



United States  
Department of  
Agriculture

Forest  
Service

Kaibab National  
Forest

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File Code: 1570-1

Date: January 3, 2005

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FOREST GUARDIANS  
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SANTA FE, NM 87501

**eCERTIFIED MAIL - RRR**  
**91 7108 2133 3930 4157 7727**

RE: Appeal #05-03-07-0001-A215, Homestead/Davenport Allotments Grazing Authorization

Dear Mr. Stern:

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 145 cattle from May 16 to October 31.

### **BACKGROUND**

District Ranger Stephen Best made a decision on September 30, 2004 which was published October 5, 2004, on the Homestead/Davenport Allotments for the Kaibab National Forest. 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: a) the 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; and d) public participation and response to comments were adequate. The Appeal Reviewing Officer also recommended that the Forest MIS report be added to the project record.



**APPEAL DECISION**

After a detailed review of the record and the Appeal Reviewing Officer's recommendation, I affirm the Responsible Official's decision on the Homestead/Davenport Allotments Project with the following instructions:

- 1) The December 2002 Forest MIS report that is referenced in the Wildlife Specialist Report will be added to the project record.
- 2) The range analysis calculations for 1998-1999 for both allotments referenced as available at the District (PR#44 p.2, PR#18) will be added to the project record as background data.
- 3) The District will include any and all waterfowl observation data and pronghorn observation data not already included in PR#78.
- 4) The District will include the appropriate references in the project record that were used for vegetative cover heights preferred by both burrowing owls and chestnut-collared larkspurs in the analysis.

This decision constitutes the final administrative determination of the Department of Agriculture [36 CFR § 215.18(c)].

Sincerely,

/s/ Michael R. Williams  
MICHAEL R. WILLIAMS  
Forest Supervisor, Appeal Deciding Officer

cc: Berwyn Brown, Constance J Smith, David M Stewart, Stephen Best, Charles F Ernst,  
Mailroom R3 Kaibab, Cecilia R Seesholtz

Enclosures (2)

## **REVIEW AND FINDINGS**

of

**Billy Stern's Forest Guardians'**

**Appeal #05-03-07-0001-A215**

**Homestead/Davenport Allotments**

### **ISSUE 1: The Decision violates the NFMA and Kaibab Forest Plan**

**Contention A:** The Forest Service violated NFMA by continuing to allow cattle grazing on the allotment without first evaluating the allotment's suitability for grazing. The Forest Service must determine in Forest planning the suitability and potential capability of the National Forest System lands (36 CFR §219.3). Absent a suitability analysis, the appellant contends that the Forest Service failed to discharge its obligation under NFMA to take a hard look at each alternative; therefore, the choice of any alternative is premature.

**Response:** NFMA does not require that a suitability analysis be conducted at the project level. On August 24, 1999, the United States Court of Appeals for the Ninth Circuit, in *Wilderness Society v. Thomas*, 188 F.3d 1130 (9th Cir. 1999), concluded the Forest Service complied with NFMA in adopting the Prescott Land and Resource Management Plan (LRMP), including the Plan's allocation of acreage suitable for grazing. The Forest Plan complies with the requirements outlined in 36 CFR §219.20 through the analysis process applied in preparation of the Forest Plan (Kaibab Forest Plan EIS Appendix B, Description of Analysis Process).

The Affected Environment section in the EIS for the Kaibab LRMP, (pp. 128 – 130) describes acres considered suitable for rangeland. Suitable acres are again discussed in Chapter 4 Environmental Consequences (pp. 195 – 197), where both suitable and unsuitable lands are described.

**Finding:** There is no requirement to conduct a suitability analysis when conducting a NEPA analysis at the project level concerning the management and permitting of livestock grazing. All requirements for suitability under the provisions of 36 CFR §219.20 were met upon completion of the Kaibab LRMP. The 36 CFR §219 regulations are not applicable in this case; therefore, the decision is not premature.

**Contention B:** The Forest Service violated NFMA's mandate to identify the alternative that maximizes public benefit. Livestock grazing from strictly an economic efficiency standpoint does not serve the broader public interest as shown in literature such as Loomis 1991, Souder 1997, and the FS publication GTR-INT-224. By failing to conduct a cost/benefit analysis for all uses of the land rather than just for elk hunting and watching, the FS failed to consider whether permitting grazing on this allotment makes economic sense despite the requirement of 36 CFR 219.3. FS chose not to conduct an adequate economic comparison of allocating forage to domestic livestock versus big game and non-game wildlife.

**Response:** A determination of agency policy of grazing on National Forest System lands is outside the scope of this decision. The Kaibab LRMP allocated lands for grazing activity in Ecosystem Management Area 2, where the project is located (PR#43 introduction), balancing permitted livestock with grazing capacity (LRMP pp.18, 35-36).

The Homestead/Davenport Allotment project's purpose and need statement is to provide forage for domestic livestock as directed by the Forest Plan and to maintain or improve range and soil conditions on the allotments (PR #8, 9, 10, 35, 84, 85).

**Finding:** The alternatives meet the purpose and need statement for economic analysis and are consistent with Forest Plan objectives.

**Contention C:** The appellant asserts that the decision fails to manage riparian areas to achieve recovery, and to make the health of riparian areas a priority, and in so doing violates both the Forest Plan and Regional Guide. Grazing near 303(d) listed streams cannot be considered acceptable and is in violation of Forest Plan mandate. FS is required to protect riparian habitats from direct effects of livestock grazing and indirect effects of grazing in watersheds around riparian areas.

**Response:** The Regional Guide for the Southwestern Region (1983) was removed as guidance and either incorporated into Forest Plans or dropped as guidance (see *Federal Register* Notice, 66 FR 65463, December 19, 2001).

The Homestead/Davenport Allotment EA (PR#85), the plant ecologist field report (PR#19), the vegetation analysis report (PR#72) and the listing of wetland species (PR #77) describe the condition of the ephemeral wetlands, particularly the plant composition, litter on the soil surface, soil texture, and comparison of grazed and ungrazed areas. The new pasture will make it easier to avoid hoof impacts to moist soils and protect wetland plant species during their active growing season in the immediate Davenport Lake area as described in the analysis of alternative effects in the EA ( PR#85 p.24). The selected Alternative 2 provides management designed to minimize effects of livestock grazing on the ephemeral wetlands of the Davenport Allotment. The decision eliminates grazing of the Davenport Lake area when this ephemeral lake is wet, and assures by the use of mitigation and monitoring, that utilization would not exceed 30 percent in the Dry Lake ephemeral wetland (Decision Notice PR #84 p.2, and EA PR #85 pp.10-11).

**Finding:** The description of the proposed action in the EA and the selection of Alternative 2 in the DN indicate that ephemeral wetland management is a priority. Improvement of the vegetation of these wetlands is ensured under this decision, and there is no violation of the Kaibab National Forest Plan.

**ISSUE 2: The decision violates the NFMA requirement to maintain viable numbers of all species.**

**Contention A:** The appellant contends the Forest Service must manage sensitive species to sustain viability and prevent the need for listing. In addition, the Forest Service must manage fish and wildlife habitat to maintain viable populations of native species.

**Response:** Analysis of the effects to sensitive species are included in the Environmental Assessment (PR#85), the Biological Assessment and Evaluation (PR#31), and the Wildlife

Specialist Report (PR#83). The analysis of effects found that none of the alternatives considered would cause a loss of viability or a trend towards future listing for Sensitive species.

**Finding:** The decision complies with Forest Service requirements for sensitive species management.

**Contention B:** Population survey data of Management Indicator Species are needed to ensure the maintenance of minimum viable populations of wildlife. The appellant asserts that since the Forest Service lacks quantitative monitoring data on many, if not all, MIS in the planning area and the Forest as a whole, and the scant data that it does have indicates some species are declining, the agency's decision is arbitrary and capricious. The EA and DN violate NFMA and NEPA by failing to give significant data on MIS. The 10<sup>th</sup> Circuit has said that the status of MIS has to be monitored with actual numbers rather than just assuming that available habitat ensures their health.

**Response:** The Management Indicator Species affected by the project are analyzed in the Wildlife Specialist Report (PR#83) and the Environmental Assessment (EA, PR#85). Wildlife observation data, which includes MIS observations, were present in PR#78. MIS analyzed are elk, pronghorn, turkey, and cinnamon teal. In addition, the effects to the project on the northern goshawk are covered in the sensitive species section of both documents.

Both documents reference "Management Indicator Species for the Kaibab National Forest," which contains population trend and habitat trend for all MIS on the Forest. The MIS analysis in both the Wildlife Specialist Report and the EA contain information on the effects of the proposed action to habitat quality at the project level, with habitat quantity clearly discussed for pronghorn. The December 2002 Forest MIS report that is referenced in the Wildlife Specialist Report needs to be added to the project record.

Appendix 6 of the Wildlife Specialist report contains a list of all species considered for analysis and excluded, with the justification for their exclusion (PR#83, p. 1). Two MIS species, Lincoln's sparrow and red squirrel that were not analyzed were not listed here. Red squirrel is listed as occurring in mixed conifer islands in Ecosystem Management Area 2 in the Kaibab Forest Plan (Kaibab LRMP p.35). The red squirrel is an MIS for mixed conifer and no mixed-conifer habitat occurs on the allotment (PR#83, p. 25 under "Mexican spotted owl;" c.f. PR#31 under "Mexican spotted owl."). Thus, analysis of red squirrel as an MIS is automatically precluded due to lack of habitat. Similarly, Lincoln's sparrow is precluded from analysis due to the lack of habitat. It is an indicator of late-seral, high-elevation riparian habitat according to the Forest-level MIS analysis. The Soil and Watershed Specialist Report (PR#80; c.f. PR#85, p. 22) states that there are no riparian areas on the allotment.

**Finding:** The effects of the proposal on forest level population trend are clearly disclosed for those species in the project area, with the conclusion that the project effects are local, small, and will not affect the observed forest-wide population trends under any alternative.

**ISSUE 3: The Homestead/Davenport Term Permit issuance must be suspended until the Kaibab National Forest revises its Land and Resource Management Plan and until the Forest Service develops a renewable resources program.**

**Contention:** The appellant contends there is no legally adequate RPA program or land and resource management plan to which the Homestead/Davenport term grazing permit issuance project can be tiered. Term permit must be suspended until the Forest publishes a new EIS supporting a revised Kaibab LMP.

**Response:** There are no statutes or regulations that describe an expiration date for the Forest Service Renewable Resource Program or Land and Resource Management Plans. A recent court decision in Wyoming upheld the use of the current Plan until revised (*Biodiversity Assoc. v. USFS*, decision September 30, 2002). Also, language in the 2004 appropriations bill for the Forest Service allows that (section 320). “Prior to October 1, 2004, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f) (5) (A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System.” The Kaibab Land and Resource Management Plan will remain in effect until it is revised, consistent with the requirements of the National Forest Management Act and implementing regulations.

**Finding:** The current plan is in effect until the revision process is completed. There are no requirements to suspend activities until the process is completed.

**ISSUE 4: EA is in violation of NEPA by not taking a hard look at effects of grazing on wildlife, particularly pronghorn antelope.**

**Contention:** The EA (p. 32) fails to recognize that decline of pronghorn antelope is part of a larger trend, as noted in 1996-7 Survey of Pronghorn report. Conclusions are stated generally, without data and clear rationale. EA fails to note that removal of miles of fencing under the No Action alternative would be beneficial to antelope.

**Response:** Population data for pronghorn were incorporated by referencing the Forest Level MIS Analysis in PR#83. The Forest Level MIS Report utilizes aerial pronghorn counts (number seen per hour flown) for 5 Game Management Units (GMUs). This data is available from 1985-1990, and from 1992-2001. In addition, the Forest Level MIS Report examined data on fawn/doe ratios for pronghorn (an important measure of population health) from the Arizona Game and Fish Department. These data are from 1988 through 2000. Although the population trends and fawn/doe ratios in these different populations vary, there is no evidence for concern for the pronghorn population at the Forest level. The Forest Level MIS report concludes that “...all herds that seasonally occupy [Kaibab National Forest] lands are estimated to be well above the minimum viable population level and may have increasing population trends.” The Wildlife Specialist Report (PR#83, pp. 3-5) summarizes the local population trends and project level habitat quality and quantity. The project record (PR#78) also contains numerous sightings of pronghorn on the Williams Ranger District and specifically in the Davenport Lake area and surrounding area. This data suggests that pronghorn are common and abundant in the project area and supports the conclusions within the Forest-level MIS analysis. The Forest should include the Forest Level MIS Analysis in the project record, as well as any and all pronghorn observation data not already included in PR#78.

Under the No Action alternative there would be no new fence construction (range improvements shown on EA pp.9, 13, 14) and existing fences would not be removed. A full discussion of the effects of fences on pronghorn is contained in the Wildlife Specialist Report (PR#83, pp. 5, 11, 17, and 19), including mitigations in fence design to improve pronghorn passage.

**Finding:** The population and habitat trend data trend data for pronghorn do not indicate a general Forest-wide decline, and the effect of fences under all alternatives was evaluated and disclosed.

#### **ISSUE 5: The project does not meet the requirements of NEPA.**

**Contention A:** The appellant contends that a range of reasonable alternatives, as required by NEPA implementing regulations, was not analyzed. The EA fails to take a hard look at potential effects of the proposed action and the no grazing alternative. By examining only one action alternative and refusing to analyze others that result in lower stocking rates, the FS has violated NEPA requirements to address a range of reasonable alternatives that not only emphasize different factors but also lead to differing results. The EA for Homestead only considers two alternatives since the proposed action is the same as the current management alternative. The Forest Guardian suggestion that the EA should analyze the effects of a 50 percent stocking reduction for both allotments was ignored.

**Response:** "[A]n agency must look at every reasonable alternative, within the range dictated by the 'nature and scope of the proposed action' and 'sufficient to permit a reasoned choice.'" *Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1520 (9th Cir. 1992). For an alternative to be reasonable, it must meet the stated purpose and need and address one or more issues. The formulation of alternatives is driven by significant issues identified in scoping (40 CFR 1501.2(c)).

The ID Team's first meeting developed four preliminary alternatives, three of which would reduce grazing (PR #1). At the second meeting, five alternatives were considered for the Davenport Allotment and two were dropped with supporting rationale (PR #2). An alternative for the Homestead Allotment is located and dismissed with rationale in PR #69. Scoping was conducted (PR #8); no key issues were identified (PR #18). Categorization of the public responses raised during scoping is located in PR #18 and PR #29.

Commenters suggested several alternatives and the ID Team addressed all of them. One suggested that no grazing occur in the Davenport Lake area (PR #11); the ID Team addressed this alternative, saying it had already considered it and explaining why it was not pursued further (PR #18). Another suggested two alternatives (the "25%" alternative and the "suite of grassland species" alternative) (PR #21). These were dismissed by the ID Team with rationale in PR #29. An additional alternative (one that would look at detailed needs of all those plant and wildlife species who are reliant on the grassland ecosystem) was suggested by a commenter after the end of the scoping period (PR #24). The ID Team addressed this alternative and again provided rationale for dismissing it in PR #29.

The Proposed Action was circulated for public comment (PR #51, #60, #64). During the 30-day notice and comment period, an alternative to reduce numbers by 50 percent was submitted (PR #68). The ID Team provides rationale for dismissing this alternative in PR # 70. PR #69

contains an alternative suggested by AZGF to utilize the White House pasture for 5 days less and rationale for why it was not brought forward as an alternative.

The EA (PR #85, p. 9) lists one alternative considered and eliminated which is to completely exclude livestock from Davenport Lake.

**Finding:** The Responsible Official appropriately defined the scope of the analysis and analyzed a range of reasonable alternatives within that scope.

**Contention B:** The FS has violated NEPA because the EA fails to consider and disclose adequately the location and protocol for monitoring key forage utilization areas within the allotment. The appellant contends the EA must disclose the names, locations, forage utilization limits, and monitoring protocol for each and every key area within the allotments.

**Response:** Allowable utilization is a tool to sustain or improve plant vigor, long-term soil productivity, and provide habitat for threatened, endangered, and sensitive species.

The Decision Notice (PR #84) and EA (PR #85 pp. 8, 10, 85) includes monitoring of forage utilization in key areas, moving of livestock from pastures that have reached allowable use, and off the allotment when utilization limits have been met in all the pastures available in the rotation. Key areas are locations readily accessible to water and forage and are located on level to intermediate slopes (PR #85 p. 8). There is no NEPA requirement to disclose the names and locations of key areas.

The EA (PR #85) and Project Record specifically address the limited MSO habitat in the project area. The Decision Notice (PR #84) employs a grazing utilization standard in the Kaibab LRMP (Plan Amendment 1996, p. 32, Table 14) as described in the Addendum to the Biological Assessment and Evaluation (PR #39) for the restricted MSO pine-oak forest habitat within the Davenport Allotment. The utilization standard identified for this habitat is 20 percent (PR #85 p. 10, PR #84 p. 2). The MSO restricted habitat on the Davenport Allotment occurs mostly on the upper slopes of hills, currently receives little use by cattle, and is expected to receive even less use under the selected Alternative (PR #85 p.72, PR #39). The USFWS concurred with these findings (PR #41).

**Finding:** The Responsible Official did not violate NEPA by not disclosing the key area names and locations. There is nothing in federal statutes, regulations, or Forest Service policy that requires the Responsible Official to disclose the names and locations of each and every key area within an allotment in an EA. Utilization standards and monitoring protocol for the Homestead/Davenport Grazing Allotment were developed in accordance with Forest Service policy and through USFWS consultation.

**Contention C:** The Forest Service violated NEPA by failing to consider and disclose the cumulative impacts of the proposed action. The appellant contends that the cumulative effects of the alternatives were not adequately addressed, considering past, present, and reasonably foreseeable activities, as required by NEPA. The EA contains virtually no analysis of cumulative effects and the EA does not even attempt to catalog other activities occurring within the allotment's boundaries. This EA limits the analysis to the allotments and ignores widespread cumulative effects.

**Response:** Past, present, and reasonably foreseeable future actions used for cumulative effects analysis are presented in the EA. A history of past grazing is presented on page 15, tree

encroachment is described on page 15; past, present and future actions such as prescribed burning, three thinning, off-road vehicle use, weed treatment planning are disclosed and analyzed (PR #85 pp.18, 20, 21, 24-25 and 40-42). Cumulative watershed effects cover the period 2 years prior to this action and 10 years into the future for the permit life.

**Finding:** The record includes consideration of past, present, and reasonably foreseeable actions and their cumulative effects on the components of the human environment. The cumulative effects analysis is adequate for an informed decision.

**Contention D:** The FS has violated NEPA because the EA fails to consider the full economic implications of this action. The EA fails to give the costs of expected improvements. The EA failed to weight the economic costs and benefits of the project. There is absolutely no information about the economic benefits of other uses of this allotment such as recreation. The EA analysis shows an annual cost figure of \$6000 without any description of what this cost might include, and it is included in the no grazing alternative which appears to be arbitrary and capricious. The economic analysis does not look at costs of ongoing projects such as fire and vegetative treatments, and that grazing activity continues to incur costs such as tree encroachment.

**Response:** Projects such as the Homestead/Davenport grazing allotment are developed to be consistent with the direction described in the Forest Plan. Project level requirements for social and economic analysis are described in Forest Service Manual (FSM 1970) and Forest Service Social and Economic Analysis Handbook (FSH 1909.17). The proposed action is the implementation of previously approved practices that are included in the current Kaibab LRMP. The responsible line officer determines the scope, appropriate level and complexity of economic and social analysis needed (FSM 1970.6).

No concerns or issues about economics were raised during scoping (PR #18, 29, 44). During notice and comment, one commenter asked that the costs and benefits of the project be analyzed (PR #68). Economic effects were presented in the EA (PR #85 p. 44).

With respect to costs and benefits of recreation, the appropriate level for determining resource output tradeoffs is at the Forest level. The amount of recreation varies from year to year and place to place. The economic effects of recreational use where there is a trade-off with other multiple uses must be made at the Forest Plan level.

**Finding:** The economic analysis is consistent with regulation and manual and handbook direction for project-level decision making and is not in violation of applicable laws, regulations or policy.

#### **ISSUE 6: The FS failed to provide an EA for comment in violation of existing law.**

**Contention:** The 9th Circuit has ruled in two cases (*Anderson v. Evans* and *Citizens for Better Forestry v. USDA*) that the agencies must provide a full EA for comment. The document provided for public comment gave little detailed information on current conditions or the expected effects of the proposed action. The public did not have the information available to provide the substantive comments being demanded by the new regulations. The appellant believes this was a repeat of scoping and a burden to the public rather than an opportunity for increased participation. The EA failed to address this comment.

**Response:** In the *Citizens for Better Forestry v. USDA* case (August 2003), the court said that the 2000 Planning Rule EA/FONSI was issued 5 months after the comment period in the Federal Register had closed. In the *Anderson v. Evans* (Makah tribe whaling case, November 2003), NOAA had done an EA that went out for comment, then the proposed management plan was incorporated into the final EA and DN, but no public comment opportunity was given on the changed proposal. There is no language in either court decision saying that a full EA must be sent out for public comment.

In the Homestead/Davenport project, a 30-day notice and comment period was used and the proposed action sent out for public comment included a description of all the alternatives, mitigation measures, monitoring, and issues and concerns (PR #51). These sections included enough information for the public to respond with substantive comments specific to the proposed action, comments relating to the proposed action, and reasons for the Responsible Official to consider in making the decision (36 CFR§215.2).

**Finding:** The proposed action sent out under the 30-day notice and comment period met the new appeal regulations at 36 CFR 215.3. Enough information was given in the proposed action package to generate substantive comments from the public.

#### **ISSUE 7: The decision violates the Multiple Use and Sustained Yield Act.**

**Contention:** The appellant alleges that the decision violates the Multiple Use and Sustained Yield Act by failing to manage for the highest public benefit. The FS is continuing to support livestock grazing interests at the expense of the American people as a whole. The appellant further alleges that the decision will continue to impair land productivity.

**Response:** Management of National Forest Lands for the highest net public benefits was analyzed and decided upon in the preparation of the Kaibab LRMP. The Forest Plan provides direction for management emphasis within the project area. Net public benefits were analyzed appropriately during the Forest Plan's preparation and are outside the scope of project-level analysis.

In reference to the contention that the decision will continue to impair land productivity, the EA (PR #85 pp. 13 – 45) analyzes the effects of the selected alternative on the various resources. The effects of Alternative 2 are described as improving or having slight or gradual improvement or no change on the various resources.

**Finding:** This decision will improve land productivity and is, therefore, consistent with the Multiple Use and Sustained Yield Act and the Kaibab National Forest Plan.

#### **ISSUE 8: The EA violates the Administrative Procedures Act.**

**Contention:** Given the current degraded condition of the land due to historical and ongoing livestock grazing, the decision to continue to graze the land is inexplicable. Based on data in the EA, there is little known about the effects this alternative would have on the ecosystem. The EA and FONSI fail to connect the allowable annual use\_level with available forage measurements, when higher use levels are tied to years of above average precipitation.

**Response:** The EA/DN/FONSI and documents in the record disclose the analysis completed to evaluate resource conditions on the allotments and the effects of alternatives considered. The analysis (EA PR#85 pp.13-14, 18) indicates Alternative 3 would improve resource conditions in the areas identified in the Purpose and Need for Action (EA p. 3) while the selected Alternative 2 would provide a slight increase in upland plant species diversity, forb and grass cover, and cool season plant density (EA pp.13-14, 17).

The record also addresses ephemeral wetlands in the project area (PR #s 19, 72, 77, and #85 pp.10-11). The selected alternative will avoid hoof impacts and protect wetland plant species from livestock grazing during their active growing season (EA PR#85 p.24) to address the resource conditions in the ephemeral wetland area (DN PR#84 p.3).

The EA and FONSI connected the allowable annual use level with available forage measurements. The EA (p.17) describes how the dry weight forage produced per acre was measured, and that 25 percent use of this forage production is considered available to determine the total available capacity for the allotment (PR #44). The results of utilization monitoring and stocking levels are found PR #73 and PR #50. In the process of ongoing monitoring stocking, levels were reduced in response to drought (EA p.10).

The EA, p.7, describes how higher use levels on Davenport Allotment are due to two factors, the encroachment of trees into grasslands, and the fencing out of previously available private land.

**Finding:** The EA for the Homestead/Davenport Allotment properly assesses the issues, public input, and impacts to resources in his decision rationale. The Responsible Official made a reasoned and informed decision in the Decision Notice based on the analysis and has not violated the Administrative Procedures Act.



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**File Code:** 1570-1  
**Route To:**

**Date:** December 17, 2004

**Subject:** ARO, Appeal #05-03-07-0001-A215, Homestead/Davenport Allotments Grazing Authorization

**To:**

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 125 cattle from May 1 to October 31 on the Homestead Allotment and 145 cattle from May 16 to October 31 on the Davenport Allotment

District Ranger Stephen Best made a decision on September 30, 2004 and published October 5, 2004, on the Homestead/Davenport Allotments for the Kaibab 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.

### **Review and Findings**

My review of this appeal was conducted in accordance with 36 CFR § 215.19. The appeal record, including the appellant's issues and request for relief has been thoroughly reviewed. Having reviewed the Environmental Assessment (EA), DN/FONSI, and the project record file, as required by 36 CFR 215.19(b), I conclude the following:

1. The purpose and need was clear and the Proposed Action was appropriate and consistent with the purpose and need.
2. The scoping and public involvement process was appropriate, responsive to comments and suggestions from interested parties, and effective in developing alternatives and evaluating effects.
3. The analysis and decisions documented in the Record are consistent with national policy, agency objectives, and Forest Plan direction.

After considering the claims made by the appellants and reviewing the record, I found the Responsible Official conducted a proper and public NEPA process that resulted in decision that are consistent with national policy, agency objectives, and Forest Plan direction with the following clarification:

The Forest MIS assessment, dated December 2002, should be added to the Record.



**Recommendation**

I recommend the Responsible Official's decisions relating to these appeals be affirmed with respect to all of the appellant's contentions.

Sincerely,

*/s/ Cecilia R. Seesholtz*

CECILIA R. SEESHOLTZ  
Appeal Reviewing Officer, District Ranger

cc: Stephen Best, Chip Ernst, Constance Smith, David Stewart, Berwyn Brown

Hard copy to be enclosed with Appeal Deciding Officer letter to appellants.