

**United States
Department of
Agriculture**

**Forest
Service**

**Washington
Office**

**14th & Independence SW
P. O. Box 96090
Washington, DC 20090-6090**

File Code: 1570-1,
96-03-00-0193-A251
(and 96-12-50-002)
Date: April 8, 1997

Mr. W. A. Garritson
6529 E. Shea Boulevard
Scottsdale, Arizona 85254

Dear Mr. Garritson:

On February 21, 1997, this office informed you of our decision overturning the October 4, 1996, decision of John Kirkpatrick, Appeal Deciding Officer, Southwestern Region (enclosed).

We assumed, in our decision of February 21, from a reading of the Kirkpatrick decision letter, that Deputy Forest Supervisor Miller's decision (enclosed), regarding classification of mineral material on your mining claims was a first level decision. Our reading of the Kirkpatrick letter was incorrect.

Because the first level decision was made by District Ranger Delyin Lopez (enclosed), the 45-day allowable timeframe for appeal of the Deputy Forest Supervisor's decision does not apply. In accordance with 36 CFR 251.87(c)(2), the appropriate appeal period is 15 days. Therefore, the decision by Mr. Kirkpatrick dismissing your appeal as untimely is correct.

We must rescind our decision of February 21.

We sincerely regret the confusion this has caused and the delays in meeting our responsibilities to you for a timely decision.

Sincerely,

/s/ Bertha C. Gillam

BERTHA C. GILLAM
Reviewing Officer

Enclosures