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Department of
Agriculture

Forest
Service

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File Code: 1570-1

Date: March 6, 2001

Don Farmer
Arizona Wildlife Federation
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Mesa, AZ 85201

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Re: Appeal #01-03-00-0018-A215 Young's Canyon Allotment Decision, Peaks Ranger District, Coconino National Forest

Dear Mr. Farmer:

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 Waldrip issued a decision on December 1, 2000, for the Young's Canyon Allotment. The decision resulted in the selection of the following alternative and authorization:

Young's Canyon Allotment, Alternative A, which authorizes 51 - 63 head of cattle (Cow/Calf) or 90 – 110 head of steers to graze May 15 through October 31 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.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer concluded all of the major issues raised by the appellant were adequately addressed in the environmental assessment (EA) with exception of the cumulative effects analysis related to pronghorn antelope. This analysis was completed and added to the



administrative record after the EA was sent out for public comment. The purpose of an EA is to disclose the environmental effects of the proposed action to interested publics and provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or finding of no significant impact [40 CFR 1508.9(1)]. Completion of the cumulative effects disclosure outside the EA does not satisfy the National Environmental Policy Act. Therefore, the Appeal Reviewing Officer recommended that the decision be reversed.

APPEAL DECISION

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I am reversing the Responsible Official's decision, with instructions to disclose the cumulative effects analysis in the EA and provide for notice and comment in accordance with 36 CFR 215.5 and 215.6. Following public notice and comment, I am instructing the Responsible Official to make a new decision.

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

cc:
Forest Supervisor, Coconino NF
District Ranger, Peaks RD
Director Rangeland Management, R3
Appeals and Litigation, R3

REVIEW AND FINDINGS

of the

Arizona Wildlife Federation Appeal

#01-03-00-0018-A215, Young's Canyon Allotment Decision

ISSUE 1: The National Forest Management Act (NFMA) and its implementing regulations require the maintenance of species diversity and viability on the Coconino National Forest, including the Young's Canyon Allotment.

Contention: The appellant contends that the Young's Canyon decision will not maintain species viability and diversity. In addition, there is no monitoring information or population trend information that supports the conclusion regarding Management Indicator Species (MIS). In fact the appellant claims that for two MIS species, antelope and deer, the populations are declining and have been for years.

Response: Although the project record indicates the pronghorn antelope population is declining, it identified that the mule deer population is stable in the project area. The record also indicates these populations, forest-wide for both species, are not low enough to warrant concern by Arizona Game and Fish (AR 52, 51, 36, 38). The proposed action reduces the permitted numbers from 42 yearlong to a maximum of 63 for 5.5 months. This change reduces the time in each pasture from 120 days to 46 days. The proposed action also sets utilization within the allotment at 35 percent. These actions will provide for improved vegetative conditions within the allotment. The proposed action also identifies that over 5,000 acres of pinyon-juniper will be treated to reduce the density of juniper and improve the grass/forb component...both beneficial to the deer and antelope populations in the allotment (AR 36, 38, 51).

Finding: The viability of mule deer and pronghorn antelope populations would not be reduced by the proposed action, contrary to the appellant's contention. In fact, the proposed action should improve habitat conditions for both species.

ISSUE 2: Federal regulations require that the Forest Service weigh "the appropriateness of applying certain resource management practices to the project area in question".

Contention: The appellant cites 36 CFR 219.3 to support the contention that the "FONSI and EA are devoid of any scientific information or analysis demonstrating the capability, suitability, need, or appropriateness for continued livestock grazing on the Young's Canyon Allotment." The appellant argues that suitability determinations made at the Forest Plan level may be challenged during project-specific analyses.

Response: The Federal Regulations (36 CFR 219) cited by the appellant, set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System. The section of the regulation quoted by the appellant is a set of definitions of terms

used within the body of the regulations. In his statement of the issue, the appellant selected the definition of sustainability to challenge the Responsible Official's decision. In doing so the appellant inaccurately quotes the regulation and changes the language to read, "...to the project area in question...". In reality the regulation reads, "...to a particular area of land...". It appears the appellant believes the requirement at 36 CFR 219.20 to determine the suitability and potential capability of National Forest system lands for producing forage for grazing animals and for providing habitat for management indicator species, applies to project level decisions implementing Forest Plans, as well as, the development and/or revision of Forest Plans. NFMA does not require that a suitability analysis be conducted at the project level. On August 24, 1999, the United States Court of Appeals for the Ninth Circuit, in Wilderness Society v. Thomas, 188 F.3d 1130 (9th Cir. 1999), concluded the Forest Service complied with NFMA in adopting the Prescott Forest Plan, including the Plan's allocation of acreage suitable for grazing. The Forest Plan complies with the requirements outlined in 36 CFR 219.20 through the analysis process (Coconino Forest Plan EIS Appendix B, Description of Analysis Process).

Finding: There is no requirement to conduct a suitability analysis when conducting a National Environmental Policy Act (NEPA) analysis at the project level concerning the management and permitting of livestock grazing. All requirements for suitability under the provisions of 36 CFR 219.20 were met upon completion of the Forest Plan. The 36 CFR 219 regulations are not applicable in this case.

ISSUE 3: The environmental effects of the proposed action were not adequately disclosed.

Contention: The Coconino National Forest failed to adequately consider and disclose the environmental effects on soils, vegetation, and wildlife. Specifically, the appellant claims that the effects disclosure on MIS species was inadequate and that the cumulative effects were not adequately disclosed.

Response: An EA must provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact [40 CFR 1508.9(a)(1)].

The EA documents soil and watershed conditions and trends for each alternative (EA pp. 27-31). Soil and watershed conditions are generally characterized as satisfactory and stable across the allotment. However, one noted exception is 570 acres where soils are in impaired condition. The EA indicates soil conditions are expected to decline as pinyon and juniper tree cover increases and herbaceous cover declines.

Effects of each alternative on vegetation are described in terms of grass, forb, and shrub abundance, diversity, and production (EA pp. 24-27). Ecological and rangeland management conditions are predicted to remain satisfactory on the majority of the allotment under all alternatives except for Alternative C (current permit). Unsatisfactory conditions in the Young's Canyon holding pasture are expected to improve to satisfactory under all alternatives except for Alternative C.

Effects of the alternatives on wildlife are discussed in three groups: management indicator

species; special status species; and other wildlife species (EA pp. 31-35). Habitat quality is discussed for management indicator species (deer, elk, antelope, and juniper titmouse) for each alternative. None of the alternatives are predicted to cause a trend toward listing of special status species. The EA discusses impacts from livestock grazing and pinyon-juniper treatments on other wildlife species that rely on plant species composition, vigor, seed head production, relative density, and regeneration.

Cumulative effects related to management indicator species are briefly discussed in the EA on page 36. However, they generally describe effects of grazing on antelope but provide no connection to the project. A cumulative effects discussion related to watershed conditions appears in the EA on pages 53-56. The watershed cumulative effects discussion includes timber activities, roads, livestock grazing, wildfire, recreation, management of state lands, and private land development.

The appellant's primary concern regarding this issue appears to be that livestock grazing on allotments, on and around Anderson Mesa, are contributing cumulatively to a decline in the local antelope population. This concern is addressed in a cumulative effects analysis on Anderson Mesa pronghorn in the project record at 51. This analysis of cumulative effects on antelope takes into account other ongoing and reasonably foreseeable range allotment management activities. This analysis also points out that the Young's Canyon Allotment, located below the rim of Anderson Mesa, is transition range for antelope. The analysis goes on to point out that other allotments on top of Anderson Mesa (Pickett Lake, Anderson Springs, and Bar T Bar) have the highest quantity and quality of antelope summer range and fawning habitat. The analysis states that many factors can influence pronghorn populations and that no one factor can be singled out as the main contributor to low numbers. These factors include: climate; soil productivity; land ownership patterns; fences associated with Interstate 40, the railroad, grazing allotments, and lands in other ownership; other ungulates; predation; forage productivity and vigor; fragmentation of habitat; and declining habitat quality and quantity.

Documentation of a meeting between Coconino National Forest personnel and people from the Arizona Game and Fish Department indicates agreement that pronghorn are not doing as well as they would like, but that antelope numbers are not low enough to cause them concerns over viability. The Coconino National Forest and the Arizona Game and Fish Department also agree that the Young's Canyon Allotment is not a priority area for pronghorn, as compared to other areas in Game Management Units 5BN and 7 (record at 51).

Finding: The Responsible Official adequately considered the cumulative effects of the proposed action and alternatives, particularly as it relates to livestock grazing and pronghorn antelope. The cumulative effects analysis related to pronghorn antelope was not disclosed to the public. This cumulative effects analysis was documented after the EA was completed and sent to interested and affected parties.

ISSUE 4: There was an inadequate range of alternatives to satisfy NEPA.

Contention: The appellant contends the analysis lacks a no grazing alternative (representing wildlife) or an alternative representing current use.

Response: "[A]n agency must look at every reasonable alternative, within the range dictated by the 'nature and scope of the proposed action' and 'sufficient to permit a reasoned choice.'" Idaho Conservation League v. Mumma, 956 F.2d 1508, 1520 (9th Cir. 1992). For an alternative to be reasonable, it must meet the stated purpose and need, and address one or more issues. The formulation of alternatives is driven by significant issues identified in scoping 40 CFR 1501.2(c).

The EA includes brief discussions of alternatives as required by section 102(2)(E) of NEPA which states, "Study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." The EA indicates that there were five issues identified as being significant to the proposed action (40 CFR 1501.7(a)(3)). Each action alternative addresses one or more of the issues while meeting the purpose and need for action. The appellant suggests that an alternative involving only the vegetative treatments and no livestock grazing should have been considered. Since the purpose and need includes providing for livestock grazing use, this alternative is outside the scope of the analysis defined by the Responsible Official. The appellant also suggests an alternative representing current use, should have been considered. EA Appendix A, page 2, indicates that an alternative reflecting current use was not developed because the proposed action is very similar to recent management.

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

ISSUE 5: Failure to use the best scientific information in the analysis.

Contention: The EA did not address or evaluate information supplied by the Arizona Wildlife Federation, which demonstrate that antelope would be not be jeopardized by the selected alternative.

Response: The interdisciplinary team did review information provided by Arizona Wildlife Federation from Dr. Yoakum and Arizona Game and Fish. These documents are referenced in the record (doc. 36). Documents 51 and 52 in the administrative record discuss some of Arizona Wildlife Federation's issues related to habitat quality availability and factors affecting antelope. Ultimately they conclude that antelope numbers are not low enough to result in viability concerns.

Finding: The Forest did evaluate and consider the information provided by the Arizona Wildlife Federation in making the decision on the Young's Canyon Allotment.