



United States  
Department of  
Agriculture

Forest  
Service

Prescott National Forest

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File Code: 1570-1/2200

Date: January 10, 2005

Leslie Glustrom  
4492 Burr Place  
Boulder, CO 80303

**CERTIFIED MAIL – RETURN  
RECEIPT REQUESTED  
NUMBER:70000500000365052363**

RE: Appeal #05-03-09-0007-A215, Bald Hill Allotment  
Appeal #05-03-09-0008-A215, Squaw Peak Allotment  
Appeal #05-03-09-0006-A215, Copper Canyon Allotment

Dear Ms. Glustrom:

This is my review decision on the appeal filed regarding the Decision Notices (DN), Environmental Analysis (EA), and Finding of No Significant Impacts (FONSI) on the above-referenced projects which provides for

- Bald Hill Allotment with 1495 - 2064 animal months livestock grazing annually;
- Copper Canyon Allotment with 840 – 1200 animal months livestock grazing annually;
- Squaw Peak Allotment with up to 720 animal months livestock grazing annually;

### **BACKGROUND**

District Ranger Tom Bonomo made four separate decisions on September 30, 2004, and published on October 15, 2004, for the Prescott National Forest on the above-referenced projects. Of the four decisions made, three were appealed. 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 appeals. The record indicates that informal resolution was not reached.

My review of these appeals 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  
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Santa Fe National Forest

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**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.