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Department of
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**Forest
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Third File 1570-1
Code:

Date: May 19, 1998

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Certified Mail - Return Receipt
Requested

Jeff Williamson
155 W. Third St.
Tempe, Arizona 85281

RE: Dugas Grazing Allotment Appeal #98-03-00-0020-A215
Prescott National Forest

Dear Sirs:

This is my review decision on the appeal you filed (#98-03-00-0020-A215) regarding the District Ranger's decision to implement Alternative A in the Environmental Assessment (EA) for the Dugas Grazing Allotment on the Verde Ranger District (FS).

On February 17, 1998, District Ranger Thomas Bonomo issued a Decision Notice concerning the implementation of an alternative that permits livestock grazing and adjusts the existing grazing management on the Dugas Allotment. The decision is subject to administrative review under the 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.

As directed in 36 CFR 215.16, the District Ranger contacted the appellant to discuss informal disposition of the appeal and scheduled a meeting date. The record reflects that a meeting was scheduled and it also reflects the Appellant cancelling the meeting on April 20, 1998, by telephone. Informal disposition of this appeal was not accomplished.

Arizona Game and Fish Department (AGF) requested interested party status on April 17, 1998. AGF was granted interested party status and provided comments on April 21, 1998, which were considered in the appeal review process. Some of the comments offered by AGF were relative to the appeal points subject of this review. Four of the comments were similar to comments provided by AGF during the 30 day notice and comment period. Those comments were considered during the NEPA analysis, resulting in part, supplements being added to the EA.



APPEAL ISSUES AND FINDINGS

Appellant contends that: 1) EA fails to analyze the adequacy of habitat for native invertebrate and vertebrate species; 2) National Environmental Policy Act (NEPA) process was not followed (Insufficient consultation occurred with AGF); EA fails to analyze a range of alternatives; EA lacks disclosure of impacts; no evidence to support assertions; 3) the EA contains no monitoring plan; 4) it is not clear how stocking rates were established; 5) it is not clear that the current rest-rotation is sufficient to compensate for periods of grazing; 6) the analysis of riparian areas is deficient; 7) it is not clear that strategies were considered that use fire as an alternative to grazing to promote plant health; 8) the EA does not contain sufficient information to allow a reviewer to judge the value of the proposed action; 9) the input from the Prescott National Forest Friends does not appear to have been incorporated into the decision; 10) the decision is in conflict with observations and research of the AGF; 11) the decision does not specifically identify recreation carrying capacity or its management in ways that correlate with ecological functioning and wildlife habitat and viability.

The appellant's issues are addressed as follows:

ISSUE 1: EA fails to analyze the adequacy of habitat for native invertebrate and vertebrate species.

Contention: The appellant contends that since pronghorn antelope is the only species identified as a "Management Indicator Species " (MIS) for desert grassland habitats, then the EA is inadequate in disclosing affects to wildlife species in general, according to 36 CFR 219.20(a). (Appeal pg. 4).

Response: The 36 CFR 219 regulations that appellant cites are relevant to overall forest planning and not site-specific project planning. Forest plans provide a broadscale assessment of habitat for threatened, endangered, and sensitive species. The regulation cited {36 CFR 219.20(a)}, refers to a suitability determination which is a Forest Planning issue and outside the scope of this analysis. The pronghorn antelope is an MIS species identified in the Forest plan and the EA adequately addressed its relationship in regards to other wildlife species. In addition, Documents 86 and 87 (reviewed by you prior to your appeal) supplemented the project record and EA, which analyzed the effects of grazing on 11 avian, 2 reptiles, 2 amphibians, 3 fish, and 1 invertebrate species. The record shows that an adequate analysis of other wildlife species affected by grazing was conducted and considered in the decision.

Finding: I find that the record shows that an adequate analysis of other wildlife species affected by grazing was conducted and considered in the decision. The Responsible Official is affirmed in regard to this issue.

ISSUE 2: NEPA process was not followed (insufficient consultation occurred with the AGF; EA fails to analyze a range of alternatives; EA lacks disclosure of impacts; no evidence to support assertions).

Contention: Appellant contends that the AGF was inadequately consulted because evaluations by Department personnel disagreed with those of FS personnel, and that FS is not providing for fawning habitat near waters.

Appellant contends that a range of alternatives was not considered because other grazing strategies were not analyzed. Appellant contends that the EA did not disclose real impacts to the resources. Appellant contends that FS lacks evidence to support conclusions related to grazing effects.

Response: The record indicates that AGF had been contacted throughout the analysis process on 5 separate occasions, therefore, having opportunity to comment and provide supporting evidence for their contentions. Document 67 (September 22, 1997) from AGF stated their concerns regarding utilization/standards, site potential, riparian management, and other issues. AGF did not present any data to support claims made during the EA comment period to compel any change in the analysis process. The record indicates (Documents 47,86,87), as well as the Decision document (Document 92), that utilization standards would be applied which are expected to provide for plant health and wildlife needs.

Forest Service direction, concerning analyses of this nature, requires that as a minimum, a no action, current situation, and a proposed action should be evaluated in the EA. Additional alternatives may be considered to address unresolved issues. The record shows (Documents 47,92) that 6 alternatives had been considered, of which three were dropped from detailed analysis. This process is consistent with law, regulation and policy. The record indicates (Document 47) rationale that supports dropping alternatives due to existing ecological conditions being near site potential for the soils and climatic zone of the affected area. Data collected by FS soils and vegetation professionals followed standard protocols and validated existing conditions in relation to site potential. AGF expressed an unsubstantiated opinion of resource conditions for which no data was presented.

NEPA requires that the alternatives evaluated in detail be considered for their effects on vegetation, soils, water, wildlife, air, and other concerns such as heritage resources and economics. The record indicates that the effect of grazing on the above resources was conducted (Documents 47, 86-89, 91) consistent with policy and regulation. Supplements to the EA were made as a result of the comments received during the 30 day comment period. In addition, Supplement A (Document 87) to the EA cites three studies that substantiate the relationship between tobosa grass and its response to grazing.

Finding: I find that the record shows that the Responsible Official conducted a proper NEPA process which disclosed effects to the environment and made reasonable efforts to involve the public, including the AGF, in the NEPA process. The Responsible Official is affirmed in regard to this issue.

ISSUE 3: The EA contains no monitoring plan.

Contention: The Appellant contends that a monitoring plan is required.

Response: NEPA does not require a monitoring plan be developed and attached as part of the EA. Monitoring plans are typically associated with implementation of the selected alternative identified in the decision document through such instruments as an Allotment Management Plan.

Finding: A monitoring plan that is specifically documented in an EA is not required and does not affect the validity of the analysis or decision. The Responsible Official is affirmed in regard to this issue.

ISSUE 4: It is not clear how stocking rates were established.

Contention: The Appellant is uncertain how the stocking rate was developed, carrying capacity for the area determined, and if stocking rate will be within capacity.

Response: The record reflects the estimated capacity and the stocking rate for the allotment at 160 head yearlong (Document 47), with provisions for variable numbers exceeding 160 head under certain circumstances. Documents 23 and 87 in the record states the estimated capacity and recommended stocking rate. The use of a permit with variable numbers is inappropriate for this situation. Grazing permits for variable numbers and seasons are authorized by policy in situations calling for alternating use between other land and national forest administered land (FSH 2209.13, section 15.12b), however, such is not the case in this situation.

Finding: I find that the record contains sufficient documentation to support a permit for 160 head of livestock, however, use of the variable number provision is inappropriate.

ISSUE 5: It is not clear that the current rest-rotation is sufficient to compensate for periods of grazing.

Contention: Appellant is uncertain that the proposed management system will be effective in providing for plant and soil health.

Response: Document 23 in the record, as well as the EA (Document 47) reflects the current management situation of nearly meeting site potential for the soils based on a four pasture rest-rotation system. The analysis indicates that the proposed action is intended to add a fifth pasture, therefore, providing additional flexibility to the management system and less grazing time per pasture, while still providing total year's rest at alternating time periods.

Finding: I find that the record contains documentation of the assessment of effects and likely results of an action which is expected to achieve desired conditions. The Responsible Official is affirmed in regard to this issue.

ISSUE 6: The analysis of riparian areas is deficient.

Contention: Appellant contends that the EA has not adequately addressed the riparian management issue.

Response: Document 47 (EA) identified riparian management as an issue and the proposed action contained actions to reduce vehicular impacts to riparian areas. It also identified that monitoring of riparian areas would be an ongoing activity. The EA described the existing condition as having an overall good rating with a downward trend within the Little Ash Creek. The EA noted that a range of functional to dysfunctional ecosystems existed, although the existing adverse impacts from grazing are localized.

Documents 86 and 87 (Wildlife Report and Supplement A to the EA) addressed the effects of grazing on riparian vegetation and associated riparian obligate wildlife species. The Supplement recognized affects on riparian areas due to grazing are possible. A combination of rest and locating a water source in the uplands is expected to mitigate adverse impacts in localized areas, which in turn would improve wildlife habitat in riparian areas.

Finding: I find that the record contains sufficient documentation of the environmental effects associated with riparian areas. The Responsible Official is affirmed in regard to this issue.

ISSUE 7: It is not clear that strategies were considered that use of fire as an alternative to grazing to promote plant health.

Contention: Appellant contends that the use of fire in managing vegetation to meet desired conditions was not adequately addressed.

Response: The EA (Document 47) did address the current use of fire within the affected area as part of the existing condition. The EA noted successful use of fire to increase forage productivity of the tobosa grasslands. The relationship of fire to grassland management was identified as a continuing activity that is outside the scope of the analysis (Document 92). The purpose and need, as well as the decision to be made, defines the scope of the analysis, therefore, a decision regarding use of fire was clearly not intended to be a result of this analysis.

Finding: I find that the record contains documentation defining the scope of the analysis which clearly excluded fire management activities from this analysis. The Responsible Official is affirmed in regard to this issue.

ISSUE 8: The EA does not contain sufficient information to allow a reviewer to judge the value of the proposed action.

Contention: The Appellant contends that a thorough analysis has not been completed to adequately arrive at a decision.

Response: The record reflects compliance with NEPA and FS regulations and procedures associated with conducting an appropriate assessment of the resource conditions upon the Dugas Allotment and the projected consequences of actions to be taken. The record also indicates that an EA (Document 47) was prepared and made available for 30 day comment, and based on comments received, the EA was supplemented and the decision was made in consideration of all the information contained in the analysis and the project record. The record reflects that a well informed decision was made.

Finding: I find that the record contains documentation of a thorough analysis in accordance with NEPA and the rationale for a decision is clear. The Responsible Official is affirmed in regard to this issue.

ISSUE 9: The input from the Prescott National Forest Friends (PNFF) does not appear to have been incorporated into the decision in respect to implementation of Goal #4 of the Agua Fria Grassland Coalition document.

Contention: Appellant contends that the FS did not give adequate consideration to pursuing opportunities for enhancing wildlife habitat and diversity.

Response: PNFF was contacted during the NEPA process (Document 22) and provided comments to the EA (Document 63). NEPA requires that the analysis consider relevant issues and alternatives, although, it is the Deciding Official that determines the extent and mix of actions to arrive at the desired conditions. An informed decision was made and it was determined that the proposed action would provide habitat to MIS species and habitat diversity. The amount of habitat, diversity or maximizing these outputs were not identified as issues in this analysis. The issue of enhancing wildlife habitat and diversity was addressed in the EA, supplements, and project record (Documents 47,86,87,88,91).

Finding: I find that the record contains documentation of the benefits to wildlife relative to the desired conditions and issues identified in the EA. The Responsible Official is affirmed in regard to this issue.

ISSUE 10: The Decision is in conflict with observations and research of the Arizona Game and Fish Department.

Contention: The Appellant contends that the Decision was not based on data and failed to consider AGF data.

Response: The record (Documents 2,4,9,12,13,20,21,23,28,40,41,43,43a,73,79,80a,89,91,95) indicates that the District collected data during the analysis. The record (Project Record Index) indicates 18 entries that related to data/information collected on various aspects of the resource conditions.

AGF had ample opportunity to provide input into the analysis process and no entry was made into the record of any AGF collected data (Document 67). The record supports the Decision made by the Deciding Official.

Finding: I find that the record contains documentation that sufficient and appropriate data was collected and used as part of the analysis and decision making rational. The Responsible Official is affirmed in regard to this issue.

ISSUE 11: The Decision does not specifically identify recreation carrying capacity or its management in ways that correlate with ecological functioning and wildlife habitat and viability.

Contention: Appellant contends that the Decision did not address recreation management in this analysis.

Response: The project description as documented in the purpose and need and the decision to be made (Document 47) does not include issues related to recreation management. Scoping revealed only one significant issue, impacts on the Agua Fria River. The Decision also reflected actions taken by the District to address recreational impacts along Little Ash Creek which were considered as "Ongoing Activities, Outside the Scope of this Analysis" (Document 92).

Finding: I find that the record contains documentation that defined the scope of the analysis and recreation management was clearly not within the scope. The Responsible Official is affirmed in regard to this issue.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer (ARO) has recommended that the District Ranger's decision be affirmed. The ARO found that the decision was consistent with policy, direction, and supporting evidence, with one exception. The exception is that the ARO recommends that a permit be issued for a maximum of 160 head of cattle yearlong without any provision for variable numbers.

APPEAL DECISION

After a detailed review of the records and the ARO recommendation, I affirm the District Ranger's decision to implement the Dugas Grazing Allotment AMP (Alternative A), with the following condition: the term grazing permit be issued for a maximum of 160 head of cattle yearlong without the provision of variable numbers. 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: Prescott NF
C. Gonzalez
EAP
RGE
Arizona Game and Fish Department, Phoenix