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Forest  
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File Code: 1570-1/2200

Date: September 29, 2003

Severiana Salazar and Sons  
USA Ranch  
Canones Route  
Abiquiu, NM 87510

**CERTIFIED MAIL – RETURN  
RECEIPT REQUESTED**

RE: Appeal #03-03-10-0005-A251, Youngsville Allotment, Coyote Ranger District, Santa Fe National Forest

Dear Ms. Severiana Salazar and Sons:

This letter documents my second-level review decision of the appeal you filed on July 29, 2003. Your appeal is in regard to District Ranger Rodriquez' (Deciding Officer) April 3, 2003, annual operating instructions for the Youngsville Allotment (Doc. 8) that reduced permitted head months by 50%, including a 25-day delayed entry onto the allotment and removal of permitted livestock 15 days prior to the end of the grazing season. Your appeal was filed and has been processed under the provisions of 36 CFR 251, subpart C.

### **BACKGROUND**

Your first-level appeal was filed on May 13, 2003 (Doc. 9). On May 20, 2003, Acting Forest Supervisor Zepeda (Reviewing Officer) notified you that your appeal was being consolidated with appeals from other Youngsville Allotment permittees appealing the same decision (Jacob A. and Katherine G. Salazar) (Doc. 12). On May 20, 2003, the Reviewing Officer also notified you that your request for an oral presentation was granted and scheduled it for 9:00 am, on Wednesday, May 28, 2003, at the Forest Supervisor's Office in Santa Fe (Doc. 12).

In accordance with the provisions of 36 CFR 251.94, the Deciding Officer completed his written responsive statement to your appeal on June 16, 2003 (Doc. 17). On July 3, 2003, you filed a written reply to the responsive statement with the Reviewing Officer. Based on his review of the record, the Reviewing Officer affirmed the Deciding Officer's decision on July 15, 2003 (Doc. 20).

Your second-level appeal was received in this office on July 28, 2003. By letter dated August 6, 2003, I notified you that a decision on your appeal would be made within 30 days from the date the appeal record was received from the first-level Reviewing Officer.



## **POINT OF APPEAL**

My review of this appeal was confined to the substantive points raised in the appeal, the appeal record, federal regulations, and the policies and operational procedures, as set out in the directives system of the USDA Forest Service. The first-level Reviewing Officer's decision letter responded to 15 appeal points that he had identified through review of the notice of appeal and clarification of issues during the oral presentation.

Based on a review of your appeal, the appeal record, and the Deciding Officer's decision to reduce permitted head months by 50% on the Youngsville Allotment during the 2003 grazing season, I have concluded that the substantive point that needs to be addressed in my review is the requirement to adjust the permitted head months for the 2003 grazing season.

**ISSUE 1:** There is no basis for the District Ranger's decision.

**Contention:** The appellant contends that the "...reductions imposed by the District Ranger in the 2003 AOI were not scientifically based; they were subjective and there was no range data provided to support the actions of the Forest Service." Rather, "The reductions were imposed as punishment for lobbying our congressional delegation in 2002 and for being outspoken in expressing our true feelings ...." The appellant argues the worst-case scenario related to drought was used as a scare tactic to soften the permittees position if they objected to any reductions in 2003. Additionally, the appellant contends resource conditions in 2003 were substantially better and do not warrant the reductions imposed.

**Discussion:** On January 17, 2003, Forest Supervisor Atencio sent a letter to all Santa Fe National Forest grazing permittees expressing his concern for the lack of winter precipitation. In his letter, Supervisor Atencio stated measures would need to be taken during the 2003 grazing season to allow for plant recovery. Supervisor Atencio went on to emphasize that "Where we have allotments that are in low seral condition, or showing stressed vegetation conditions we may require additional reduction in stocking to allow full recovery" (Doc. 6).

During February 2003, an analysis of projected rangeland conditions on the Youngsville Allotment for the 2003 grazing season was made using monitoring data from 2002, trends in soil cover on the Youngsville Allotment, and projected forage growth. Based on this analysis, initial recommendations were to permit a maximum of 24% of permitted head months for the 2003 grazing season (worst-case scenario) (Doc. 7). However, on April 4, 2003, the Deciding Officer adjusted the head months upward to 50%, based on more favorable projections for forage growth (Doc. 8). Additionally, in his Responsive Statement, the Deciding Officer states he changed the entry date from June 15 to June 5 based on a range readiness inspection. He also states, "We have been very liberal in working with the much more severe reductions that last year's utilization grazing data and continuing Standard Precipitation Index (SPI) suggested" (Doc. 17).

The Climate Prediction Center (NCEP/NWS/NOAA) tracks broad-scale conditions relating to drought. Although these conditions may vary from site to site, they are a reliable indication of precipitation patterns and potential affects thereof. The Climate Prediction Center defines drought through the Standardized Precipitation Index (SPI). The SPI compares recent precipitation values to long-term historical norms to determine the dry or wet condition of a particular area. A drought event occurs any time the SPI is continuously negative and reaches the intensity of -0.75 or less. A drought event ends when the SPI becomes positive.

The Southwestern Region is in an unprecedented period of a prolonged dry weather pattern, on a scale not experienced since mid-1950. For the 12-month period ending May 31, 2002, the statewide average precipitation for New Mexico was the sixth lowest of the past 107 years (June through May periods). For the winter 2001-2002, precipitation was the lowest on record. This general lack of moisture resulted in a statewide precipitation average of 60 percent below normal.

The Youngsville Allotment falls within the Northern Mountains Climatic Division of New Mexico. Beginning around January 1999, the SPI in the Northern Mountains Division began to fall below  $-0.75$  (moderately dry) and reached a low of approximately  $-1.9$  (very dry) the fall of 2002. By January 2003, the SPI had returned to near normal. However, the SPI subsequently began to fall again, reaching a low of approximately  $-2$  (extremely dry) by the end of July 2003.

Drought has a pronounced impact on herbaceous vegetation. Rangeland plants are dependent on soil moisture for survival and are usually affected by lack of precipitation **early** in the drought cycle. Lack of adequate soil moisture affects virtually every physiological process in plants, often resulting in a loss of plant vigor and, in extreme cases, plant mortality. Drought conditions that result in a reduction of vegetative ground cover can lead to increased soil erosion, a loss of site productivity, and degradation of water quality. The record shows that the trend for ground cover on the Youngsville Allotment is down (Doc. 7).

The Southwestern Region of the Forest Service follows the Principles of Drought and Range-Livestock Management published in 1999 (Rangeland Management Before, During, and After Drought) by Larry Howery, Assistant Rangeland Management Specialist, School of Renewable Natural Resources, University of Arizona, College of Agriculture. The record reflects Forest Supervisor Atencio attached a copy of Mr. Howery's publication to his January 17, 2003, letter to all Santa Fe National Forest grazing permittees (Doc. 6). Mr. Howery, among other management decisions, recognizes the need to adjust annual stocking rates and provide for recovery of plant vigor following the return to normal precipitation patterns. Mr. Howery concludes, "There is no cookbook approach for proper drought management. It really boils down to the fact that sound range management practices that sustain or improve range condition will ultimately result in good drought management. Well-planned grazing practices that promote **conservative forage use** while sustaining high vigor of desirable plants is good insurance against drought."

**Finding:** Based on the record, it is apparent that the Deciding Officer's decision to reduce the head months of permitted use on the Youngsville Allotment during the 2003 grazing season was based on the need to provide for the protection of rangeland resources due to drought conditions and subsequent reduced levels of available forage. There is nothing in the record to indicate that the Deciding Officer has not followed the principles of sound rangeland management or that he has not made a reasoned decision. Part 2, Section 8(a), (b), (c), and (d) of the grazing permit clearly provide the authority and obligation of the Forest Officer in charge to issue annual instructions and allow grazing only at levels in accordance with the need to avoid damage to resources.

**DECISION**

In these times of extended drought, we are sympathetic to and understanding of livestock operators needs for forage. Ranchers adapting to drought conditions accompanied by economic pressures caused by use reductions find this to be a very difficult time. Significant reductions in livestock use have occurred throughout the Southwestern Region in response to drought, because in many situations there is inadequate forage to support the normal levels of permitted livestock use. Continued use at normally permitted levels would impair the short- and long-term health of rangelands.

The Forest Service is being as flexible as possible in allowing changes in use, while making sure our decisions are consistent with good land stewardship. We will continue to review and assess viable options on a case-by-case basis with permittees, universities, Cooperative Extension Agents, and other third parties in an effort to minimize the impact on the livestock industry in the Southwestern Region.

After a review of the appeal record, I find that the Deciding Officer's decision is in conformance with applicable laws, regulations, policies, and procedures. I find no evidence indicating the Deciding Officer has acted in an arbitrary and capricious manner. The Deciding Officer's decision to adjust the level of stocking on the Youngsville Allotment during 2003 is affirmed.

This decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 251.87(e)(3)].

Sincerely,

/s/ Abel M. Camarena  
ABEL M. CAMARENA  
Appeal Reviewing Officer,  
Deputy Regional Forester

cc: Francisco B Sanchez, David M Stewart, Mailroom R3 Santa Fe, Christina Gonzalez