maintain it past the CDF tank (Alternative B). See *id.* at 50.

BLM concluded in the EA that adopting the proposed action by leaving the road open for about 3.3 miles past the CDF water tank would result in some soil erosion and impact to wildlife populations (particularly during the spring). *Id.* at 53. Seasonally closing the road for about 2 miles past the tank and permanently closing it beyond that point under alternative C would minimize these impacts and establish a greater backcountry area. *Id.* at 54-55. BLM found that the impacts from the proposed action would, in any case, be "minimal" due to less traffic, if the road were not improved past the CDF tank and closed for the last 1.4 miles, "having the most erosion problems and side road occurrences" (Plan at 53). BLM also recognized that the proposed action would result in "some impacts to a few hunters who presently drive to the end of the road," but concluded: "Although this will necessitate some change in use patterns, this should have [a] minimal effect on the hunting community as most of the road will be left open to vehicular use and the entire area will remain open to hunting." *Id.* By contrast, leaving the road open for the entire 4.7 miles past the CDF tank under the no-action alternative will lead to "moderate soil erosion and continued visual degradation of the area," and also the "failure of the BLM to * * * implement [as adopted in the 1976 MFP] the 'backcountry' atmosphere of th[e northern] portion of Cow Mountain [Special Recreation Management Area]." *Id.* at 55. These impacts would be increased by improving and maintaining the road past the CDF tank under alternative D. *Id.* at 57.

The alternatives addressed in the EA were taken from a broader set of alternatives identified and considered in the land use planning process. These alternatives included permanently closing the road at the CDF water tank (see id. at 45), which was rejected because it was "unnecessarily prohibitive to vehicular use" and "did not meet the needs of the hunting community." Id. at 46. In addition, seasonal closure of the road at or beyond the CDF tank, except either during deer hunting season (August and September) or from June 15 to either April 1 or October 15 (see id. at 45), was ruled out "due to public interest [in] keep[ing] the road open and inconclusive evidence of vehicle impacts on deer fawning." Id. at 46. Finally, BLM rejected the alternative of leaving the road open for the full length (id. at 45) since this would "result in continued driving on side roads, firebreaks and hillclimbs." Id. at 46. BLM also rejected that alternative since, "[b]ecause only 1[.4] mile[s] separate the closure site from the current barrier [at the end of the road], sufficient public access is provided under the proposed action while still preserving the backcountry nature of the area." Id.

Griffin has not made any effort to demonstrate that BLM failed to adequately consider the anticipated environmental impact, especially the impact to recreational users from permanently closing Mendo Rock Road about 3.3 miles past the CDF water tank to vehicular use. The record establishes that BLM considered such impact. It was apparent that closure of the road would deny some hunters access to the end of the road, but BLM concluded that this would only alter use patterns. See Plan at 53. Indeed, it would appear that, instead of setting out from the end of the road, hunters will have to depart 1.4 miles before that point. The Plan has, in fact, changed very little, since all recreational users have long been required by the April 1977 closure order to leave their vehicles at a point about 1.2 miles past the CDF water tank, even though no physical barrier to the passage of vehicles has been present since 1977. See 42 FR 17183 (Mar. 31, 1977). Griffin has offered no contrary evidence to show that closure will lead to a limitation on use of the area of public land beyond the closure point, whether for hunting or any other purpose. Nor are we persuaded that this will occur since travel by foot and horseback beyond this point is not prohibited.

BLM considered various alternatives to permanently closing the 1.4-mile road section (including the alternative preferred by Griffin of closing the road at some point past the tank except during the deer hunting season) before deciding to proceed with the closure. Nor has Griffin identified any other relevant factor that BLM should have considered in deciding whether and where to close the road. As a result, he has failed to establish any error in BLM's review process. While he would prefer that BLM have made another decision, sacrificing some of the "backcountry" character of a portion of the recreation area for the sake of the convenience of a few hunters, that stated preference is not a sufficient basis for overturning the Area Manager's September 1991 decision. See High Desert Multiple-Use Coalition, supra at 128; California Wilderness Coalition, 101 IBLA at 31.

Therefore, we conclude that the Area Manager properly determined, in her September 1991 decision, to permanently close part of the Mendo Rock Road within the North Cow Mountain Recreation Area to vehicular use and that her decision was a reasoned analysis of all relevant factors, including the environmental impact thereof (including the effect on recreational use of the area) and alternatives to closure, and we find her decision is supported by the record, and that Griffin has failed to establish any compelling basis for modification or reversal of the decision.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness
Administrative Judge

I concur:

David L. Hughes
Administrative Judge