



**United States  
Department of  
Agriculture**

**Forest  
Service**

**Tonto  
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Forest**

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File Code: 1570-1

Date: July 28, 2000

Dorothy Cline Wells Trust  
ATTN: John Stephen Cline  
P.O. Box 308  
Tonto Basin, Arizona 85553

Certified Mail - Return Receipt Requested

Re: Appeal #00-03-12-0004-A251, Tonto Basin Allotment, 2000 AOI, Tonto Basin Ranger District, Tonto National Forest

Dear Mr. Cline:

This letter constitutes my review and decision on your appeal which we received March 28, 2000. Your appeal is regarding Ranger Tina Terrell's March 14, 2000 decision to amend your Annual Operating Instructions (AOI) and require the removal of all livestock during the year 2000. Ranger Terrell's decision did not affect your term grazing permit.

In your appeal you requested a speedy decision on your request for stay or an appointment for an oral presentation. I assume you wanted a ruling on the stay before the deadline for livestock to be removed from the allotment. You were asked to remove your livestock from the Tonto Basin Allotment by May 1, 2000, and I denied your stay request April 7, 2000. I understand you have removed your livestock from the allotment and your interest in the oral presentation was to avoid having to do that. However, we have tried to contact you to determine if you were still interested in scheduling an oral presentation. We left telephone messages for you to determine if you still wanted to make an oral presentation. Since we did not receive a response, I have decided to close and review the appeal record.

I have reviewed the appeal points presented in your March 28, 2000 letter according to the provisions of the appeal regulations in 36 CFR 251.99. My review has been conducted in full consideration of the entire appeal record, federal statutes, and policies and operational procedures set out in the directives system of the USDA Forest Service.

**Points of Appeal:**

The following is my review of the points in your notice of appeal: These are the same appeal points identified in the District Ranger's response statement, however, I combined her appeal point 2 and 3.



***Your Appeal Point 1: “This decision will totally ruin me financially.”***

***Response to Appeal Point 1:***

The District Ranger had sufficient reason to be concerned with the heavy grazing impacts on natural resources because of extremely dry conditions, lack of forage, and heavy utilization on remaining forage. Livestock numbers were reduced on practically all allotments on the Tonto National Forest because of drought, and many grazing permittees removed all their livestock from the National Forest on their own initiative. The district ranger has the authority and legal responsibility to assess the rangeland and resource conditions and protect these resources from long term impairment. While the objective is to allow for an economically profitable operation, this is dependant on ensuring the natural resources are being properly managed and protected.

***Your Appeal Point 2: “This decision removes cattle from areas that have not been over-utilized and have been assessed in the monitoring process...”***

***Response to Appeal Point 2:***

The record does not contain adequate information to demonstrate whether or not cattle are being removed from some areas that have not been over utilized. However, the District Ranger’s response supports the conclusion that poor distribution of livestock has caused heavy utilization in key areas on the Allotment. The monitoring reports show that 100% of the meristems on the cottonwood, velvet ash and desert hackberry were grazed in Reno Creek. Although the deer grass was not grazed in Lambing Creek, more than 60% use was measured on sedge. The report also shows no perennial grasses or palatable woody vegetation were present in the monitoring plot in Park Creek.

The monitoring reports were conducted in the Spring and Summer of 1999, which was almost a year from the time of the District Ranger’s Decision. With adequate precipitation, and good distribution of livestock, the conditions could have recovered by March of 2000. However, the District Ranger’s March 14, 2000 decision was based severe drought conditions and low forage production which was continuing to cause heavy use in riparian areas and uplands. The severity of the drought was not well documented in the record, however, it is common knowledge that the drought has severely impacted the Tonto National Forest for the past two to five years. A testimony to widespread severity of the drought is Governor Hull’s declaration of emergency drought conditions for Arizona for 1999 and 2000. Locally, the severe drought conditions were addressed by many grazing permittees on the Tonto Basin District by participating in the emergency drought relief program in order to receive financial compensation for removing their livestock from the National Forest.

Poor production and heavy utilization has been observed in key areas on the Tonto Basin Allotment for several years, as indicated in the August 1995 Environmental Assessment. Although an allotment management plan was prepared to address this problem, it has not been implemented and continuous yearlong grazing has been continued.

***Your Appeal Point 3. “This pasture is in use in conjunction with two other pastures and is readily isolated by fences and natural boundaries that are already in place. Cattle can be moved/removed easily.”***

***Response to Appeal Point 3:***

The District Ranger’s responsive statement and appeal record shows that allowable utilization levels were exceeded in key areas where livestock have historically grazed. With low levels of production and generally heavy utilization levels on the allotment, fencing could not be expected to resolve the problem in a short period of time.

***Your Appeal Point 4. “The Tonto Creek monitoring is being assessed as having very little riparian vegetation. This is ludicrous and untrue.”***

***Response to Appeal Point 4:***

Intensive inventories have occurred in Tonto Creek as a result of the Tonto Creek Riparian Project. The Tonto Creek Riparian Unit was established as a special management unit with the goal of achieving recovery of the degraded Tonto Creek riparian communities to the point where they approximate their ecological potential, and to mitigate the loss of 460 acres of riparian habitat at Roosevelt Lake and Lake Pleasant because of inundation by water when the dams were raised. Monitoring has shown that the goal was met by increasing the riparian area to approximately 654 acres. The remainder of the Tonto Creek area outside the Tonto Creek Riparian Unit is classified as semi-desert shrubs with very little or no perennial, herbaceous plants available.

***Your Appeal Point 5. “No grazing is done in here (Tonto Creek) at this time, but the area can be further isolated from the Fly Catcher area by a fence some two miles north of present non-access fence, part of which is already in place.”***

***Response to Appeal Point 5:***

Grazing is allowed in Tonto Creek except for the lower portion of the TCRU where occupied habitat for the southwestern willow flycatcher exists.

***Your Appeal Point 6. “The Reno and Park Creek grazing assessment were completed some 9 and ½ months ago (4-20-99 and 4-21-99) which seems like a long enough time period to inform me of findings and concerns and to find a solution for these problems.”***

***Response to Appeal Point 6:***

More expedient communication from the Forest Service is certainly desirable and should be improved. This slow response should not have precluded the grazing permittee from noticing problems with utilization and initiating action to resolve problems. During an extended dry period the lack of forage becomes progressively worse as the dry period is extended. It appears

that the District Ranger's action was warranted, because of dry conditions, lack of forage, and heavy utilization.

***Your Appeal Point 7. "This very hasty, total cattle removal decision is unprecedented and will have the effect of removing from Tonto Basin three ranching families possibly forever."***

***Response to Appeal Point 7:***

The District Ranger has the responsibility to protect natural resources as well as to provide for compatible grazing use. Generally the objective would be to achieve adequate resource protection without causing a hardship to the grazing permittee. However, exceptionally severe conditions have developed with the extended drought during the past several years. It is at this time that very difficult decisions must be made. Continuing to allow the degradation of riparian areas and watersheds would not be a prudent decision in managing natural resources, including grazing.

***CONCLUSION***

After review of the record, I conclude that the District Ranger's March 14, 2000 decision to amend your Annual Operating Instructions (AOI), and require the removal of all livestock during the year 2000, was warranted and with proper authority. The District Ranger's decision is affirmed.

According to the appeal regulations (36 CFR 251.87) you may file an appeal to the Regional Forester within 15 days of this decision. The second level appeal must be sent to: Regional Forester, Southwestern Region, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102. A copy of the second level appeal should also be sent to my office.

Sincerely,

THOMAS J. KLABUNDE  
Acting Forest Supervisor and Appeal Reviewing Officer

CC:  
Regional Forester, R-3  
District Ranger, Tonto Basin