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Forest  
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Forest Guardians  
c/o John Horning  
1413 Second St., Suite One  
Santa Fe, NM 87505

Re: Appeals #00-03-00-0019-A215 Luna, #00-03-0020-A215 Sanchez, #00-03-00-0021-A215 Gallo Mountain, #00-03-00-0022-A215 Spur Lake, and #00-03-00-0023-A215 East and West Demetrio Allotment Decisions, Quemado Ranger District, Gila National Forest

Dear Mr. Horning:

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 Hibbets issued decisions on December 13, 1999, for the above named allotments. The decisions resulted in the selection of the following alternatives and authorizations:

Gallo Mountain Allotment, Alternative D, which authorizes 433 - 662 head of cattle (yearlings) to graze from 5/15-10/15 annually on the National Forest and 17 - 28 head of cattle (yearlings) to graze from 5/15-10/15 annually under a term private land grazing permit.

East and West Demetrio Allotments, Alternative D, which authorizes 80 - 116 head of cattle (cow/calf) to graze yearlong on the East Demetrio Allotment and 70 - 94 head of cattle (cow/calf) to graze yearlong on the West Demetrio Allotment.

Sanchez Allotment, Alternative G, which authorizes 34 - 42 head of cattle (cow/calf) to graze yearlong.

Spur Lake Allotment, Alternative E, which authorizes 315 - 438 head of cattle (cow/calf) to graze from 11/1-5/31 annually on the National Forest, 85 head of cattle (cow/calf) to graze from 11/1-5/31 annually under a term private land grazing permit, and 478 - 601 head of cattle (cow/calf) to graze from 6/1-10/31 annually on the National Forest.

Luna Allotment, Alternative I, which authorizes 226 - 249 head of cattle (cow/calf) to graze from 4/15-10/31 annually.



The above decisions are written for a range of authorized livestock numbers, but the permits will be written for the lower stocking rates identified in the decisions. At some time in the future, the permits may be modified to allow a higher stocking rate. The higher stocking rate would be based on an increase in forage capacity consistent with either a decrease in elk numbers or corresponding improvement in management resulting in greater forage capacity. However, greater capacity would have to be demonstrated through monitoring and would not automatically follow either a decrease in elk numbers or improvement in management.

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 RECOMMENDATION**

The Appeal Reviewing Officer recommended that the Responsible Official's decisions 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 were consistent with agency policy, direction and supporting information; (d) public participation and response to comments were adequate; and (e) all of the major issues raised by the appellant were adequately addressed in the project records.

#### **APPEAL DECISION**

After a detailed review of the records and the Appeal Reviewing Officer's recommendations, I affirm the Responsible Official's decisions concerning the above named allotments, 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/ James T. Gladen  
JAMES T. GLADEN  
Appeal Deciding Officer  
Deputy Regional Forester, Resources

Enclosure

cc:

Forest Supervisor, Gila NF  
District Ranger, Quemado RD  
Director of Rangeland Management, R3  
Appeals and Litigation Staff, R3

**REVIEW AND FINDINGS**

of the

**Forest Guardians Appeals**

**#00-03-00-0039-A215, Gallo Mountain Allotment Decision**

**#00-03-00-0040-A215, East and West Demetrio Allotment Decision**

**#00-03-00-0041-A215, Sanchez Allotment Decision**

**#00-03-00-0042-A215, Spur Lake, Allotment Decision**

**#00-03-00-0043-A215, Luna Allotment Decision**

**ISSUE 1:** The Forest Service violated NFMA's consistency requirement by failing to adhere to Gila National Forest Plan management direction for allocating forage for elk.

**Contention:** The appellant contends the long term forage allocation goals of the Gila Forest Plan are not being met.

**Response:** The Gila Forest Plan does not allocate forage for elk. Each Forest Plan Management Area identifies long-term forage objectives. Livestock/wildlife utilization ratios for these Management Areas range from 85 percent for livestock and 15 percent for wildlife to 55 percent for livestock and 45 percent for wildlife. One allotment (Sanchez) is essentially at its objective of 65/35 with an expected ratio of 68/32 for the selected alternative. Three of the allotments have ratios that have a higher proportion going to wildlife: Spur Lake's Management Area objective is 80/20 but the selected alternative will result in a 58/42 ratio; East and West Demetrio's objective is 85/15 with a resulting ratio of 70/30 from the selected alternative; and, Gallo Mountain's objective is 75/25 and 70/30 in the two Management Areas and a 42/58 ratio for the selected alternative. The last allotment, Luna, has an objective of 55/45 with the resulting ratio of 72/28 from the selected alternative (Spur Lake Docs. 102, 109, 110; Luna Docs. 87, 94, 95; Sanchez Docs. 96, 103, 104; Gallo Mountain Docs. 89, 96, 97; and East and West Demetrio Docs. 41, 88, 89).

**Finding:** The Forest Plan establishes long term objectives in terms of allocating forage between livestock and wildlife. The record demonstrates the selected alternatives will achieve reasonable progress toward meeting the objectives over the next 10 year period. The Forest has not violated the National Forest Management Act's consistency requirement.

**ISSUE 2:** The Forest Service violated NFMA's consistency requirement by failing to comply with the 1996 Forest Plan amendment requirements to limit forage utilization in key areas.

**Contention:** The appellant alleges that by continuing to allow grazing at levels in excess of capacity for another two or three years, following issuance of the allotment management plans for these allotments, the Forest Service will violate both the utilization standards required by the Gila Forest Plan as amended in 1996, and the Endangered Species Act (ESA) in those areas that are habitat for Mexican spotted owl.

**Response:** The appellant is correct in stating that the decisions will be phased in over a two or three year period. This is consistent with Forest Service policy in Forest Service Manual 2231.61 which states "...Ordinarily schedule not more than a 20 percent reduction in numbers or season in any 1 year to give the permittee ample time to make changes in their livestock operation."

The appellant is incorrect in stating that allowing grazing at levels in excess of capacity for another two or three years will violate the ESA and utilization standards in the Forest Plan as amended. The records demonstrate that the two and three year schedules for reducing the permits were included in the description of the action in the Biological Assessments. The determination for Mexican Spotted owl was no effect on East and West Demetrio (Doc. 41) and Sanchez (Doc. 58) Allotments, and may effect, not likely to adversely affect on Gallo Mountain (Doc. 49) Spur Lake (Doc. 64) and Luna (Doc. 47) Allotments.

The records also demonstrate that utilization standards will be adhered to, across all allotments. These are: 35 % in the uplands during the growing season; 40% in the uplands during the dormant season; and 25% of the riparian sprouts/seedlings within riparian areas which are heavily hedged (Gallo Mountain Docs. 49, 59; East and West Demetrio Docs. 41, 53; Sanchez Docs. 58, 71; Spur Lake Docs. 64, 74; Luna Docs. 47, 59). Therefore, irrespective of the numbers authorized to graze any given year, as factors such as precipitation influence forage production, cattle will be removed from pastures, or an allotment depending on conditions, as utilization levels are reached.

The grazing guidelines included in the 1996 amendment to the Forest Plans were established to ensure recovery and continued existence of threatened and endangered species. These guidelines are applicable in situations where more specific guidelines have not been established through site specific NEPA analysis for individual allotments. As NEPA analysis is initiated on individual allotments, site specific forage use levels are established in consultation with the U.S. Fish and Wildlife Service. The records reflect that this has been done (Gallo Mountain Docs. 49, 59; East and West Demetrio Docs. 41, 53; Sanchez Docs. 58, 71; Spur Lake Docs. 64, 74; Luna Docs. 47, 59).

**Finding:** The ESA will not be violated in those areas that are habitat for Mexican spotted owl. The site specific utilization standards developed by the interdisciplinary team are consistent with the 1996 Record of Decision for the amended Forest Plans.

**ISSUE 3:** The Forest Service violated NFMA's consistency requirement by proposing to issue permits with variable stocking rates whose higher numbers violate utilization standards required by the Forest Plan.

**Contention:** The appellant alleges variable stocking rates violate Forest Service regulations for temporary permits to account for extra forage made available by changing resource conditions

and NEPA since the decision to allow higher stocking rates would take place without public notice and comment.

**Response:** The Secretary of Agriculture's Regulations, 36 CFR 222.1(a), authorizes the Chief of the Forest Service to regulate the grazing use on all National Forest System lands. This is done through a variety of permits such as 10 year term grazing permits [§222.3(c)(1)], temporary grazing permits [§222.3(c)(2)(i)], and livestock use permits [§222.3(c)(2)(ii)]. Forest Service line officers have the discretion to use these permits as appropriate.

As provided for in the grazing guidelines included in the 1996 amendment to the Forest Plans, the NEPA decisions on these allotments identify a range of authorized livestock numbers which can be permitted based on site specific resource information and analyses. However, no amount of data is ever totally scientifically conclusive when applying the analysis and decision making process to biologically complex expanses of national forest system lands consisting of thousands of acres. Thus, rangeland management is an ongoing process where monitoring provides continued validation of the decisions and provides a higher level of information upon which to modify grazing practices within the limits identified in a NEPA decision.

The Secretary of Agriculture's Regulations, 36 CFR 222.4(a), authorizes the Chief to modify grazing permits in whole or in part. The records reflect that the permits will be written for the lower stocking rates identified in the decisions. At some time in the future, the permits may be modified to allow a higher stocking rate. The higher stocking rate would be based on an increase in forage capacity consistent with either a decrease in elk numbers or corresponding improvement in management resulting in greater forage capacity. However, greater capacity would have to be demonstrated through monitoring and would not automatically follow either a decrease in elk numbers or improvement in management (Gallo Mountain Doc. 98; East and West Demetrio Doc. 90; Sanchez Doc. 105; Spur Lake Doc. 111; Luna Doc. 96).

The records reflect that the public was provided the opportunity for notice and comment on the variable range of numbers identified in the environmental assessments (EAs) and decisions (Gallo Mountain Docs. 97, 98; East and West Demetrio Docs. 89, 90; Sanchez Docs. 104, 105; Spur Lake Docs. 110, 111; Luna Docs. 95, 96).

**Finding:** The Responsible Official has not violated the Secretary of Agriculture's Regulations, 36 CFR part 222. The public was afforded the opportunity to comment on the variable stocking levels identified in the decisions. NFMA consistency requirements have not been violated.

**ISSUE 4:** The Forest Service violated NFMA's consistency requirement by failing to comply with standards and guidelines for management of riparian areas listed in the Gila National Forest Plan.

**Contention:** The appellant contends the Forest Service is failing to give preferential consideration to resources dependent on riparian areas by allowing the continuation of an activity which is degrading riparian resources. Therefore, the decisions are in violation of Forest Plan riparian standards and guidelines which are applicable to all management areas except wilderness.

**Response:** The EA for the Sanchez Allotment ( Doc. 104, Chapter III, page 48) discloses there are no riparian habitats on the allotment. Further, on page 53 of Chapter III, it is documented that there is no riparian dependent vegetation on this allotment. Therefore, there would be no effect to any species reliant on riparian habitat.

The EA for the Luna Allotment (Doc. 95, Chapter III, page 29-31) discloses that riparian condition has been monitored since 1989 in selected locations in a number of drainages. The primary riparian areas are San Francisco River, Stone Creek, Dry Blue Creek, and Trout Creek. Other drainages are either ephemeral or intermittent with short narrow stretches of water and riparian vegetation.

There are 19 riparian monitoring sites (RASES) on the Luna Allotment. Bank protection greater than or equal to 80 percent is considered satisfactory. Sixty three percent of the transects are considered satisfactory for bank protection. Monitoring data indicates the loss of bank protection and woody species in Dry Blue Creek is largely attributable to dry weather and elk use since livestock grazing has been heavily constrained in the Dry Blue in an effort to improve riparian vegetation. Low scores on Hy Clark for woody riparian species reflect the wet meadow nature of these sites. Frieborn Canyon is a narrow confined mixed-conifer canyon with little potential for riparian species. The drought in 1996-1997 exacerbated conditions in the riparian and uplands. Elk use in riparian areas and meadows was high to extreme during these years. Loss of woody riparian plants occurred when creek reaches dried up completely and wildlife use shifted to the few remaining green areas (Doc. 95).

The selected alternative for the Luna Allotment proposes the construction of 2.5 miles of fence to create a livestock enclosure in the Dry Blue pasture. Two additional riparian pasture fences would be constructed to control use in a portion of the San Francisco River and Stone Creek to meet riparian improvement objectives (Doc. 95).

The EA for the Spur Lake Allotment (Doc. 110, Chapter I, page 7) establishes an objective to increase woody riparian plant composition within SA Creek and maintain or improve bank cover and herbaceous ground cover within all riparian areas within the next 10 years. This is consistent with Forest Plan direction that requires all riparian areas be improved to satisfactory or better condition by 2030.

Common to all these allotment decisions are key area forage utilization guidelines of 35 percent in the uplands during the growing season, 40 percent in the uplands during the dormant season, and 25 percent of the woody riparian sprouts/seedlings within a riparian area heavily hedged. A review of the records demonstrates that monitoring of key areas is planned. The Addendum to the biological evaluation for the five allotments under appeal discloses that utilization checks of key areas will typically be scheduled to occur before livestock enter a pasture and when livestock leave a pasture. When reason exists to expect significant over utilization may occur prior to scheduled pasture move dates, a mid-point utilization check may be made. More typically, range inspections are conducted concurrent with other work. Results of such monitoring will be used to make annual adjustments in grazing systems, use periods, and stocking rates. It is recognized that under the most ideal conditions all key areas will not be utilized uniformly. Therefore, 60 percent utilization of any key area is the threshold of destructive use and will trigger removal of

livestock from the key area. This could include herding livestock to another area of a pasture or complete removal from a pasture depending on circumstances. Recognition of such use could come from Forest Service employees, public input, or permittee concern.

**Findings:** The interdisciplinary team integrated utilization guidelines and monitoring protocol to give preferential consideration to riparian communities and manage riparian areas to protect and improve the productivity and diversity of riparian-dependent resources as required in the Forest Plan Standards and Guidelines.

**ISSUE 5:** The Forest Service violated the NFMA by continuing to allow cattle grazing on the allotments without first evaluating the allotment's suitability for grazing. Therefore, the choice of any alternative is premature.

**Contention:** Appellant contends that NFMA was violated because the Responsible Official failed to evaluate the allotments' suitability for grazing, "...the Forest Service must determine in forest planning the suitability and potential capability of the National Forest System lands..., 36 CFR, Sec. [3]19.20". Absent a suitability analysis, the appellant contends that the Forest Service failed to discharge its obligation under NFMA to take a hard look at each alternative and therefore, the decisions are premature.

**Response:** Contrary to the appellant's assertions, 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, 1999 U.S. App. LEXIS 20026 (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 (Gila 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 Forest Plan. The 36 CFR 219 regulations are not applicable in this case, therefore, the decisions are not premature.

**Issue 6:** The decisions violate the National Forest Management Act's requirement to maintain viable numbers of all species.

**Contention:** The appellant contends the Forest Service must provide protection and habitat for riparian obligate species. Appellant cites 36 CFR 219.19 planning regulations in supporting the assertion. The appellant further contends that "despite this direction" (i.e. Forest Plans), the Forest Service failed to "protect riparian habitats and riparian obligate species" due to livestock grazing.

**Response:** Regulations at 36 CFR 219 Subpart A, which the appellant cites, set forth a process for developing, adopting, and revising land and resource management plans for the National

Forest System, as required by the Forest and Rangeland Renewable Resources Act of 1974, as amended [36 CFR 219.1(a)]. The Forest Plan includes goals, objectives, standards, and guidelines for the protection of threatened, endangered, Forest Service sensitive, and other species and their habitats. These site-specific projects are designed under the direction provided in the Forest Plan.

Riparian condition will be improved in each alternative selected for the four allotments with riparian vegetation (all but Sanchez) by reducing livestock numbers and incorporating utilization standards for woody riparian vegetation. The Luna allotment also includes stream fencing and creation of riparian pastures to improve fish habitat and/or riparian condition. Using these as a basis, the Forest conducted and documented an adequate analysis of the effects the proposed actions would have on species viability. Implementing the selected alternatives will maintain and improve habitat which will ensure the viability of Federally listed Threatened, Endangered, Proposed, or Candidate Species, Region 3 Sensitive Species, and Gila Forest Plan Management Indicator Species (Spur Lake Docs. 64, 73, 73.1, 109, 110, 111; Luna Docs. 47, 57, 58, 94, 95, 96; Sanchez Docs. 58, 66, 68, 103, 104, 105; Gallo Mountain Docs. 47, 58, 58.1, 96, 97, 98; and East and West Demetrio Docs. 47, 58, 59, 94, 95, 96).

**Finding:** The Forest did not violate the National Forest Management Act's requirement to maintain viable numbers of species.

**ISSUE 7:** The Forest Service has violated NEPA by failing to analyze a reasonable range of Alternatives.

**Contention:** The Forest Service has failed to present a sufficient range of alternatives that sharply define the issues and provide for a reasoned choice among options by the decision maker.

**Response:** The EAs define a very broad range of alternatives. Chapter II of each EA presents up to ten alternatives and considers as many as eight of them in detail. The alternatives include one that allows no domestic livestock grazing. Other alternatives consider the terms of the existing permit. Other alternatives consider various combinations of grazing systems, permitted numbers of livestock, season of use, period of use, and protection strategies for riparian communities.

The Luna EA alternatives in aggregate consider three grazing strategies: rest rotation, deferred, and modified deferred; six levels of livestock use: 0, 1660, 1831, 2000, 2305, and 2332 animal unit months; four seasons of use: none, year long, 7.5 months, and 6.5 months; and three riparian protection strategies: complete non-use, riparian pastures with 25% allowable use, and riparian exclosures within grazed pastures. The riparian strategies also target the more sensitive riparian areas for priority protection (Doc. 95).

The Spur Lake Allotment EA considers seven alternatives, five in detail. These consider grazing levels of 0, 8867, 5198, 6878, and 6861 AUMs with grazing periods of 5-12 months (Doc. 110).

The Sanchez Allotment EA considers seven alternatives, in detail. These alternatives consider grazing of two different classes of livestock at several levels: 0, 759, 461, 449, and 570 AUMs. The periods of use considered include: 0, 6, and 12 months (Doc. 104).

The Gallo Mountain Allotment EA considers seven alternatives, four in detail. Grazing seasons of 0 and 5 months are examined using utilization levels of 25-35%. Cattle stocking levels include 0, 3150, 1515, 1575, and 2317 AUMs (Doc. 97).

The Demitrio Allotment EA considers stocking levels of 0, 3579, 2034, and 2848 AUMs using various management strategies (Doc. 89).

**Finding:** Contrary to the appellant's assertion, the environmental assessments exhaustively explore a wide range of reasonable alternatives. These allow for a reasoned choice of federal actions. The alternatives also allow detailed consideration of the issues present in the proposed actions. No violation of NEPA has occurred.

**ISSUE 8:** The Forest Service violated NEPA by failing to consider and disclose the cumulative impacts of the proposed actions.

**Contention:** The appellant alleges that the EAs have failed to consider the past, present, and reasonably foreseeable related actions of the Forest Service, as well as, other agencies and individuals. Specifically, appellant states that the past grazing activities have not been taken into account in the record. Further the appellant states that the EAs do not attempt to catalog other activities within the allotment boundaries or their effects on other resources such as water quality, wildlife, aquatic and riparian habitats, vegetation or threatened, endangered and sensitive species.

**Response:** The EAs specifically address the past land use and land management practices in Chapter III. This treatment of cumulative effects in the EAs describes the effects of the entire grazing history from 1850 to present. With the advent of modern range condition measurements and monitoring methods, the documents disclose stable to upward trend in range, soil, and riparian conditions since the 1950s to present in quantitative terms.

The EAs catalog the reasonably foreseeable actions within the allotments in Chapter III of the EAs. This includes timber harvest, timber stand improvement, recreation development, trail and road construction, fuel treatment, and prescribed burning. The extent and timing of these possible actions are disclosed as are their general effects.

The EAs detail the current proposals and current conditions in chapters II and III. The EAs include quantitative and qualitative descriptions of proposals and effects in considerable detail.

Cumulative watershed effects are disclosed in technical documents for all allotments (Gallo Mountain Doc. 76; East and West Demetrio Doc. 70; Sanchez Doc. 85; Spur Lake Doc. 91; Luna Doc. 77).

**Finding:** The EAs and process records contain extensive documentation, consideration and evaluation of cumulative effects at scales appropriate for issues pertinent to the analyses and decisions at hand. No violation of NEPA requirements with respect to environmental effects has occurred.

**Issue 9:** The decisions violate the Endangered Species Act by continuing to allow livestock grazing in degraded riparian areas that provide habitat for listed species.

**Contention:** The appellant contends the Forest Service violated the Endangered Species Act for loach minnow, spikedace, and the Mexican spotted owl by continuing to allow grazing in riparian habitat.

**Response:** The Forest found, and U.S. Fish and Wildlife Service concurred, that implementing the selected alternatives would not jeopardize the continued existence of Federally listed Threatened, Endangered, or Proposed (T & E) Species. Forest findings for all T & E species were either no effect or may affect, but not likely to adversely affect on the Gallo Mountain, East and West Demetrio, Spur Lake, and Luna Allotments (Gallo Mountain Docs. 47, 58, 58.1, 96, 97, 98; East and West Demetrio Docs. 47, 58, 59, 94, 95, 96; Spur Lake Docs. 64, 73, 73.1, 109, 110, 111; Luna Docs. 47, 57, 58, 94, 95, 96). Forest findings for all T & E species on the Sanchez Allotment was no effect (Docs. 58, 66, 68, 103, 104, 105;).

**Finding:** The Forest did not violate the Endangered Species Act.

**ISSUE 10:** The EAs violate the Clean Water Act

**Contention:** The San Francisco River and Trout Creek are listed as 305B waters and are in violation of state water quality standards. To continue to allow grazing along streams that are already in violation of such standards will not allow water quality to improve and will contribute to violations of the state water quality standards in violation of section 313 of the Federal Clean Water Act. The appellant also contends the Forest Service must have Best Management Practices (BMPs) in place before it can continue to allow grazing of livestock on allotments with significant water quality and riparian concerns.

**Response:** The Luna allotment EA discusses these assertions on pages 60 and 61 (Doc. 95). Trout Creek is in non attainment status due to high phosphorus concentrations. These probably come from volcanic ash deposits in the watershed. Grazing is not the source of this condition. The San Francisco River will not completely meet standards under any alternative, including the no grazing alternative. The improvement of riparian conditions projected in the selected alternative will filter significant amounts of nutrients and shade the water surface on the river. This should allow attainment of standards which may be affected by grazing.

All alternatives in the EAs for these allotments contain the BMPs alluded to in the above contention. They also contain further mitigations for water quality, as well as, monitoring provisions for these mitigation measures. Mitigation common to all alternatives is documented in Chapter II of the EAs (Gallo Mountain Doc. 97; East and West Demetrio Doc. 89; Sanchez Doc. 104; Spur Lake Doc. 110; Luna Doc. 95).

**Finding:** There is no violation of the Clean Water Act.

**ISSUE 11:** The appellant asserts that the decisions to approve the permits violate the Multiple Use and Sustained Yield Act by failing to manage the lands for the highest public benefit and by permitting activities which result in permanent impairment of the productivity of the land.

**Contention:** The appellant alleges that the proposed action fails to provide the combination (of land uses) that will best meet the needs of the American people....without impairment of the productivity of the land.

**Response:** The records demonstrate the Forest Service has monitored conditions on the allotments for forty years. On the Luna allotment, the ratings for soil, range and riparian conditions have steadily improved over that period. The other allotments have sufficient ground cover to protect soil resources on the majority of sites. The alternatives in each EA compare adjustments in the amount of grazing, its timing, grazing system, and class of livestock to evaluate other strategies. The decisions, as supported by the analyses, achieve the best combination of uses. Vegetative cover is improving or will improve over the allotments. Stream flow and ground cover characteristics indicate stable to improved watershed conditions exist, or will exist within 10 years, which will produce improved watershed conditions, high aquatic/ riparian habitat quality, and enhanced productivity of many wildlife habitats. Monitoring provisions are included in all alternatives to assist in validation or correction of the adopted strategies (Gallo Mountain Docs. 97, 98; East and West Demetrio Docs. 89, 90; Sanchez Docs. 104, 105; Spur Lake Docs. 110, 111; Luna Docs. 95, 96).

**Finding:** The IDT appropriately considered the effect of the proposed action on long-term productivity of the land and concluded that the inherent productivity of the land would be maintained and improved.

**Issue 12:** The EAs violate the Administrative Procedures Act.

**Contention:** The appellant assert, there exists as yet no information which would indicate that the proposed alternatives will remedy the admitted problems on the allotments.

**Response:** The records demonstrate that the selected alternatives will improve watershed and riparian conditions. The EAs display the effects of implementing the proposed actions and alternatives. The Responsible Official's decision rationale reflects consideration of the effects as disclosed in the EAs (Gallo Mountain Docs. 97, 98; East and West Demetrio Docs. 89, 90; Sanchez Docs. 104, 105; Spur Lake Docs. 110, 111; Luna Docs. 95, 96).

**Finding:** The Responsible Official made reasoned and informed decisions based on the analyses and has not violated the Administrative Procedures Act.