



File Code: 1570-1

Date: March 4, 2005

MR JOE AUZA
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CASA GRANDE, AZ 85230

RE; Appeal #05-03-07-0007-A251, Anita-Cameron-Moqui Allotments, Tusayan Ranger District, Kaibab National Forest

Dear Mr. Auza:

This is my review decision on the appeal you filed regarding the Decision Notice and Finding of No Significant Impact, which authorized grazing and implements the grazing management strategy on the Anita, Cameron and Moqui Allotments of the Kaibab National Forest, Tusayan Ranger District.

APPEAL REVIEW PROCESS

Pursuant to 36 CFR 251.98 (d) the appeal record closed on February 3, 2005 upon completion of your oral presentation with me.

This letter constitutes my review and decision on the appeal you filed following District Ranger Richard Stahn's decision on the Anita, Cameron, and Moqui Allotments.

My review was conducted according to provisions of the appeal regulations in 36 CFR 251 Subpart C. I have considered the appeal record, applicable laws, regulations, orders, policies, and procedures set out in the directives system of the USDA Forest Service.

BACKGROUND

District Ranger Stahn signed a decision on October 8, 2004 for the Anita, Cameron, and Moqui Allotments selecting Alternative 1. The decision resulted in the following authorizations:

1. Combine the Anita and Cameron allotments into a single grazing unit to improve efficiency of the ranching operation and reduce the amount of time livestock are allowed to graze in a pasture.
2. Issue a term grazing permit that allow from 3600 to 7860 animal unit months annually (600 head to 1310 head of livestock) for a six month summer grazing period. The level of stocking within that range of livestock numbers in any given year would be dependent on annual forage production in full capacity rangelands and the resulting utilization levels that occur. Other connected actions include the following:
 - a. Implement a rest-rotation grazing strategy where 20 percent of the ponderosa pine/gambel oak and 20 percent of the pinyon pine/juniper or shrub grassland ecosystems are excluded from grazing each year in order to promote regeneration of grass species, thereby improving the overall carrying capacity of the project area and improving watershed conditions. This would promote desirable levels of litter for prescribed fire activities.



- b. Adjust the season of use from yearlong to summer seasonal with the use period being approximately May 1 to October 31 in any given year in order to increase browse plants in the winter rangelands and improve the frequency of cool season grasses. These approximate dates could vary based on monitoring of range readiness conditions and forage utilization levels.
- c. Change the class of livestock from yearlings to cow/calf to improve the economics of the ranching operation.
- d. Reconstruct 21.5 miles of forest boundary fence adjacent to the Navajo Nation.
- e. For the Moqui Allotment, the class of livestock, season of use, and rotation strategy would be maintained, but the range of authorized numbers would go from 50 percent of current (280 yearlings) to 100% (560 yearlings). Additional connected actions include reducing livestock allowable use standard to 30 percent in key areas and 20 percent allowable targeted to the full capacity lands found in the upland landscape position.

The District Ranger is identified as the Responsible Official, whose decision is subject to administrative review under 36 CFR 251 appeal regulations.

APPEAL POINTS

My review will focus on the appeal points in your December 27, 2004 notice of appeal.

Issue 1. The permittee was not consulted during the preparation of the EA, the alternatives were developed without the permittee's knowledge, and the permittee was discriminated against because he was not included in any of the decision making.

Contention: "additional management changes for which the present Permittee has not been consulted and has had no input." "The Appellant/Permittee...maintains that the development of the alternatives was carried on in the Environmental Assessment without Permittee's knowledge or input...". "The Permittee was discriminated against because he was not included in any of the decision making."

Response: Representatives from the Forest Service met with Mr. Auza prior to his purchase of the Allotments, and made contact with Mr. Auza throughout the period of time the environmental assessment was being prepared. Contacts with Mr. Auza were through letters, telephone calls and meetings.

On May 12, 2003 a meeting was held between Joe Auza, Dave Brewer, and Paul Webber to discuss some proposed changes to the term permits for the Anita and Cameron allotments. Mr. Auza is considering acquiring the allotments and is interested in running sheep instead of cattle. (PR # 25).

On December 16, 2003, Mr. Auza was present in a meeting with District Ranger Richard Stahn, Dave Brewer, Paul Webber, Gary Hase, Jerry Mundell and Dave Rensink. The following topics were discussed: Proposed Livestock numbers and Season of Use, Range Improvement/Maintenance, NEPA/ Upper Limits, Converting the allotment from cattle to sheep, and the new base property construction to meet USFS base property requirements. This meeting occurred before Mr. Auza had acquired the Allotments. (PR #27).

On May 18, 2004 District Ranger Stahn mailed a letter outlining the Proposed Action for the Allotment Management Plan Revisions to Mr. Auza. (PR 42)

On May 21, 2004 Team Leader Dave Brewer called Mr. Auza to discuss the Proposed Action and requested a reply in writing of any concerns. Mr. Auza did mention that the upper limit (1310 Mature units) would not be enough cattle to make a profitable operation. (PR #45)

On May 28, 2004 there was a press release requesting comments on the proposed action. (PR#50).

On June 22, 2004 there was a letter from District Ranger Stahn to Mr. Auza discussing allotment stocktank improvements and the possibility for cost-share opportunities to reconstruct the ones needing maintenance or reconstruction. (PR # 54).

On July 6, 2004 the preliminary portions of the environmental assessment including the proposed action, purpose and need, and alternatives to be considered were mailed to the public. The Official Notice and Comment Period started on July 11, 2004, the day after the Legal Notice was published in the Arizona Daily Sun (PR # 60).

On July 20, 2004 there was a news release of the document availability in local newspapers. (PR #63).

On November 9, 2004 the Environmental Assessment and Decision Notice and Finding of No Significant Impact were mailed to the public and permittees including Mr. Auza. (PR # 75)

I find that the District Ranger provided adequate opportunity for permittee involvement, both before he acquired the allotment permits and during the preparation of the environmental assessment. I conclude that there is no evidence of discrimination against the permittee.

Issue 2. Whether pertinent historical and biological data was considered, misinterpreted, or not included in the analysis.

Contention: “An additional alternative to those stated in the environmental assessment should be developed with input from the permittee and taking into consideration historical and biological information misinterpreted or not included in the analysis.” “...maintains that the development of the alternatives was carried out in the environmental assessment without the Permittee’s knowledge or input and does not accurately reflect biological conditions and does not include critical historical information;”

Response: Historical information was included from the following years: 1948 (PR # 1), 1954 (PR #2), 1955 (PR # 3), 1956 (PR # 4), 1962 (PR # 5), 1965 PR #6,7), 1966 (PR # 8), 1968 (PR # 9), 1977 (PR # 10), 1978 (PR# 11), 1981 (PR # 12), 1983 (PR #13,14), 1986 (PR #15) 1991 (PR# 16,17), 1995 (PR# 15), 1996 (PR# 18,19), 1999 (PR# 20,21), 2002 (PR# 22,23,24). Most of these documents are evaluations, cluster readings, and allotment analysis at the date of examination. Additional historical analysis is given in PR # 26 that is based on Documents 12 and 8. These take into consideration the historical and biological information. There is additional data collection and summary that was accomplished during this project including Summary of Range and Soils Score and Ground Cover Changes Over the Analysis Periods (PR# 32), Summary of PACE Transects Collected on Anita and Cameron Allotments 1997, (PR# 34), Existing Soil Resource Conditions for the Anita, Cameron, and Moqui Allotments (PR# 36), Maps of Range Conditions and Trend (PR#38), additional biological information is presented in

the BA & E for the Anita, Cameron and Moqui Allotment Management Plan Revisions (PR# 73).

I find that the Project Record for the Anita, Cameron, and Moqui Allotments contains historical and current information that was included in the analysis. The Project Record and the document accurately reflect the biological conditions of the allotment and the fauna that uses it.

Issue 3. “The conclusions reached in the environmental assessment ignore or misinterpret facts and therefore are violative of 36 CFR 222 subpart A.”

Response: 36 CFR 222 Subpart A covers Grazing and Livestock Use on National Forest System Lands. Section 222.1 outlines the authority and defines various terms. Of particular importance is 222.1 *a Authority*. The Chief, Forest Service shall develop, administer and protect the range resources and permit and regulate the grazing use of all kinds and classes of livestock on all National Forest System lands under Forest Service control. He may redelegate this authority.

Section 222.2 *Management of the Range Environment* (b) Each allotment will be analyzed and with careful and considered consultation and cooperation with the affected permittees, landowners, and grazing advisory boards involved, as well as the State having land within the area covered, and an allotment plan developed. The plan will then be approved and implemented. The analysis and plan will be updated as needed.

Section 222.4 The Chief, Forest Service is authorized to cancel, modify, or suspend grazing and livestock use permits in whole or in part as follows: (8) Modify the seasons of use numbers, kind, and class of livestock allowed or the allotment to be used under the permit, because of resource conditions, or permittee request. One year’s notice will be given of such modification, except in cases of emergency.

I find that the conclusions reached in the environmental assessment are consistent with 36 CFR 222 Subpart A although a one year notification must accompany the modification. While Mr. Auza could have been contacted directly during the official Notice and Comment period, he was invited to participate during the preparation of the environmental assessment, as described in Issue 1.

Issue 4. “The environmental assessment fails to meet the procedural requirements of CFR 15CC-1508.”

Response: I believe that the appellant meant 40 CFR 1500 – 1508 which are the Council of Environmental Quality Regulations for implementing NEPA. These regulations direct activities during the preparation of an environmental impact statement.

I find that the processes followed during the development of this environmental assessment complied with CFR 36 1500-1508.

Issue 5. There is significant impact when use permitted is reduced by up to 75%

Contention: “The proposed decision blightly misstates basic facts concerning the economics of livestock operation and finds no significant impact when grazing use is being slashed up to 75%.”

Response: The production/utilization studies that were completed for these allotments identified the amount of forage that is being produced and the percentage of that forage that is available for consumption by cattle under the grazing program. The selected alternative benefits wildlife by improving browse conditions on approximately 29,000 acres of land within the fourwing saltbush /winterfat ecosystem. Alternative 5 was considered and dropped from detailed study. That alternative would have authorized the current term permitted numbers, yearlong, under a deferred grazing strategy for both the Anita and Cameron Allotments. The current authorized number for the Anita and Cameron Allotments is 666 and 1200 yearlings, respectively. Converted to adult livestock, that would be 465 head for the Anita Allotment and 845 for the Cameron allotment. This alternative was not carried forward because it exceeded the livestock capacity for the allotments by at least 50 percent and would lead to utilization levels above those considered allowable.

I find that the District Ranger has authorized the numbers of cattle that the range resource in the Anita, Cameron, and Moqui allotments can sustain.

Issue 6. The proposed change in livestock class creates problems from a management standpoint.

Contention: “Additionally, the proposed change in class of livestock from yearling cattle year round to cows for six months season only makes the resulting operation not viable and requires the addition of a litter pasture component where none was required before. The change in class of cattle combined with the change from a year round to a summer season operation only, creates a management nightmare and management and cost issues totally ignored by the Analysis.”

Response: The forage production studies that were conducted for the allotments identifies 7,860 animal unit months of capacity within the Anita and Cameron allotments. In the event that the permittee would prefer to operate a yearling cattle operation instead of a cow calf operation, that request could be accommodated during the permit validation process, consistent with the AUM capacity determination.

Recommendations

I have concluded 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; d) public participation and response to comments were adequate.

Appeal Decision

After a detailed review of the Project Record, I affirm the responsible official’s decision concerning the Anita, Cameron and Moqui Allotments, which authorizes grazing and implementation of management actions.

As directed in 36 CFR 215.87 (c) (2), my decision can be appealed with the Regional Forester within fifteen days of my decision.

Please contact Kaibab Stewardship Branch Leader Stu Lovejoy at (928) 635-8384 if you have questions concerning this decision.

Sincerely,

/s/ Michael R. Williams
MICHAEL R. WILLIAMS
Forest Supervisor

cc: Constance J Smith, Berwyn Brown, Richard Stahn, Charles F Ernst