



United States
Department of
Agriculture

Forest
Service

Tonto National Forest
*Celebrating 100 Years of
Conservation
1905-2005*

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File Code: 1570

Date: October 24, 2002

Griffin Cattle Ranch
P.O. Box 1224
Globe, AZ 85502

Return Receipt Requested

Certified Mail # 7099 3220 0000 2732 7735

Dear Griffin Family:

This letter documents my review and decision of your appeal #02-03-12-0002-A251 dated July 5, 2002. The appeal is in regard to District Ranger Widner's decision to remove cattle from the allotment by June 10, 2002. The appeal was filed and has been processed under the provisions of 36 CFR 251, subpart C. Appeal record documents are numbered as (AR1), (AR2), etc.

BACKGROUND

AR1 - May 22, 2002 letter to Ranger Widner from Range Staff Officer Carol Engle.

AR2 - May 2, 2002 letter to Ranger Widner from Norm Ambos, Forest Soil Scientist.

AR3 - May 17, 2002 letter to Ranger Widner from District Range Staff Officer Carol Engle.

AR4 - May 21, 2002 Riparian Utilization Monitoring Form.

AR5 - May 14, 2002 Memo to District Range Staff Officer Carol Engle from Riparian Ecologist Janet Johnson-Grove and Hydrologist Lynn Mason.

AR6 - 1998-2002 Summary of Sedow allotment riparian areas and monitoring data.

AR7 - SPI to end of June, 2002.

AR8 - July 15, 2002 letter from the Deputy Forest Supervisor to Ranger Widner with attached notice of appeal from permit holder Griffin Cattle Ranch.

AR9 - July 18, 2002 letter from the Deputy Forest Supervisor to permit holder Griffin Cattle Ranch acknowledging the receipt of the notice of appeal.

AR10 - August 7, 2002 responsive statement to the appeal points from Ranger Widner to Thomas J, Klabunde, Appeal Reviewing Officer.



AR11 - Notice of Appeal letter from permit holder Griffin Cattle Ranch dated July 5, 2002 and received by the Forest Supervisor on July 9, 2002 with attached photos. There are two photos dated June 8, 2002 of Walnut, two photos of the Sedow allotment dated June 30, 2002, two photos of the Sedow allotment "no name" dated June 30, 2002 and two photos of Hess Canyon dated June 8, 2002. An additional attachment included a letter dated April 23, 2002 from Research Ecologist Al Medina of the USDA Forest Service, Rock Mountain Research Station to Mr. Lufkin Hunt, Tonto Natural Resources Conservation District.

AR12 - Letter dated May 24, 2002 from Ranger Widner to Permit Holder Griffin Cattle Ranch instructing the removal of livestock from the allotment by June, 10, 2002. Ranger Widner is herein identified as the Responsible Official.

AR13 - September 25, 2002 letter from Deputy Forest Supervisor Thomas J. Klabunde to permit holder Griffin Ranch closing the appeal record. Appeal decision to be made within 30 days.

AR14- August 14, 2002 letter from the Deputy Forest Supervisor to Griffin Cattle Ranch. Attached to the letter is Ranger Widner's August 7, 2002 responsive statements. A 20 day reply period for permit holder Griffin Cattle Ranch was provided.

AR15 - September 2, 2002 reply letter from permit holder Griffin Cattle Ranch to Deputy Forest Supervisor Thomas J. Klabunde. This is the permit holder's reply to Ranger Widner's responsive statements.

POINTS OF APPEAL

My review of this appeal was confined to the substantive points raised in the appeal, the appeal record, federal regulations, provisions of the grazing permit and the policies and operational procedures as set forth in the directives system of the USDA Forest Service.

Issue 1: Adverse effects from the decision to remove livestock from the allotment.

Contention: The Appellant contends they will be adversely affected financially, by the loss of their seed stock and in the loss of cattle that are acclimated to the Sedow allotment.

Response: Ranger Widner's responsive statement acknowledges economic effects may occur due to his decision (AR10). However, while the objectives and policy of the Forest Service is to allow the opportunity for an economically profitable operation, the District Ranger has the legal responsibility to evaluate on-going grazing activities upon the soil, water, wildlife and vegetation resources on the Sedow allotment. This responsibility is identified in Part 2, clause 8(c) of the permit holders grazing permit. Forest Service Manual (FSM) 2202.1 and 2203.1 provides objectives and basic policy that the responsible official has followed. The District Ranger's decision is also consistent with 36 CFR 222.1(a) and Part 2, clause 8(a)(c) in modifying the Annual Operating Instructions in his letter dated May 24, 2002 (AR12).

The District Ranger is affirmed on this issue .

Issue 2: Adverse affects to the country by removing livestock from the allotment.

Contention: The Appellant contends that leaving ridge after ridge of dense, dry grasses, as fuel during this extreme fire season is an adverse affect. Adverse affects in many pastures that have been underutilized for years now and are so overgrown with brush that not only are they an extreme fire hazard but are also an unfriendly environment for wildlife.

Response: The District Ranger considered vegetation, soil, water and wildlife resources in his decision to remove livestock for resource protection (AR1, 2, 3, 4, 5, 6 and 7). Condition of vegetation as an adverse affect towards fire danger was not considered towards the removal of livestock from the allotment. The purpose of the decision to remove livestock was to protect these resources during this extreme and prolonged drought as revealed in the administrative record (AR1, 2, 3, 4, 5, 6, and 7). Ranger Widner's decision is consistent with 36 CFR 222.1(a) and agency procedures.

The District Ranger is affirmed on this issue.

Issue 3: waters will go unattended

Contention: The appellant contends that removal of livestock from the allotment will cause water developments to go unattended causing wildlife to suffer.

Response: The grazing permit for the Griffin Cattle Ranch identifies in Part 2 and 3 the responsibilities for the maintenance of range improvements that are listed and revealed on the map of the permitted area. These improvements and management practices on the permitted area are essential to proper protection and management of the resources administered by the Forest Service. Compliance with the terms of the permit to maintain functional water developments is not likely to cause wildlife to suffer from unattended waters. This means that water developments are to be in a functional condition.

The District Ranger is affirmed on this issue that water developments are maintained to a functional condition.

Issue 4: The facts of our dispute are that we believe this decision was arbitrary, capricious and punitive. The Forest Service method to monitor riparian areas is not scientific.

Contention: The appellant contends that the Tonto policy for riparian monitoring is vastly different from the scientific communities opinion that was expressed during the riparian conference held on May 29, 2002 at Arizona State University East campus.

Response: The Tonto policy is not vastly different from those that were expressed during the May 29, 2002 conference, nor is it arbitrary, capricious and punitive. The methods that the Tonto uses to measure levels of utilization on woody and herbaceous vegetation are commonly used methods used throughout the west. Utilization methods that are utilized on the Sedow allotment are identified in Forest Service Range Analysis Handbook 2209.21, chapter 50. The purpose of riparian utilization monitoring is to assure that the use levels identified in the annual

operating instructions are achieved or not exceeded so that soil, water, wildlife and vegetation resources are protected. For example, document AR4 reveals those parameters that are measured in riparian areas. This information, along with upland information (AR1, 2, 3, 5, 6 and 7) was considered in making this decision to remove livestock before further grazing could damage the resources. The speakers at the May 29, 2002 workshop did not state that utilization monitoring and its timing was an inappropriate method to be used for management decisions. The speakers addressed the importance of trend monitoring. Trend monitoring is different from utilization monitoring.

There were five speakers at the May 29, 2002 workshop. These speakers represented various agencies or universities from Arizona, Montana, New Mexico, Nevada and Oregon. They discussed their approach or research results regarding monitoring and livestock management in their areas. They did not discuss the Tonto policy.

The District Ranger is affirmed on this issue regarding the use of the Tonto Riparian Monitoring methods.

Issue 5: Monitoring within 3 days after livestock have been removed from a pasture.

Contention: The appellant contends that it is arbitrary, capricious, and punitive to monitor within 3 days after livestock have been removed.

Response: The Forest Service Handbook (FSH) 2209.21, chapter 50 and the Rangeland Analysis and Management Guide, chapter 4 provide direction to monitor grazing utilization when livestock have been removed from a pasture. FSH 2209.21, chapter 51.2 provides direction for utilization measurements for rotational systems and seasonal allotments. It states that the production utilization survey is to be conducted as soon as possible following removal of livestock. This means that when livestock are removed from a pasture, utilization surveys will be conducted. The District Ranger's decision is consistent with FSH 2209.21 and the Rangeland Analysis and Management Guide, chapter 4 dated June, 1997.

The District Ranger is affirmed on this issue on monitoring within 3 days after livestock have been removed from a pasture.

Issue 6: The Tonto riparian monitoring protocols are based on bias, not science.

Contention: The appellant contends that the summary of the review made by Rocky Mountain Research, University of Arizona, and Arizona State University of the Tonto National Forest Riparian Monitoring Protocol as to the specificity and utility of the protocol as a scientific method is biased and not science (AR11).

Response: See response to issue 4 and 5.

The District Ranger is affirmed on the issue of using the riparian monitoring protocols.

Issue 7: How can this allotment have been mismanaged for years and still have plenty of grass and water? Decision based on personal agendas and not on science.

Contention: Appellants contend that Ranger Widner's decision was not based on science – but instead on personal agendas – we have heard from several reputable community leaders that personnel from the Globe District Office are telling that “actually, the Griffin ranch has plenty of grass and water, but it has been mismanaged for years and we are tired of it”.

Response: I do not have sufficient information to respond to personal agendas or verbal statements from community leaders. The issue of Ranger Widner's decision was not based on science is addressed in my response to issues 4 and 5. Monitoring of forage utilization is conducted to standards identified in Region Three FSH 2209.21, chapter 50 and the Region Three Rangeland Analysis and Management Guide dated June, 1997.

The District Ranger is affirmed on the issue of the decision is based on agency policy and procedures.

REQUEST FOR RELIEF

The appellant's request for relief is for a non-biased, broad-based team of scientist to evaluate the conditions on the allotment and for the Forest Service to give their recommendations very serious consideration.

DECISION

My review of your appeal was conducted in accordance with 36 CFR 251 Subpart C. After review of the appeal record, I find that the District Ranger's May 24, 2002 instructions to remove livestock was based on Forest Service policy and is in conformance with applicable laws, regulations, policies, and procedures. Therefore, I affirm the District Ranger's decision

The request for relief is provided for in Forest Service Manual direction. The basic policy identified in Forest Service Manual 2203 for the range management program on the National Forests includes:

Coordinate, cooperate and consult with grazing permittees and grazing associations, and other interested parties in the development of allotment management plans.

Optimize involvement of expertise within the Forest Service, from other agencies, organizations, permittees, and others in range vegetation management.

Forest Service policy identified in FSM 2203 satisfies the requested relief.

The appellant is encouraged to communicate and closely work with Ranger Widner and his staff on the management of the Sedow allotment.

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, Southwester Region
333 Broadway SE
Albuquerque, New Mexico 87102

A copy of the second level appeal should also be sent to my office.

Sincerely,

/s/ Richard Martin, for
Karl Siderits
Forest Supervisor
Appeal Reviewing Officer

CC: Regional Forester
Globe District Ranger