



United States
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Forest
Service

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File Code: 1570-1/2200

Date: November 20, 2001

Jeff Burgess
1922 E. Orion Street
Tempe, AZ 85283

**CERTIFIED MAIL -
RETURN RECEIPT REQUESTED
7000 2870 0000 1135 8880**

RE: Appeal #01-03-00-0059-A215, Prewitt/6A Allotment Decision, Mount Taylor Ranger District, 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 the above-named allotment.

BACKGROUND

District Ranger Hagerdon issued a decision on August 13, 2001, for the Prewitt/6A Allotment. The decision resulted in the selection of the following alternative and authorization:

Prewitt/6A Allotment, Alternative B, which authorizes 240 head of cattle, to graze May 1 through October 10 annually.

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 reviewed the appeal record and the recommendation of the Appeal Reviewing Officer. My review decision incorporates the appeal record.

Additionally, in a letter dated September 24, 2001, you withdrew your appeal points dealing with responses to written comments and lack of sufficient detail in the environmental assessment. Therefore, these issues were not addressed in the technical review. Your remaining three appeal points were consolidated into two issues because your issue statements overlapped.

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 are consistent with agency policy, direction and supporting information; (d) public participation and response to comments were adequate.

APPEAL DECISION

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision concerning the Prewitt/6A Allotment, 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/ Bob Leaverton (for)
JAMES T. GLADEN
Appeal Deciding Officer,
Deputy Regional Forester,
Resources

Enclosure

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

REVIEW AND FINDINGS

of the

Jeff Burgess Appeal

#01-03-00-0059-A215, Prewitt/6A Allotment Decision

ISSUE 1: The EA failed to analyze a reasonable range of alternatives.

Contention: The appellant contends that labeling the no-grazing alternative as the no-action alternative concealed the fact that the proposed action was really a no-action alternative. The appellant alleges the failure to consider another grazing alternative denied the public an opportunity to compare the existing livestock management system to any potential superior ones.

Response: The District Ranger has the latitude to define the proposed action simply as the issuance of a new 10-year permit to allow continuation of ongoing activities, in accordance with 40 CFR 1508.23, 1508.18(a) and 1508(b)(4). The EA defines the underlying purpose and need for this proposed action (Doc. 27, page 5; 40 CFR 1502.13). The absence of other grazing management alternatives reflects the fact that the current livestock management system appears to be satisfactory and resulting in a continued upward trend in environmental conditions (Doc. 27 and Doc. 1). The pre-NEPA analysis of existing range conditions found that a change in livestock grazing on this allotment is not warranted (Doc. 27 and Doc. 1).

Finding: The Responsible Official appropriately determined that there are no other reasonable livestock management alternatives that must be considered, based on the purpose and need, proposed action, and lack of any significant issues associated with the proposed action.

ISSUE 2: The appellant contends the alternatives did not comply with 36 CFR 219.12(f), that requires the planning team to formulate a broad range of reasonable alternatives in order to identify the alternative that comes nearest to maximizing net public benefit. The appellant argues that since site-specific NEPA analyses tier to Forest Plans, the requirements at 36 CFR 219.12(f) are also applicable to site-specific projects.

Response: Management of National Forest Lands for the highest net public benefits was analyzed and decided upon in the preparation of the forest plan, in accordance with regulations in 36 CFR 219. The forest plan provides direction for management emphasis within the project area. Net public benefits were analyzed appropriately during forest plan preparation and are outside the scope of project-level analysis.

The nature and scope of the proposed action is limited to issuing a new permit to authorize ongoing livestock grazing, and evidence indicates that changes in livestock management are not warranted (Doc. 27, pages 4-7; Doc. 1). There were no allotment-specific concerns, resource conflicts, or significant issues identified in association with the proposed action (Doc. 27, pages 4-6). The limited range of alternatives is consistent with the scope of the EA.

Finding: The Responsible Official appropriately defined the scope of the analysis and analyzed a range of reasonable alternatives within that scope.