



**United States  
Department of  
Agriculture**

**Forest  
Service**

**Tonto  
National  
Forest**

**2324 E. McDowell Rd.  
Phoenix, AZ 85006**

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**File Code:1570-1**

**Date: December 29, 1997**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Bragg Ranches  
ATTN: Steve and Cory Bragg  
2525 W. Table Mesa Road  
New River, Arizona 85027

RE: Appeal No: 97-12-SO-002

Dear Mr. and Mrs. Bragg:

This is my review decision on the appeal you filed on August 27, 1997 concerning Cave Creek Ranger Delvin Lopez's July 17, 1997 Decision reducing the number of livestock you are permitted to run on the New River Allotment. Mr. Lopez's decision was in response to resolving a Memorandum of Understanding (MOU) in which you agreed to take partial non-use to reduce the impact of grazing and protect the grazing resource on the New River Allotment.

I closed the appeal record on November 24, 1997, after the oral presentation by Mrs. Bragg was given to Eddie Alford.

The following background information helps to structure the review of your appeal, although there were many specific communications and actions on your allotment that were used for information in the review:

The current permit, for 550 CYL, was issued to Richard and Anna Bragg Revocable inter-vivos Trust, with Stephen Bragg as trustee on April 15, 1991. Prior to this time Bragg Ranches was not an entity on the permit.

On April 14, 1992 a Memorandum of Understanding was signed by Forest Supervisor Jim Kimball and Stephen Bragg in which it was agreed that during the period of 8/1/91 and expiring 12/31/96 the actual numbers of cattle that would be permitted on the allotment would be reduced by 150 cattle, leaving 400 cattle that would be permitted during this period. The purpose of the non-use was to reduce grazing pressure and allow recovery of forage after many years of heavy grazing, and to determine the capacity of the allotment to adjust the term grazing permit numbers. The agreement states that on January 1, 1997 the Term permit would be adjusted to capacity which was determined by studies conducted during the non-use period.



Mr. and Mrs. Bragg

A production/utilization (P/U) survey documented use levels approximately double what should occur under proper stocking and management. The study was conducted using the allowable use levels set in the Allotment Management Plan. The study was conducted in 1994 and the summary was completed September 7, 1997.

On March 3, 1997 a resolution of the Memorandum of Understanding for the Non-Use agreement was completed determining the capacity to be 280 cattle yearlong under current management.

On July 17, 1997 District Ranger Delvin Lopez wrote you a letter with the decision to take action on your permit and resolve the Memorandum of Understanding.

On August 27, 1997 you appealed Ranger Lopez's decision.

My review focused on whether or not Ranger Lopez adequately considered the issue in order to justly make a decision. I will base my appeal decision on the appeal record and applicable laws, regulations, orders, policies, and procedures. I used your oral and written response as well as documentation by Ranger Lopez in order to make the determination.

My Lopez's decision to reduce and suspend permitted numbers was to balance the grazing pressure with the capabilities of the resource. Damage to the range condition occurred on the allotment before you acquired the permit and the purpose of the April 14, 1992 MOU was to allow the recovery of vegetation and determine the capacity. Currently your term permit is for 550 CYL; however, you have actually been permitted to graze 400 during the "non-use" period. I agree that Ranger Lopez has adequate information to determine utilization is occurring at a level that will continue to cause damage to the resources. Therefore, I think it is justified to remove the 150 cattle from the Term Permit and reduce the term permit to 400 CYL.

The range inspections, along with the P/U study conducted in 1994 justifies Ranger Lopez's determination over utilization will continue with 400 CYL. For this reason there is a need to further reduce the numbers and conduct studies to determine the proper stocking level. The most recent P/U study shows the capacity to be 280 CYL, so I support the decision to reduce the numbers for a 2 year period to 280 CYL in order to more accurately determine the capacity.

I support Ranger Lopez's decision to reduce your term grazing permit to 400 CYL and to further suspend 120 head for 2 years.

Mr. Lopez gave you 1 year to reduce your herd size to 280 cattle. However, it is my understanding that you are currently grazing 290 cattle. I can not see an advantage to you and certainly not to the resource for you to increase your numbers beyond what you are grazing now and then reduce the numbers within a year. The problems with deteriorating range conditions have been compounded during the past 3 years with drought conditions on the Tonto National Forest, and it certainly would not be to anyone's advantage to cause further deterioration in range conditions before conducting the study. For this reason I am giving Ranger Lopez direction to re-evaluate the decision of allowing 1 year to reduce numbers to 280 cattle. Mr. Lopez will contact you concerning this matter.

Mr. and Mrs. Bragg

I appreciate your diligent efforts to improve management on the new River Allotment and hope that this action will result in positive conditions for the resources which will in the long run benefit your operation.

This decision is subject to a second level of appeal to the Regional Forester under 36 CFR 251.87. In order for the second level appeal to be considered, you must file the appeal within 15 days of receipt of this decision, and address it to: Regional Forester, Southwestern Region, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102.

If you have questions, please contact Paul Stewart or Eddie Alford here at my office.

Sincerely,

CHARLES R. BAZAN  
Forest Supervisor

cc:  
Regional Forester  
Cave Creek District Ranger