

File Code: 1570-1

Date: January 4, 2000

Mr. Jeff Burgess
1922 E. Orion Street
Tempe, AZ 85283

Certified Mail-Return Receipt Requested
P 556 954 709

Re: Appeal #00-03-00-0010-A215, Kiowa National Grassland, Union County Grazing Decision, Kiowa and Rita Blanca National Grasslands, Cibola National Forest

Dear Mr. Burgess:

This is my review decision concerning the appeal you filed regarding the Decision Notice and Finding Of No Significant Impact which authorize grazing and implement the grazing management strategy on 96 range units within the Union County portion of the Kiowa National Grassland.

BACKGROUND

District Ranger Pamela Brown issued a decision on September 30, 1999, for the Union County portion of the Kiowa National Grassland. The decision resulted in the selection of Alternative D which provides for a growing season recovery period (minimum 60 consecutive days), a requirement that growing season use does not exceed dormant season use, mixed classes of livestock, a range of animal months on all range units, grazing deferment on playas, and construction of an exclosure fence around Golden Lake.

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 pursuant to and 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

The Appeal Reviewing Officer recommended that the Responsible Official's decision be affirmed and that your request for relief be denied. The evaluation concluded: (a) decision logic and rationale were generally clearly disclosed; (b) the benefits of the proposal were identified; (c) the proposal and decision were consistent with agency policy, direction and supporting

information; (d) public participation and response to comments were adequate; and (e) all of the major issues raised by the appellant were adequately addressed in the project record.

APPEAL DECISION

After a detailed review of the records and the Appeal Reviewing Officer's recommendations, I affirm the Responsible Official's decision concerning the Union County portion of the Kiowa National Grassland, which authorizes grazing and implementation of management actions.

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

Sincerely,

/s/ James T. Gladen

JAMES T. GLADEN
Appeal Deciding Officer
Deputy Regional Forester, Resources

Enclosure

cc:
Forest Supervisor, Cibola NF
District Ranger, Kiowa and Rita Blanca NGs
Director of Rangeland Management, R3
Appeals and Litigation Staff, R3

REVIEW AND FINDINGS

of

Jeff Burgess Appeal #00-03-00-0010-A215

regarding the

Kiowa National Grassland**Union County Grazing Decision**

ISSUE 1: The decision violates the National Forest Management Act because it does not comply with the 1996 Record of Decision amending Forest Plans in Arizona and New Mexico.

Contention: The appellant argues the decision does not comply with the 1996 Record of Decision because a maximum growing season forage use level is not included in the decision notice and increasing stocking rates for several of the range units will inevitably lead to high forage use levels.

Response: The focus of the 1996 Amendment is on a standard of forage use by grazing ungulates which assures recovery and continued existence of threatened and endangered species. There are no federally listed threatened or endangered species in the analysis area (Doc. 78). Therefore, the amendment does not apply in this situation. The effects analysis in the environmental assessment clearly documents the effects of the selected alternative on federally proposed species and Region 3 sensitive species (Doc. 78). Conclusions reached in the biological evaluation anticipate that implementation of the selected alternative will not jeopardize the continued existence of federally proposed species or adversely impact Region 3 sensitive species by causing a trend toward federal listing or a loss of species viability rangewide (Doc. 96).

The Forest Service has full discretion to establish utilization levels on a site specific basis. In this case the Interdisciplinary Team (IDT) concluded that 30 percent utilization was appropriate on all grazing units during the growing season under present resource conditions and management objectives. The IDT also concluded a mix of growing season use and dormant season use is essential to accomplish vegetative goals, providing total actual use will not exceed 60 percent (Doc.s 80; 95).

Minimum and maximum animal unit months capacity are disclosed for each range management unit within the Union County portion of the Kiowa National Grassland . Review of the record reveals that on the majority of the grazing units the minimum animal unit months are set at or below the numbers which are currently permitted (Docs,78; 99). This is an ongoing adaptive management decision where the level of stocking may be adjusted according to range condition (Doc. 80). Under no circumstances will the utilization standards be exceeded, regardless of the disclosed stocking rates (Doc. 80).

Finding: The Responsible Official reached a reasonable conclusion, based on the effects of the selected alternative, that the decision will sustain grassland resources. The Responsible Official's decision complies with the requirements of the Forest Plan as amended.

ISSUE 2: Ms. Brown's decision violates the USDA Forest Service regulations in 36 CFR 219.20.

Contention: The appellant asserts that the current ecological conditions of the land, and the apparent trend, were not appropriately assessed. The appellant concludes that sound science was not employed and that the resultant management schemes are inadequate to improve those areas which are currently in less than satisfactory condition.

Response: It must be pointed out that no amount of data is ever totally scientifically conclusive when applying the analysis and decision making process to biologically complex expanses of national forest system lands consisting of thousands of acres. Rangeland management is an ongoing adaptive process where monitoring provides continued validation of the decision and provides a higher level of information upon which future annual adjustments or future decisions will be based.

A review of the record discloses that the IDT's analysis included six ecological classifications based on soils and predominate vegetation types. A description of these ecological classifications and their current and desired condition is presented in the environmental assessment (EA) (Doc. 78). The environmental consequences of the selected alternative on the ecological units are disclosed in the EA. The record contains detailed documentation of existing vegetation, impacts of management strategies currently being applied, management strategies available to reach desired conditions identified in the EA, an inventory of existing and desired wildlife species including ungulates, fur bearers, raptors, waterfowl, birds, rodents, fish, reptiles, insects/spiders, amphibians, and crustations, factors affecting watershed condition including past disturbances, current soil movement, soil type, and geologic formation, and a general description of watershed condition (Doc. 57).

Experience on the Southern High Plains indicates that timing and duration of grazing influences ecological conditions to an important degree. Thus, the decision requires a minimum 60 day recovery period during the growing season on every pasture in the analysis area. This adaptive decision allows for additional recovery days on a case by case basis to respond to changing environmental factors such as fluctuations in annual precipitation (Docs. 78; 80).

Finding: The IDT based their analysis on reasonable data and conducted their analysis in accordance with agency policy and procedures.