



File Code: 1570-1
Date: April 27, 2000

Adam Polley
Catron County Manager
Catron County
Reserve, NM 87830

Certified Mail-Return Receipt Requested
Z 360 317 007

Re: Appeals #00-03-00-0029-A215 Govina, #00-03-00-0030-A215 Corner Mountain, #00-03-00-0031-A215 Alexander, #00-03-00-0032-A215 Deep Canyon, #00-03-00-0033-A215 Eagle Peak, and #00-03-00-0034-A215 McCarty Allotment Decisions, Reserve Ranger District, Gila National Forest

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.

In your filing, you also appealed three additional decisions on the Glenwood District. My review decision concerning these appeals will be made at a later date because the decision dates differ.

BACKGROUND

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

McCarty Allotment, Alternative C, which authorizes incidental use (68 animal unit months).

Eagle Peak Allotment, Alternative D, which authorizes 90 head of cattle (cow/calf) to graze yearlong.

Alexander Allotment, Alternative C, which authorizes 220 head of cattle (cow/calf) to graze yearlong.

Corner Mountain Allotment, Alternative B, which authorizes 90 head of cattle (cow/calf) to graze from April 1 through July 31, August 1 through November 30, or complete rest in accordance with a 3-year modified, rest-rotation grazing management system. The Corner Mountain Allotment is a form of grass bank (swing allotment) available to permitted cattle from other allotments.

Govina Allotment, Alternative B, which authorizes 105 head of cattle (cow/calf) to graze yearlong.



Deep Canyon Allotment, Alternative E, which authorizes 228 head of cattle (cow/calf) to graze from November 1 through April 15 annually.

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 decisions 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.

The ARO also recommended; 1) the importance of adhering to utilization standards be emphasized in my decision and, 2) inconsistencies between the allotment decisions for Eagle Peak, and Alexander Allotments and the biological assessments of record be addressed in my decision.

APPEAL DECISION

After a detailed review of the records and the Appeal Reviewing Officer's recommendations, I am affirming the Responsible Official's decisions with instructions concerning the above named allotments, which authorize grazing and implementation of management actions.

By this letter I am instructing the Responsible Official 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. If monitoring indicates the established stocking rates cannot be sustained over time then NEPA analyses need to be initiated and further adjustments in management instituted.

I am also instructing the the Responsible Official to resolve inconsistencies between the decisions for Eagle Peak and Alexander Allotments and the biological assessments of record as follows: 1) within 30 days obtain concurrence from the Fish and Wildlife Service on the decisions for the Eagle Peak and Alexander Allotments; or 2) within 30 days issue new decisions for the Eagle Peak and Alexander Allotments which are consistent with the biological

assessments of record. The Responsible Official must provide documentation of compliance with these instructions to the Appeal Reviewing Officer.

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

Sincerely,

/s/ Dale Fabian (for)
JAMES T. GLADEN
Appeal Deciding Officer
Deputy Regional Forester, Resources

Enclosure

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

REVIEW AND FINDINGS**of the****Catron County Appeals****#00-03-00-0029-A215, Govina Allotment Decision****#00-03-00-0030-A215, Corner Mountain Allotment Decision****#00-03-00-0031-A215, Alexander Allotment Decision****#00-03-00-0032-A215, Deep Canyon Allotment Decision****#00-03-00-0033-A215, Eagle Peak Allotment Decision****#00-03-00-0034-A215, McCarty Allotment Decision**

In framing the issues the appellant made broad generalized statements without going into detail as to why the Responsible Official's decisions should be reversed. These statements have been grouped into three issues for response.

ISSUE 1: National Environmental Policy Act (NEPA) related.

Contentions:

- 1) No mitigation to the impact on the human dimension.
- 2) Objections to the selection of the preferred alternative as the action alternative.
- 3) No environmental impact statement was done to assess significant impacts.
- 4) No cumulative impacts were analyzed.
- 5) No analysis for the term of the permit for the human dimension.

Response: The NEPA sets 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, and organized through the scoping process. Significant issues may be used for alternative formulation, tracking effects, and/or developing mitigation measures or monitoring plans. After alternatives are developed, environmental effects are measured, described, and interpreted. The public is then given the opportunity to comment on the proposed action before the Responsible Official makes a decision.

A review of the records disclosed that the purpose and need and alternative development are described in detail in Chapters 1 and 2 of the environmental assessments. Factors related to the human dimension, i.e. local custom and culture and employment opportunity, were identified as

significant issues during the development of alternatives. The Responsible Official concluded that the decisions provide the best balance between improving resource conditions on the allotments and being responsive to social and economic issues. Effects on individual social, economic, and resource components of the environment and cumulative effects are discussed in detail in Chapter 3, Environmental Impacts. After considering the context and intensity of the proposed actions, the Responsible Official concluded there were no significant environmental effects and the preparation of environmental impact statements would not be necessary. The Responsible Official's rationale for choosing the preferred alternatives are clearly described in his decisions (Doc. 270).

The project records contain an extensive list of agencies and persons consulted, including the Catron County Commission, and responses to public comments.

Finding: The Responsible Official complied with the requirements of NEPA.

ISSUE 2: The appellant asserts that no civil rights impact analysis was completed.

Response: Civil rights impact analysis (CRIA) and civil rights impact statements (CRIS) are required when "major" policy actions are undertaken by the Forest Service. However, a site-specific NEPA planning process and decision for an allotment is not a "major" policy action.

The Responsible Official conducted assessments of the social and economic effects to local communities and the permittees as part of the analyses. Based on the EAs and FONSI's, the Responsible Official concluded there were no "major" federal actions requiring a CRIA or CRIS.

Finding: The social and economic effects to local communities and permittees were properly assessed and disclosed in the environmental assessments. The decisions made by the Responsible Official are not major policy actions, therefore, a CRIA and CRIS are not required.

ISSUE 3: Stocking levels.

Contentions:

- 1) Incomplete and unsubstantiated information on grazing utilization and forage production was used in the selection of the preferred alternative.
- 2) No current or up to date information was used in the grazing assessment for AUM.
- 3) Incorrect mathematical computations were used.

Response: The records disclose that professional judgement was used to integrate extensive production evaluations, range condition and trend, previous production utilization studies, precipitation records, existing resource data located in the Forest's Geographical Information System, and computer modeling capability into estimated forage capacity (Govina, Alexander, Deep Canyon, Eagle Peak, and McCarty Docs. 64, 81-84, 98-99, 113, 123,190-193; Corner Mountain Docs. 74-75).

Finding: The Region 3 Allotment Analysis Handbook (FSH 2209.21, R-3), provides broad guidelines for the collection and analysis of resource information to be used within the NEPA process. The best available information was used to conduct the analyses and make the decisions. Methodologies used by the interdisciplinary team as a basis for the Responsible

Official's decisions are within the scope of the direction contained within the Allotment Analysis Handbook.