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File Code: 1570-1/2200

Date: November 27, 2001

Jerry Thorson  
Arizona Wildlife Federation  
644 North Country Club Drive, Suite E  
Mesa, AZ 85204

**CERTIFIED MAIL -  
RETURN RECEIPT REQUESTED**

Re: Appeal #02-03-00-0003-A215, Government Mountain Allotment Decision, Williams  
Ranger District, Kaibab National Forest

Dear Mr. Thorson:

This is my review decision concerning the appeal you 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**

District Ranger Skalski issued a decision on August 24, 2001, for the Government Mountain Allotment. The decision resulted in the selection of the following alternative and authorization:

- Government Mountain Allotment, Alternative 2, which authorizes 600 head of yearling cattle to graze May 15 through September 30 annually.

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 this 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 recommended that the Responsible Official's decision 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 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 above-named 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/ Bob Leaverton (for)  
JAMES T. GLADEN  
Appeal Deciding Officer,  
Deputy Regional Forester,  
Resources

Enclosure

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

**REVIEW AND FINDINGS****of the****Arizona Wildlife Federation Appeal****#02-03-00-0003-A215, Government Mountain Allotment Decision**

**ISSUE 1:** The Forest Service failed to collect, monitor, and evaluate population trend data for pronghorn antelope, deer, elk, turkey and other Kaibab indicator species on the allotment.

**Contention:** The appellant contends the Forest Service must conduct an analysis of amount and quality of habitat and of animal population trends. The appellant argues the lack of population and trend data for management indicator species violates Forest Service regulations and constitutes an arbitrary and capricious decision.

**Response:** The Forest analyzed the effects the proposed action would have on Management Indicator Species and their habitats (AR 43, 47, 51, 73, 79). This analysis identified habitat conditions and population trends for the species potentially affected by the proposed action. Their analysis determined implementing the proposed action would improve the quantity and/or quality of the existing habitat conditions.

**Finding:** Contrary to the appellant's contention, the Forest did complete an analysis of Management Indicator Species habitat and population trends, as required by the National Forest Management Act, its implementing regulations, and Forest Service Manual Direction.

**ISSUE 2:** The Forest Service failed to do a cumulative effects analysis.

**Contention:** The appellant contends the Forest Service failed to consider the cumulative effects of the proposed action on soils, plants, and dependent wildlife. The appellant argues the Forest Service must include an analysis of the impacts to wildlife by the upcoming grazing decisions to be made on neighboring allotments.

**Response:** The EA considered past, present, and reasonably foreseeable actions along within the proposed action in analyzing cumulative effects to soils, plants and dependent wildlife (Doc. 73, pp. 19, 24-25, and 37-38). The EA considered potential cumulative effects with two large (5<sup>th</sup> code) watersheds, which include the neighboring allotment (Doc. 73, p. 19; and Doc. 46).

**Finding:** The record includes consideration of past, present, and reasonably foreseeable actions and their cumulative effects on the components of the human environment.

**ISSUE 3:** The analysis does not contain a reasonable range of realistic alternatives.

**Contention:** The appellant contends the Forest Service did not consider an Arizona Wildlife Federation alternative that allowed 25% of the plants to complete their life cycle without being grazed.

**Response:** "[A]n agency must look at every reasonable alternative, within the range dictated by the 'nature and scope of the proposed action' and 'sufficient to permit a reasoned choice.'" Idaho Conservation League v. Mumma, 956 F.2d 1508, 1520 (9th Cir. 1992). For an alternative to be reasonable, it must meet the stated purpose and need and must address one or more issues. The formulation of alternatives is driven by significant issues identified in scoping [40 CFR 1501.2(c)].

The EA clearly defines the nature and scope of the proposed action and alternatives to the proposed action, through descriptions of the purpose and need, objectives, desired conditions, decision to be made, and significant issues (Doc. 73, pp. 4-8). The range of alternatives is consistent with that defined scope (Doc. 73, p. 9). The EA discloses consideration of the alternative suggested by Arizona Wildlife Federation that allowed 25% of the plants to complete their life cycle without being grazed; however, it was determined that alternative 2 adequately addressed this issue (Doc. 73, pp. 8-9, 12, 22-24).

**Finding:** The Responsible Official appropriately defined the scope of the analysis and analyzed a range of reasonable alternatives within that scope.

**ISSUE 4:** The economic analysis is flawed.

**Contention:** The appellant contends the figures used by the Forest Service are inconsistent, contradictory, and incorrect. The appellant argues there is no way the net income for the permittee will be \$74,475 per year and that the present net value is erroneous.

**Response:** The Kaibab National Forest used "Quick-Silver," which is essentially a database application, to analyze financial and economic measures pertaining to the project. This program calculates Present Net Value, Benefit/Cost Ratio, Net Annual Equivalent, and other economic measures. Quick-Silver was developed and is supported by the Forest Service.

Quick-Silver accounts for discounted revenues and costs associated with a project allowing for temporal analyses to occur. The Kaibab National Forest used average market based prices and weights for calculating values and costs associated with buying and selling livestock. The action alternatives within the analysis consisted of a yearling operation, which simplifies the model, as costs and benefits associated with livestock purchase and sale are realized within the same year. The project file contains detailed information about the purchase of yearlings at the start of the season, including average weight and base year price per pound. The project file also contains information about projected weight gain during the period of operation and the average price by weight class at the projected time of sale.

The analysis includes a cost associated with the loss of cattle due to death or illness. Other costs, such as range improvements, range administration, and range maintenance, were estimated based upon predicted contractor price and past administration costs.

A discount rate of four percent was used in the analysis consistent with Forest Service Handbook direction (FSH 1909.17, 15.4). The discount rate, timing of improvements, and differences in improvements between alternatives account for the differences in values presented for Present Net Value and Net Annual Equivalent by alternative.

**Finding:** The Government Mountain EA is compliant with requirements for economic efficiency analysis as required by the Forest Service directive (FSM 1970, FSH 1909.17). The Kaibab National Forest followed acceptable procedures for conducting the analysis and for determining market values and costs associated with the project. Assumptions associated with modeling economic impacts were used consistently between alternatives. Costs and benefits were calculated using a standard discount rate and were displayed in base year dollars, as outlined in manual and handbook direction.

**ISSUE 5:** Domestic livestock grazing is not an appropriate use of the allotment.

**Contention:** The appellant contends there has never been any justification for livestock use on the allotment. The appellant argues 36 CFR 219.3 requires the Forest Service to weigh the appropriateness of applying certain resource management practices to the project area in question.

**Response:** The section of the regulation cited by the appellant is a list of definitions used in forest planning. It is apparent the appellant is referring to the definition of suitability, which is defined as “The appropriateness of applying certain resource management practices to a particular area of land...” The regulations found at 36 CFR 219 do 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 the National Forest Management Act 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 (Kaibab Forest Plan EIS Appendix B, Description of Analysis Process).

**Finding:** There is no requirement to conduct a suitability analysis when conducting a NEPA analysis concerning the management and permitting of livestock grazing at the project level. 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.