



United States
Department of
Agriculture

Forest
Service

Southwestern
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File Code: 1570-1

Date: March 9, 1999

Jeff Burgess
1922 East Orion Street
Tempe, AZ 85283

Certified Mail - Return Receipt Requested
P 556 955 289

Re: Appeal of the National Allotment (#99-03-00-0013-A215) Decision to Authorize and Manage Livestock Grazing

Dear Mr. Burgess:

This is my review decision on the appeal you filed regarding a decision to authorize and manage livestock grazing on the National Grazing Allotment.

DECISION AND RESPONSIBLE OFFICIAL

On December 2, 1998, District Ranger Mike Baca, as the Responsible Official (RO) issued a Decision Notice concerning the implementation of "Alternative B" on the National Grazing Allotment, Guadalupe Ranger District (RD), Lincoln National Forest (NF). This decision is subject to administrative review under 36 CFR 215 appeal regulations.

My review of this appeal has been conducted pursuant to, and in accordance with 36 CFR 215.17. I have thoroughly reviewed the appeal record, including the recommendations of the Appeal Reviewing Officer regarding the disposition of this appeal. My review decision, hereby, incorporates by reference the appeal record.

Pursuant to 36 CFR 215.16, on March 2, 1999, Lee Thornhill, District Range Staff, contacted you on behalf of the RO to offer an opportunity to seek informal disposition of your appeal. The contents of the appeal were discussed, but no resolution was achieved during the telephone conversation, therefore, formal disposition of the appeal has proceeded.

APPEAL ISSUES AND FINDINGS

Appellant contends that: 1) The RO's decision violates 36 CFR 215.6(d), in which comments received from the public during the notice and comment period should be attached as an appendix to the Environmental Assessment (EA); 2) The RO's decision does not comply with FSM 2214.04b, R3 Supplement #114, which requires a backup management plan for a Holistic Resource Management application.



The appellant's issues are addressed as follows:

ISSUE 1: The RO's decision violates 36 CFR 215.6(d), in which comments received from the public during the comment period should be attached as an appendix to the EA;

Contention: Appellant contends that the RO did not respond to comments received from the EA 30 day comment period. The appellant contends that a response is required and should be made a part of the EA as well as notifying interested parties as to the disposition of their comments.

Response: The RO prepared responses to comments received from the EA 30 day comment period. The record reflects that the responses are attached to the EA as "Appendix C" (Document 26). There is no requirement, according to 36 CFR 215 regulations, that the RO must notify interested parties as to the disposition of comments received. The agency has strived to informally make it a common practice that the interested parties receive a copy of the response to comments as an attachment to the DN/FONSI. The RO has met the requirements of 36 CFR 215.6(d).

Finding: The RO is affirmed in regard to the appellant's issue.

ISSUE 2: The RO's decision does not comply with FSM 2214.04b, R3 Supplement #114, which requires a backup management plan for a Holistic Resource Management system .

Contention: Appellant asserts that the "High Intensity, Low Frequency" (HILF) management system identified as part of the selected alternative is similar to the Holistic Resource Management (HRM) system. The appellant also contends that because HILF is similar to HRM, the RO should have developed a back-up management plan as required by Forest Service manual direction.

Response: The appellant is incorrect in assuming that a HILF system is similar to HRM. HILF is not similar to HRM in any form. HILF, as being applied in this situation, is designed to achieve a desired result of moderate grazing not to exceed 40% utilization in key areas to be followed by adequate rest and recovery of grazed pastures. In relation to the appellant's claim, the provisions of FSM 2212.04b, R3 Supplement 2200-91-1 do not apply in this situation. The selected alternative contains mitigation measures, utilization standard, and monitoring requirements (EA, Doc. 25) to achieve the management objectives. Data received from monitoring can be used to make annual adjustments to the grazing system or numbers, as per the authority contained in Parts 1 and 2 of the term grazing permit. The management system proposed is a refinement of the current management, incorporating range improvements and intensifying livestock management practices.

Finding: The RO is affirmed on this issue.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer (ARO) has 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 are identified; (c) the proposal and decision is 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 record and the ARO recommendations, I affirm the Responsible Official's decision concerning the National Allotment (Lincoln NF) grazing management actions.

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

Sincerely,

/s/ John R. Kirkpatrick

JOHN R. KIRKPATRICK
Appeal Deciding Officer
Deputy Regional Forester, Resources

Enclosure

cc:
Forest Supervisor, Lincoln NF
Director, Rangeland Management, R3
Director, EAP, R3
Appeals and Litigation, R3