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File Code: 1570-1/2200

Date: December 4, 2003

Martin Taylor  
Center for Biological Diversity  
P.O. Box 710  
Tucson, AZ 85702

**CERTIFIED MAIL – RETURN  
RECEIPT REQUESTED**

RE: Appeal #04-03-00-0003-A215, Lone Mountain Allotment Decision, Sierra Vista Ranger District, Coronado National Forest

Dear Mr. Taylor:

This is my review decision concerning the appeal you filed regarding the Decision Notice and Finding of No Significant Impact that authorize grazing and implement the grazing management strategy on the above-named allotment.

### **BACKGROUND**

District Ranger Gunzel issued a decision on August 20, 2003, for the Lone Mountain Allotment. The decision resulted in the selection of the following alternative and authorization:

Lone Mountain Allotment, Alternative E, which authorizes a range of 650-950 head of cattle (cow/calf) to graze yearlong.

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 your 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 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; and 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 Lone Mountain 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/ Lucia M. Turner  
LUCIA M. TURNER  
Appeal Deciding Officer,  
Deputy Regional Forester

Enclosures (2)

cc: David M Stewart, Stephen L Gunzel, Christina Gonzalez, Mailroom R3 Coronado

**REVIEW AND FINDINGS**  
**of**  
**Center for Biological Diversity's**  
**Appeal #04-03-00-0003-A215**

**ISSUE 1:** Stocking and Forage Utilization

**Contention:** The appellant contends the concept of variable numbers on the permit is disturbing.

**Response:** The Southwestern part of the United States has been experiencing a drying pattern since 1996. Variable numbers of livestock on term grazing permits provides the opportunity to adjust stocking on an annual basis to respond to fluctuating amounts of precipitation or other resource needs. In addition, the record reflects the selected alternative represents a 396-696 head reduction in permitted numbers (PR# 104).

**Finding:** Providing for variable numbers of livestock appropriately allows resource managers to adjust in a timely manner to changing resource conditions on an annual basis.

**ISSUE 2:** Riparian Protection

**Contention:** The appellant contends the AMP and pre-existing developments make inadequate provision for riparian protection beyond a few small enclosures.

**Response:** The project record contains a rigorous evaluation of existing riparian condition (PR #22; PR #44), and grazing effects on riparian condition were identified as a planning issue (PR #52, p.3; EA, PR #95, p.5). The selected alternative (Decision Notice, PR #104) responds to the riparian protection issue by reducing the total amount of cattle allowed, utilizing rest-rotation grazing strategies, grazing headwaters of certain riparian areas only in winters with adequate precipitation, total exclusion of 1.75 miles of Scotia Canyon, better cattle distribution through pasture improvements, and conservative utilization standards in riparian areas.

**Finding:** Riparian improvement and protection is ensured under this decision.

**ISSUE 3:** Violation of Multiple-Use Mandate

**Contention:** The appellant contends if recreational and wildlife interests were to be given an equal footing on the allotment, then only perhaps one-third or less of the area could ever be devoted to ranching interests.

**Response:** Issues analyzed in the EA include the effects of livestock grazing on threatened and endangered and sensitive species, soils, fuels encroachment, and riparian areas (PR #95, p.5). The public was consulted (PR #95, p.7) for input to planning for the allotment, including livestock numbers. The decision to continue grazing is consistent with the Coronado Forest Plan as amended (PR #104, pp.9-10). The EA analyzed effects to soil, water, air (PR #95, pp.20-22), wildlife (pp. 22-29), socioeconomic resources (pp. 29-32), and recreation and heritage (p. 32).

Conflicts with recreation use and recreation impacts on the riparian areas were addressed on page 32 of the EA.

**Finding:** Grazing use is allowed under the Coronado Forest Plan. The EA disclosed the environmental impacts to all resources, not just range. Recreation, wildlife, and multiple uses were addressed in the analysis.

#### **ISSUE 4:** San Pedro River

**Contention:** The appellant contends a new water extraction project in Wakefield Pasture and continued grazing in drainages will reduce recharge of aquifers in the San Pedro Basin.

**Response:** The impacts of grazing on recharge of aquifers in the San Pedro Basin is outside the scope of this project EA. The EA evaluated the effects of grazing and replacing an existing waterline in Wakefield Pasture. Specifically, the EA (PR #95) provides a discussion of existing conditions and effects related to soil stability and erosion.

**Finding:** The EA meets the standards for analysis and disclosure for direct, indirect, and cumulative impacts of the alternatives.

#### **ISSUE 5:** US-Mexico Border Pressures

**Contention:** The appellant contends that the impacts on wildlife from the recent surge in law enforcement activity along the border with Mexico are not addressed in the EA.

**Response:** The impacts on wildlife from law enforcement activity along the border with Mexico are outside the scope of this project EA. However, the EA (PR #95) provides a discussion of existing conditions and effects related to wildlife.

**Finding:** The EA meets the standards for analysis and disclosure for direct, indirect, and cumulative impacts of the alternatives.

#### **ISSUE 6:** Grazing Suitability

**Contention:** The appellant contends the Forest Service must make a full determination if grazing is a suitable use of the lands in the allotment.

**Response:** 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 applied in preparation of the Forest Plan (Coronado Forest Plan EIS, Appendix B, Description of Analysis Process).

**Finding:** There is no requirement to conduct a suitability analysis when conducting a 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 Coronado Forest Plan.

#### **ISSUE 7:** Endangered Species and Mearns Quail

**Contention A:** The appellant contends there is no detailed discussion of the effects on the Aplomado falcon, Mexican spotted owl, Chiricahua leopard frog, water umbel (*Lilaeopsis*), and long-nosed bat.

**Response:** There is considerable discussion on the Aplomado falcon, Mexican spotted owl, Chiricahua leopard frog, Huachuca water umbel (*Lileaposis schaffneriana* spp. *recurva*) and the long-nosed bat in the BA (PR #86), including possible effects of the proposed action. These findings are summarized in the EA (PR #95), and a comparison of the alternatives and discussion of the cumulative effects of the proposed action are disclosed.

In addition, there are evaluations and discussion on all or some of the aforementioned species included in various documents throughout the Process Record, including #39, #43, #46, #47, #49, #50, #66, #72, #73, #84, #85, #86, #87, #91, #93, #94, and #95.

Furthermore, consultation for the ESA listed species was conducted with the US Fish and Wildlife Service and a Biological Opinion issued (PR #94) for the proposed action.

**Finding:** Detailed discussion and evaluation of the effects of the proposed action are found for listed, sensitive, management indicator, and migratory bird species in sufficient quantity and quality to disclose the effects of the proposed action and allow the Responsible Official to make an informed decision.

**Contention B:** The appellant contends that the decision ignores the Coronado National Forest's manual requirement for residual stubble heights in high-density Mearns' (Montezuma) quail habitat.

**Response:** A thorough discussion on the proposed action and how it relates to the Coronado Forest Plan supplement concerning Mearns' (Montezuma) quail habitat management can be found in the Response to Comments (PR #72). In summary, "We are making the assumption that holding utilization to a maximum of 45% in key areas will result in 6 inch stubble height over most quail habitat....We believe the allowable utilization guidelines, as they are being applied on this allotment, will meet the intent of Supplement #2600-94-1."

**Finding:** The Coronado Forest Plan's supplement requirement for residual stubble heights in high-density Mearns' (Montezuma) quail habitat has been discussed, disclosed, and implemented.

#### **ISSUE 8:** Wilderness Act

**Contention:** The appellant contends the construction of new watering sites in the Peterson and Wakefield Pastures violates the Wilderness Act.

**Response:** The record reflects there are no new water developments proposed within the Miller Peak Wilderness (PR #72). Additionally, the Peterson and Wakefield Pastures will only be grazed during December through March when winter rains provide adequate water throughout the pastures. During dry winters, these pastures will be rested (PR #95).

**Finding:** There have been no violations of the Wilderness Act.

#### **ISSUE 9:** Economic and Social Analysis

**Contention:** The social analysis fails to recognize that subdivision of the isolated dispersed tracts of private land in these allotments is extremely restricted. The appellant contends the economic analysis fails to account for costs borne by the taxpaying public relative to benefits generated in the affected community.

**Response:** An economic report by the University of Arizona on this allotment and others (PR #5) looked at effects from livestock grazing on the economies of Santa Cruz and Cochise counties. The IMPLAN methodology summarized the multiplier effects of grazing on the local economy and then estimated dollars and jobs dependent on ranching. The first "Response to Comments" document (PR #72) included a cost analysis breakdown of costs and benefits to the permittee and taxpayer (see response B6). A recent ranch sale and subdivision is discussed, and it is noted that Arizona allows subdividing down to 36-acre parcels without a zoning change (PR #72, response C19). The EA describes how private land in the area would be subdivided if ranching were no longer economically viable (p. 30). Open space as maintained by ranching is an issue analyzed in the EA (p. 5), and the visual landscape currently is pleasing to most observers (PR #72, response C20). Amenity benefits such as the visual landscape and use by recreationists were estimated.

**Finding:** Amenity costs and benefits at a project level cannot be quantified. The economic analysis for this project is sufficient, follows agency guidance, and adequately discloses effects under NEPA for the Responsible Official to make a reasoned decision. (Refer to Forest Service Manual 1970 and the Forest Service Economic and Social Analysis Handbook 1909.17).

#### **ISSUE 10:** FONSI

**Contention:** The FONSI is not valid. Threatened and endangered species and areas of outstanding value such as Miller Wilderness are negatively impacted, triggering significance.

**Response:** Refer to earlier responses on listed species and Miller Wilderness.

**Finding:** There are no effects rising to the level of significance; therefore, the FONSI is valid, and an EIS is not required.