

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: 1570-1

Date: Jan 18, 2000

Forest Guardians
c/o John Homing
1413 Second St., Suite One
Santa Fe, NM 87505

Certified Mail-Return Receipt Requested
P 544 215 595

Re: Appeal #00-03-00-0009-A215, Encino Allotment, Mountainair Ranger District, Cibola National Forest

Dear Mr. Homing:

This is my review decision concerning the appeal you filed on behalf of Forest Guardians, regarding the Decision Notice and Finding Of No Significant Impact which authorize grazing and implement the grazing management strategy on the Encino Allotment.

BACKGROUND

District Ranger Martinez issued a decision on September 30, 1999, for the Encino Allotment. The decision resulted in the selection of the following alternative and authorization: Encino Allotment, Alternative C, which authorizes 30 head of cattle (cow/calf) to graze yearlong with an additional 120 head of cattle (cow/calf) to graze 6/1 to 12/31 annually. The decision also authorizes the construction of a pipe enclosure below Ojito Los Burros Spring, reconstruction of approximately 10 miles of forest boundary fence, closure of the two track road between Ojito Los Burros Spring and the wilderness boundary, treatment of the head cut below Ojito Los Burros Spring, and reconstruction of Diablo Spring.

The District Ranger is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 215 appeal regulations.

Pursuant to 36 CFR 215.16, an attempt was made to seek informal resolution of your appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR 215.17. I have thoroughly reviewed the appeal record and the recommendation of the Appeal Reviewing Officer. My review decision incorporates the appeal record.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

In his review the Appeal Reviewing Officer noted some inconsistencies in the record between the decision to allow continuation of grazing of the current permitted numbers and season of use, and utilization reports for 1992 and 1994 and a number of allotment inspections conducted between 1989 and 1998. Therefore, the Appeal Reviewing Officer recommended that the decision to issue a new ten year term grazing permit for current permitted numbers and season of use and reconstruction of the forest boundary fence be reversed until the Responsible Official conducts additional production utilization (PU) studies and makes a new decision. However, the Appeal Reviewing Officer concluded that the identified resource projects associated with riparian protection, and erosion control could go forward without additional analysis.

APPEAL DECISION

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I am reversing the decision to issue a new ten year term grazing permit for current permitted numbers and season of use and reconstruction of the forest boundary fence until additional PU studies have been completed. By copy of this decision the Responsible Official is instructed to:

1. Within the next three year period conduct the necessary studies to verify whether or not earlier studies warrant a change in livestock numbers and season of use on the Encino Allotment.
2. By no later than fiscal year 2003, make a new NEPA decision based on the results of the studies. Until a new NEPA decision is completed grazing must be administered under the same terms and conditions of the current permit in accordance with Section 504 of the Rescission Act of 1995.
3. In the interim closely monitor actual utilization in accordance with allowable use by condition class as set forth in the 1999 annual operating plan for the Encino Allotment. When allowable use is met livestock must be moved to the next pasture or removed from the allotment as appropriate.

With regard to: construction of a pipe enclosure below Ojito Los Burros Spring; closure of the two track road between Ojito Los Burros Spring and the wilderness boundary; treatment of the head cut below Ojito Los Burros Spring; and reconstruction of Diablo Spring; these projects may go forward.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ James T. Gladen
Appeal Deciding Officer
Deputy Regional Forester, Resources

cc:
Forest Supervisor, Cibola NF
District Ranger, Mountainair RD
Director of Rangeland Management, R3
Appeals and Litigation Staff, R3