



United States
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Forest
Service

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File Code: 1570-1/2200

Date: February 19, 2004

Jeff Burgess
P.O. Box 20862
Phoenix, AZ 85036

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

RE: Appeal #04-03-00-0006-A215, Buck Springs Allotment Decision, Mogollon Rim Ranger District, Coconino National Forest

Dear Mr. Burgess:

This is my review decision concerning the appeal 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

Forest Supervisor Rasure issued a decision on August 18, 2003, for the Buck Springs Allotment. The decision resulted in the selection of the following alternative and authorization:

Buck Springs Allotment, Alternative G, which authorizes 393 cow/calf pairs and 8 horses for the Battleground Springs Management Unit and 250 cow/calf pairs and 8 horses for the Buck Springs Management Unit.

The Forest Supervisor is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 215 appeal regulations. Pursuant to 36 CFR 215.17, 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 215.18. 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 that: 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 Buck Springs Allotment, which authorizes grazing and implementation of management actions.

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

Sincerely,

/s/ Abel M. Camarena
ABEL M. CAMARENA
Appeal Deciding Officer,
Deputy Regional Forester

Enclosure

cc: David M Stewart, Christina Gonzalez, Mailroom R3 Coconino

REVIEW AND FINDINGS

of

Jeff Burgess'**Appeal #04-03-00-0006-A215****Buck Springs Allotment**

ISSUE 1: The proposed action calls for an increase in livestock numbers above existing levels.

Contention: The appellant contends that the monitoring record shows that utilization rates were exceeded 74 percent of the time between 1998 and 2001. Therefore, there is no reasonable expectation that forage utilization rates will be less than 45 percent for upland pastures and 35 percent for riparian areas with more cattle.

Response: The selected alternative reduces stocking in the Battleground Unit by 47 percent and reduces stocking in the Buck Springs Unit by 66 percent (EIS, p. 32). Use of forage is limited to 35 percent in sensitive areas (riparian/meadows) and 45 percent in upland areas. Additionally, use by elk was considered in estimating total ungulate forage needs while providing for residual herbaceous cover for wildlife and soil protection.

Finding: There is a reasonable expectation that management objectives for the Buck Springs Allotment will be attained.

ISSUE 2: The decision violates the Endangered Species Act.

Contention: The appellant contends the Responsible Official's decision is different from the proposed action consulted upon in accordance with the Endangered Species Act.

Response: The appellant is correct in that the proposed action found in the Biological Assessments (PR #111 and #112) and amendments (PR #148 and #149) for the Buck Springs Allotment and concurred on by the US Fish Wildlife Service in their Final Biological Opinion (PR #191) do not match the action described in the FEIS or Decision Notice (p. 3).

However, on July 14, 2003, the District Ranger sent a letter (PR #208) to the US Fish and Wildlife Service requesting a change in the permitted numbers for the Buck Springs Allotment. On September 9, 2003, the US Fish and Wildlife Service (PR #211) concurred with the change in permitted numbers, with no change to the findings of the existing Biological Opinion (PR #191). This corrected the difference between the FEIS and Biological Opinion, satisfying the legal requirements of the Endangered Species Act.

Finding: After careful review of the Process Record for the Buck Springs Allotment EIS, no violation of the Endangered Species Act (as amended) was found.