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File Code: 1570-1

Date: December 4, 1997

Mr. Frank Welsh
1445 E. Meadowbrook
Phoenix, AZ 85014

Certified Mail - Return Receipt Requested

Dear Mr. Welsh:

This is my review decision on the appeal you filed (#98-03-00-0008-A215) regarding the Tonto Basin District Ranger's decisions concerning grazing strategies and associated improvements for the Armer Mountain, A Cross, and Dagger Allotments.

On August 28, 1997, Tonto Basin District Ranger, Tina Terrell, issued Records of Decision (ROD's) concerning the grazing strategies and associated improvements for the aforementioned allotments. The decisions are 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 (copy enclosed) regarding the disposition of this appeal.

APPEAL SUMMARY

As directed in 36 CFR 215.16, the District Ranger attempted to contact the appellant to discuss informal disposition of the appeal. The record reflects that the District Ranger was not able to contact the appellant within the allotted time frame.

Appeal issues were organized into major issue subjects for this review and included the following: 1) range of alternatives, 2) objective, and 3) alternative uses.

APPEAL ISSUES AND FINDINGS

Issue 1: Alternatives Considered

Contention: Appellant argues that, "The Forest Service has failed to consider all reasonable alternatives." Appellant believes that Cherry Creek and Coon Creek should be fenced off from cattle to exclude grazing.

Response: The EIS effects discussion and the project record indicate exclusion of cattle from these creeks is not necessary for improvement in riparian vegetation (EIS p. 17; Record Docs. M and Q). Effects of cattle exclusion from Cherry Creek and Coon Creek were considered as they would be the same as for Alternative 2. The effects discussion indicates the selected alternative would increase canopy and litter cover, but to a lesser degree than Alternative 2.

While the analysis indicates an improvement in riparian conditions with the selected alternative, the EIS lays out specific riparian areas that will be monitored and the monitoring methods to be used (EIS p.10). Should the predicted improvements not materialize, the EIS indicates changes to the proposed allotment managment scheme may be required.

The District Ranger adequately analyzed the effects of excluding cattle from Cherry Creek and Coon Creek in the no-grazing alternative, Alternative 2. The District Ranger is affirmed on this issue.

Issue 2: Improper Objective

Contention: Appellant contends that, "The Forest Service has improperly chosen maintenance of a viable livestock operation as an objective... There appears to be no law or regulation which requires this objective." Appellant further alleges that, "The Forest Service may not reject alternatives on the grounds that their adoption would prevent a desired rate of return."

Response: Where consistent with other multiple use goals and objectives there is Congressional intent to allow grazing on suitable lands. (Mulitple Use Sustained Yield Act of 1960, Wilderness Act of 1964, Forest and Rangeland Renewable Resources Planning Act of 1974, Federal Land Policy and Management Act of 1976, National Forest Management Act of 1976). This allotment contain lands identified as suitable for domestic livestock grazing in the Tonto Forest Plan and continued domestic livestock grazing is consistent with the goals, objectives, standards, and guidelines of the forest plan (Record Doc. A). It is Forest Service policy to make forage available to qualified livestock operators from lands suitable for grazing consistent with land management plans (FSM 2203.1). It is Forest Service policy to continue contributions to the economic diversity and by promoting stability for communities that depend on range resources for their livelihood (FSM 2202.1). By regulation, forage producing lands will be managed for livestock grazing where consistent with land management plans (36 CFR 222.2 (c)).

Alternatives which are not economically feasible to the operator would not contribute to the range of alternatives. Any alternative not economically feasible to the permittee would result in the ranch going out of business and removal of cattle from the allotment. This scenario would equate to Alternative 2, the no-grazing alternative. The no-grazing alternative can be viewed as representing any alternative which would not provide for a viable ranching operation. The District Ranger is affirmed on the issue of project objectives and alternatives.

Issue 3: Skewed Alternative Analysis

Contention: Appellant asserts, "The Forest Service has improperly skewed the alternatives analysis away from less environmentally harmful alternatives."

Response: Appellant essentially raises the issue of grazing suitability by suggesting there are many alternative uses of the area such as deer hunting, hiking, and bird watching. The suitability of the analysis area for grazing was made in the Tonto Forest Plan (Record Doc.A-2). The alternative uses suggested by appellant are outside the scope of the analysis. They are not however, excluded from the area by the presence of cattle.

Appellant also suggests that the benefits of Alternative 2 (no-grazing) were not analyzed, citing increases in ground cover, reduced sedimentation, and reduced stream channel scouring. These effects are all disclosed for Alternative 2 in Chapter 3 of the EIS. The District Ranger is affirmed on the issue of skewed alternative analysis.

APPEAL REVIEWING OFFICER RECOMMENDATION

The Appeal Reviewing Officer (ARO) has recommended the District Ranger's decisions concerning the Armer Mountain, A Cross, and Dagger Allotments be affirmed. The evaluation concluded: (a) decision logic and rationale were generally clearly disclosed; (b) the benefits of the proposal were identified; (c) the proposal and decision are 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 record.

DECISION

After a detailed review of the records and the ARO recommendation, I find the District Ranger conducted a proper and public NEPA process that resulted in a decision that is consistent with the Tonto National Forest Plan.

The District Ranger is affirmed with respect to all appellant contentions related to the Armer Mountain, A Cross, and Dagger Allotments. My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18 (c)].

Sincerely,

/s/ Gilbert Vigil
GILBERT VIGIL
Appeal Deciding Officer
Acting Deputy Regional Forester

Enclosure

cc:
Tonto Basin Ranger District
D.Stewart
D.Sire