



United States
Department of
Agriculture

Forest
Service

Alaska Region
Tongass National Forest

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File Code: 1570/2720

Date: August 24, 2001

Mr. James Phillips
Annahootz Alaska Adventures
P.O. Box 52
Sitka, AK 99835

Dear Mr. Phillips:

Pursuant to 36 CFR 251, Subpart C, this is my decision concerning your appeal, filed on May 21, 2001 (Appeal #01-10-05-0008 A251), in which you appeal the terms and conditions of your outfitter and guide special use authorization (SIT58.) Specifically, you are appealing the allocation of brown bear hunts for your operations. Currently, you have no hunts authorized and you contend that there is sufficient information to substantiate the fact that you did conduct hunting through your previous special use authorizations for the 1997 and 1998 hunting seasons. Your permit was signed by the Sitka District Ranger on April 23, 2001.

On June 28, 2001 the Acting Sitka District Ranger submitted a Responsive Statement to me addressing points raised in your appeal. A copy was provided to you. You provided comments to me regarding the Responsive Statement on July 13 and met with me for an oral presentation on July 18. The appeal record was closed on July 18, 2001. You did not request a stay of implementation and there were no interveners in this appeal.

As part of the Responsive Statement, the Acting Sitka District Ranger recommended that I adjust the allocation of hunts for 1997 to show you as having one hunt. She also recommended that that I consider changing one element of the basis of this temporary moratorium to use hunt records and proportioning of hunts to guides who shared clients, should it be necessary to continue this temporary measure through another calendar year.

The following discussion and decision is based on a review of all information provided by you and the Acting Sitka District Ranger, as well as applicable laws, regulations and written policy.

Background

The management of brown bear hunting has been a concern on the Tongass National Forest for a number of years. As far back as 1994, actions were taken by the Forest Service to address concerns related to perceived overcrowding for this activity. Most recently, requests for action from the Alaska Professional Hunters Association and the State Department of Fish and Game (ADF&G) regarding the increased numbers of bears harvested in southeast Alaska resulted in a letter from Forest Supervisor, Tom Puchlerz, limiting the number of brown bear hunts. The letter also provided direction to allocate hunts according to hunt records for the 1997 and 1998 hunting seasons. Specifically, the allocations were based on the brown bear guide permits on record for those two years and the bear registration hunt permits on file with the Alaska Department of Fish and Game.



The letter also provided guides with an opportunity to clarify or correct hunt record data by working through ADF&G. Where shared hunts were involved, guides were given an opportunity to negotiate actual hunts with each other to clarify the correct allocation of hunts.

As noted in the responsive statement provided by the Acting Sitka District Ranger, you have hunts that are in question for both 1997 and 1998.

In 1997, you worked in cooperation with Mr. Jim Boyce for the purpose of guiding one client. Records on file with the State of Alaska Division of Occupational Licensing indicate that both of you filed hunt records for the client in question. This would suggest that each guide spent a period of time providing services to the client during the hunt. Information provided in your appeal, however, indicates that you were the only guide to file a Use and Location report for that hunt, the only guide assessed fees for the hunt and that all portions of the hunt in question occurred in guide use areas registered to you. As per direction from the Forest Supervisor, since Mr. Boyce was identified as the guide of record for the bear registration hunt permit, Mr. Boyce was subsequently given credit in the allocation for that 1997 hunt.

In 1998, you worked in cooperation with another guide, Mr. Brad Dennison, for the purposes of guiding one client. Records on file with the State of Alaska Division of Occupational Licensing show that both you and Mr. Dennison filed hunt records for the client in question and both of you filed Use and Location reports for that hunt. As a result, you were both assessed a prorated fee by the State. The hunt occurred in guide use areas registered to both guides but Mr. Dennison was identified as the guide of record on the registration hunt permit.

Discussion

Implementation of the direction by the Forest Supervisor was necessary to address concerns from the State and from some members of the guiding profession. Using registration hunt permit records from the State and outfitter guide permits on file with the Forest Service provided a baseline for the subsequent hunt allocations. There was some flexibility for guides to realign the actual hunts through negotiations between guides so that hunts that were cooperatively completed in the past could be allocated to the correct guides. If a negotiation between guides was not possible, the direction provided by the Forest Supervisor was to be followed specifically.

Your appeal documentation has demonstrated that payment of fees to the State may provide an additional source of information to determine hunt allocation

Decision

The process used by the District Ranger to allocate hunts for the 2001 operating season was consistent with direction provided in the August 23, 2000 letter of direction from the Forest Supervisor. The District Ranger's decision is affirmed.

The recommendation by the Acting District Ranger that I consider prorating shared hunts may warrant future consideration but is not consistent with current direction which specifically focuses on hunts as the unit of measure.

However, it is clear from information you provided with your appeal that you participated in the hunt in 1997 with Mr. Boyce, you were the guide assessed the fee for that hunt, and therefore, should have been the guide of record. As a result I will direct the Acting District Ranger to re-evaluate the calculation of hunts for 1997 to reflect this new information and amend the affected special use permits for the 2002 hunting season accordingly.

Pursuant to 36 CFR 251.87(c), written decisions by a District Ranger or Monument Ranger are subject, on request, to a second level of review by the Regional Forester. The request for a second level of review must be filed, in writing, within 15 days of this decision at the address below.

Regional Forester
Alaska Region, Region 10
USDA Forest Service
P.O. Box 21628
Juneau, AK 99801

The appeal must be filed in accordance with 36 CFR 251.90, Content of Notice of Appeal. Upon receipt of your request, the Regional Forester will promptly request the first level appeal file from this office. The second level review will be conducted on the existing record and no additional information will be added to the file.

Sincerely,

/s/ Fred S. Salinas
FRED S. SALINAS
Deputy Forest Supervisor

cc:
Michael Weber, Acting District Ranger, Sitka RD
Scott Fitzwilliams, RLMH Staff Officer
Dennis Rogers, Appeals Coordinator
Bill Tremblay, Recreation/Wilderness Program Manager