



United States
Department of
Agriculture

Forest
Service

Prescott National Forest

344 South Cortez
Prescott, AZ 86303
Phone: (928) 443-8000
Fax: (928) 443-8008
TTY: (928) 443-8001

File Code: 1570-1/2200

Date: January 10, 2005

Jeff Burgess
PO Box 20862
Phoenix, AZ 85036

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER:
70000500000365052349**

RE: Appeal #05-03-09-0001-A215, Bald Hill Allotment, Prescott NF.

Dear Mr. Burgess:

This is my review decision on the appeal filed regarding the Decision Notice (DN), Environmental Analysis (EA), and Finding of No Significant Impact (FONSI) on the above-referenced project, which provides for permitted grazing of 1495 – 2064 animal months livestock grazing annually.

BACKGROUND

District Ranger Tom Bonomo made a decision on September 30, 2004, on the Bald Hill Allotment for the Prescott National Forest on this project. The District Ranger is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR § 215 appeal regulations.

Pursuant to 36 CFR § 215.17, an attempt was made to seek informal resolution of the appeal. The record indicates that informal resolution was not reached.

My review of this appeal has been conducted in accordance with 36 CFR § 215.18. I have reviewed the appeal record, including the recommendations of the Appeal Reviewing Officer. My review decision incorporates the appeal record.

APPEAL REVIEWING OFFICER'S RECOMMENDATION

The Appeal Reviewing Officer found that public participation and response to comments were adequate and the soil and water analysis work was extensive to support the decisions. However, it is unclear from the project record whether the four decisions are consistent with direction related to consultation requirements under the Endangered Species Act. Furthermore, it is not clear whether the project is consistent with Forest Plan Management Area direction. NEPA effects analysis for the Young Allotment decision was not completed. Therefore, the Appeal Reviewing Officer recommended that the decisions be reversed.

DECISION ON APPEAL

Based on the Appeal Reviewing Officer's recommendation and the technical review of the



appeals and the record, I am reversing (setting aside) the Responsible Official's decisions on the Verde Rim allotments. My reversal is based on the following:

- Compliance with Section 7(a)(2) of the Endangered Species Act of 1973 (as amended) is required for listed species before new decisions can be issued.
- New analysis and disclosure that addresses Forest Plan Management Area direction for the four allotments and specifically for Wilderness and the Verde Wild and Scenic River for the Squaw Peak Allotment is needed.
- Effects analysis for the Young allotment needs to be displayed in the EA.

I am directing that these inadequacies be corrected and that new decisions be issued based on the new analyses. The new analyses and decisions must fully comply with public comment and appeal provisions of 36 CFR 215. This review decision constitutes the final administrative determination of the Department of Agriculture [36 CFR § 215.18(c)].

Sincerely,

/s/ Michael R. King
MICHAEL R. KING
Forest Supervisor Prescott National Forest,
Appeal Deciding Officer

cc: David M Stewart, Berwyn Brown, Constance J Smith, Joy Kimmel, Mailroom R3 Prescott,
Steve F Romero, Cornelia D Lane



United States
Department of
Agriculture

Forest
Service

Santa Fe National Forest

Cuba Ranger District
P.O. Box 130
Cuba, New Mexico 87013
505-289-3264

File Code: 1570

Date: January 10, 2005

Route To:

Subject: ARO, Appeals #05-03-09-0001 through 12- A215, Verde Rim Livestock Grazing Project, Verde RD, Prescott National Forest

To: Mike King, Forest Supervisor Prescott NF, Appeal Deciding Officer

This is my recommendation on the disposition of the appeals filed in protest of the Decision Notices and Findings of No Significant Impact concerning the Bald Hill, Copper Canyon, Squaw Peak, and Young allotments, on the Verde Ranger District, Prescott National Forest.

District Ranger Thomas Bonomo signed the decisions on September 30, 2004. The District Ranger is herein termed as the Responsible Official. Jeff Burgess, Forest Guardians, Prescott National Forest Friends, and Leslie Glustrom filed appeals on these decisions under the 36 CFR 215 appeal regulations.

Informal Disposition

Pursuant to 36 CFR 215.17, an attempt was made to seek informal resolution of these appeals. The record reflects that informal resolution was not reached.

Review and Findings

My review was conducted in accordance with 36 CFR 215.19 to ensure that the analysis and decisions are in compliance with applicable laws, regulations, policies, and orders. The appeal records, including the appellants' issues and requests for relief have been thoroughly reviewed. Having reviewed the Environmental Assessment (EA), decisions, and the project record file, as required by 36 CFR 215.19(b), I conclude the following:

- 1) The record reflects that the Responsible Official provided ample opportunity for public participation during the analysis and decision making process. The Responsible Official's efforts enabled interested publics the opportunity to comment and be involved in the site-specific proposal.
- 2) The extent and vigor of the soil and water analysis provided more than ample support for the decisions as they relate to soil and water issues.
- 3) There is no clear Effects Determination statement within the Environmental Assessment/Biological Assessment for Federally listed species as required by FSM



2672.42(5). As a result, Fish and Wildlife Service consultation may not have occurred as per ESA Section 7 requirements.

- 4) While the EA and supporting project record demonstrate consistency with forest-wide direction in the PNF plan; the EA, Decision Notices and supporting record are silent regarding which Management Areas these allotments fall within and if they are consistent with Forest Plan Management Area direction as required in FSH 1909.12, 5.
- 5) There is no clear indication that effects analysis for the Young Allotment was completed as required by NEPA.

Recommendation

I recommend that the Responsible Official's decisions relating to these appeals be reversed.

/s/ Steve Romero

STEVE F. ROMERO
District Ranger
Appeal Reviewing Officer

Cc: Constance Smith, David Stewart, Joy Kimmel, Berwyn Brown

Hard copy of this letter to be attached to ADO letter sent to appellants.