



United States
Department of
Agriculture

Forest
Service

Southwestern
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File Code: 1570-1

Date: May 5, 2000

Mr. Adam Polley
Catron County Manager
Catron County
Reserve, NM 87830

Certified Mail-Return Receipt Requested
P 556 954 808

Re: Appeals #00-03-00-0035-A215 Alma, #00-03-00-0036-A215 Citizen, and #00-03-00-0037-A215 Harve Gulch/Roberts Park

Dear Mr. Polley:

This is my review decision concerning the appeals you filed regarding the Decision Notices and Findings Of No Significant Impact which authorize grazing and implement the grazing management strategies on the above named allotments. Due to the commonality between the appeals, I have chosen to consolidate my response into one decision document.

BACKGROUND

District Ranger Baldwin issued decisions on December 21, 1999, for the above named allotments. The decisions resulted in the selection of the following alternatives and authorizations:

Alma Allotment, Alternative E, which authorizes 280 head of cattle (cow/calf) to graze yearlong on the National Forest and 39 head of yearlings and 5 head of horses to graze 4/16 – 11/15 under a term private land permit.

Citizen Allotment, Alternative D, which authorizes 250 head of cattle (cow/calf) and 10 head of horses to graze yearlong, and 140 head of cattle (yearlings) to graze for 6 months annually during the winter.

Harve Gulch Allotment, Alternative C, which authorizes 79 head of cattle (cow/calf) to graze for approximately 6 months during the fall/winter season.

Roberts Park Allotment, Alternative C, which authorizes 696 head of cattle (cow/calf) and 8 head of horses to graze for approximately 6 months during the fall/winter season.

The District Ranger is identified as the Responsible Official, whose decisions are 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 appeals. The record indicates that informal resolution was not reached.



My review of these appeals has been conducted in accordance with 36 CFR 215.17. I have thoroughly reviewed the appeal records and the recommendations of the Appeal Reviewing Officer. My review decision incorporates the appeal records.

APPEAL REVIEWING OFFICER'S RECOMMENDATIONS

In his initial review the Appeal Reviewing Officer concluded the disclosure of environmental effects for the selected alternatives in the Citizen, Alma, and Harve Gulch/Roberts Park analyses were not adequate. He also concluded the decisions for the Alma and Citizen Allotments did not meet the resource objectives identified in the analyses. Therefore, the Appeal Reviewing Officer recommended that the decisions be reversed for further analyses and that further technical review of these appeals be discontinued pending further analyses and issuance of new decisions.

APPEAL DECISION

Based on the Appeal Reviewing Officer's recommendations I am reversing the Responsible Official's decisions on the above named allotments for further analyses and new decisions. Any new decisions must fully comply with public comment and appeal provisions of 36 CFR 215. By copy of this decision the Responsible Official is instructed to adhere to the utilization standards and mitigation measures identified in the environmental assessments until new decisions are issued. The Responsible Official is also instructed to monitor the allotments sufficiently to document use levels as cattle move through an allotment, and to ensure domestic cattle are removed from pastures before overall utilization levels are exceeded.

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, Gila NF
District Ranger, Glenwood RD
Director of Rangeland Management, R3
Appeals and Litigation Staff, R3

REVIEW AND FINDINGS

of the

Catron County Appeals

#00-03-00-0035-A215, Alma Allotment Decision

#00-03-0036-A215, Citizen Allotment Decision

#00-03-00-0037-A215, Harve Gulch/Roberts Park Allotment Decision

ISSUE: The Decision Notices and FONSI's for these allotments violate the National Environmental Policy Act (NEPA).

Contention: The appellant contends that for various reasons, NEPA has been violated. The alleged inadequacies include failure to analyze a reasonable range of alternatives, failure to consider the cumulative impacts of the proposed actions and failure to examine connected actions.

Response: The National Environmental Policy Act lays forth a progressive and logical process to insure proper analysis and disclosure of effects. The process is initiated with a proposed action that includes a clear description of the purpose and need for that action. Issues related to the action are then identified, clarified and organized. The formulation of alternatives is driven by significant issues identified in scoping (40CFR § 1501.2(c)). For an alternative to be reasonable, it must meet the stated purpose and need and address one or more issues. After alternatives are developed, environmental effects are measured, described and interpreted.

The purpose and need are clearly described for each allotment and issues are identified.

At a minimum, three alternatives were analyzed for each allotment. These included: 1) No action (no grazing); 2) Current management; and 3) An alternative to current management. For the Citizen Allotment, two alternatives to current management were analyzed. The Harve Gulch/Roberts Park and Alma Allotment each had three alternatives to current management. The significant issues were addressed and all purpose and need objectives were met under one or more of the alternatives analyzed for each allotment.

However, there were some problems identified in the range of alternatives. The Citizen and Harve Gulch/Roberts Park Environmental Assessments (EA's), contained an Alternative B described as "Current Permit" or "Current Permit, Present Management" intended to provide a baseline for comparison of the current situation and other alternatives. However, the project record contained information that suggested that, for a period of many years, the permittees had not been running the currently permitted amount of livestock. Alternative B is a reasonable alternative to evaluate, but it does not represent the current stocking and management situation. The true 'current situation' alternative is missing from the analysis in these two assessments.

There are also deficiencies found in the measurement and description of environmental effects. In the Harve Gulch/Roberts Park Allotments, the selected alternative was not fully evaluated. This alternative involves seasonal utilization of another allotment, yet the effects and implications on the other allotment were not evaluated or disclosed.

In the case of the Citizen Allotment, the Responsible Official selected an alternative that was noticeably different from the four that were considered in the environmental analysis. The decision involves a stocking level, management scenario, and class of livestock that may have effects outside the range of effects identified for the other alternatives. Those effects were not analyzed and disclosed.

In the Alma Allotment Decision Notice, the selected alternative was described as a modification of Alternative E. Actually, it appears to be a hybrid alternative, made up of the grazing system from Alternative F, stocking levels from Alternatives B & D, and utilization guidelines and range improvements from Alternatives D & E. Since the selected alternative consisted of parts that were not analyzed in combination, the synergistic effects may be outside the range of effects previously identified. Those effects were not thoroughly analyzed.

Finding: Upon review of the project record, it is apparent that some of the procedural requirements of NEPA were not met. For the Citizen and Harve Gulch/Roberts Park Allotments, the Responsible Official appropriately defined the scope of the analysis, but did not analyze a reasonable range of alternatives within that scope. For the Alma, Citizen, and Harve Gulch/Roberts Park Allotments, the effects of the selected alternative were not analyzed and disclosed.