



File Code: 1570-1

Date: October 1, 2004

BILL AND NANCY SHIEW  
BEAR CANYON RANCH  
23755 N HIGHWAY 89  
PAULDEN, AZ 86334

RE: Appeal #04-03-07-0002-A251, Tule Allotment, Kaibab National Forest, Williams Ranger District

Dear Mr. and Mrs. Shiew:

This is my review decision concerning the appeal you filed regarding the Decision Notice and Finding of No Significant Impact, which authorize grazing and implement the grazing management strategy on the Tule Allotment of the Kaibab National Forest, Williams Ranger District.

### **APPEAL REVIEW PROCESS**

Pursuant to 36 CFR 251.98 (d) the appeal record closed on September 3, 2004 upon completion of your oral presentation with me.

This letter constitutes my review and decision on the appeal you filed following District Ranger M. Stephen Best's decision on the Tule Allotment.

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 Best signed a decision on February 12, 2004, for the Tule Allotment. The decision resulted in the selection of the following alternative and authorization:

Tule Allotment Alternative 5, which authorizes 280 – 300 cow & calves and 20 horses to graze annually. The cow & calves' season of use is from May 15 through December 18 and for the horses is from February 1 through December 18.

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 March 19, 2004 notice of appeal.

**Issue 1:** The range of numbers presented in your decision is not sufficient to operate an economical livestock grazing unit.

**Contention:** The appellants assert that the range of livestock numbers authorized under the selected alternative (alternative 5) is not sufficient to operate an economical livestock-grazing unit. They believe the top of the range (320 head under Alternative 5) should be increased to 400 head, and that this top number should be determined each year through monitoring.

**Response:** The production/utilization study that was completed for this allotment identified 326 head as the maximum number of livestock that could be grazed and still provides sufficient forage for wildlife and other resource values. Alternative 4 with 400 head was analyzed in the EA. This alternative showed negative effects to vegetation, wildlife, and soil stability in addition to adversely affecting habitat for the Mexican spotted owl, and would not meet the forage use limits agreed upon during consultation with the U.S. Fish and Wildlife Service.

I find that the District Ranger has authorized the numbers of cattle that the range resource in the Tule Allotment can sustain.

**Issue 2:** The rest rotation grazing system is not as suited for improving the range resource as the “single-entry” or deferred rotation system.

**Contention:** The appellants believe that the selected rest rotation grazing system is not as suitable for improving the range resource as the “single-entry” (deferred rotation) system, and “may do more damage than good”. They contend no suitable rationale was provided for selecting rest rotation.

**Response:** The deferred rotation system would allow the least amount of rest of the pastures and recovery of the plants before they were grazed again resulting in reduced forage availability for herbivorous species. These effects could reduce nutrition, survival, and reproductive success of these species.

During periods of drought such as the southwest has experienced over the last decade, range managers have found that it is unwise to select an alternative that does not provide rest for the pastures during the growing season so that drought-stressed plants can maintain adequate root reserves for survival.

Since 1977, and under the rest-rotation system, the Tule Allotment has shown improvement in forage production for both cool and warm season plants. The District range managers believe this is attributable to the rest-rotation system that was started at that time.

The rest-rotation system provides the best opportunity to meet the Kaibab Land and Resource Management Plan guidance relative to livestock grazing following watershed improvement projects. That guidance states that livestock should be excluded from treated areas for no less than two growing seasons upon completion of the project.

I find that the District Ranger has selected the grazing system that provides the best opportunity for the range resource to continue improving in both the short and long term. The rest-rotation system complies with the Kaibab Land and Resource Management Plan and provides for better

coordination with other land management activities that are on-going within the allotment.

**Issue 3:** The amount of growing season grazing is too restrictive.

**Contention:** We object to the unrealistic restrictions of relative utilization being applied during the growing season. It would be much better to plan grazing periods to allow adequate recovery rest for each grazing unit during the growing season. Planned grazing during the dormant season should be able to utilize up to whatever is needed in residual forage to meet multiple use needs rather than using arbitrary allowable use factors.

**Response:** To allow additional grazing during the growing season would violate the Kaibab Land and Resource Management Plan, the Region 3 Grazing Guidance Criteria from 4-15-02 for the Mexican spotted owl and the project consultation with the US Fish and Wildlife Service for utilization limits on the Tule Allotment.

The Forest Plan states, “Implement Forest Plan forage utilization standards and guidelines to maintain owl prey availability...Strive to attain good to excellent range conditions.”

The Region 3 Grazing Guidance Criteria under the Mexican spotted owl “Recovery Status/Needs” section states “Establish maximum allowable use levels that are conservative and that will expedite attaining and maintaining good to excellent range conditions.”

Project Mexican spotted owl habitat monitoring requirements developed in consultation with the US Fish and Wildlife Service state, “If use levels in monitoring areas exceed acceptable levels (average 20% in Mexican spotted owl habitat) before or during livestock entry, the relevant pastures will either not be used and/or cattle will be removed.”

I find that the District Ranger has complied with the Kaibab Land and Resource Management Plan guidance, the Region 3 Grazing Guidance Criteria, and the results of consultation with the US Fish and Wildlife Service for this project.

**Issue 4:** The Bear Canyon Ranch has operations on both the Kaibab and the Prescott National Forests. They would like a combined Allotment Management Plan with a single set of Operating Instructions and one Forest Service contact.

**Contention:** Another disappointment was the lack of indication that our livestock operation on the Kaibab National Forest and the Prescott National Forest was going to be considered as one coordinated ranch plan rather than two separate plans as it has been historically. Unless you and the Prescott National Forest are planning to implement a combined Allotment Management Plan with one set of Annual Operating Instructions and one Forest Service contact for grazing administration of our ranch, this issue remains a point of appeal.

**Response:** The Tule Allotment is entirely on the Kaibab National Forest and the Sand Flat Allotment is entirely on the Prescott National Forest. Both the Prescott and the Kaibab range managers believe that there are good communications between forest representatives in administration and planning the grazing management on the two allotments. It is best from the forest’s standpoint if representatives from the individual forests administer the allotments on their respective forest.

On May 27, 1999 Forest Supervisors Conny Frisch (Kaibab National Forest) and Michael R. King (Prescott National Forest) sent you a letter outlining why they felt it better to maintain the separate administration for the 2 allotments. I have reviewed that letter and many of the issues

they raised are still valid today.

I find that the District Ranger considered consolidated management of the Tule and Sand Flat Allotments but determined that separate administration by the individual forests was more desirable.

**Issue 5:** Some comments made in response to the original EA were not addressed.

**Contention:** Although some of our comments to the original EA were addressed, numerous comments were not addressed or received inadequate or generalized responses. We look forward to the opportunity to present our concerns in detail.

**Response:**

On September 3, 2004, I met with you to discuss your concerns at your requested Oral Presentation. During this meeting, you did not elaborate on any comments that you had made previously that had not been addressed. A review of the public record shows that communications with various Forest Service representatives in conjunction with the Sand Flat and the Tule Allotments have been regular and on-going since May of 1998.

The original environmental assessment for the six allotments was sent to the public on March 16, 2000. The Legal Notice of this document's availability was installed in the Prescott Courier Newspaper on April 3, 2000. Other newspapers including the Chino Valley Newspaper, Prescott Valley Newspaper, Grand Canyon News, and the Flagstaff Daily Sun carried notification of the document's availability. Since then, there have been limited documented communication with you except at a Range Permittee coordination meeting at the Chino Ranger District on June 17, 2003 when you suggested to Faith Ryan that if you could be permitted for 300 to 320 head (including 20 head of horses) that you would drop your request for 400 head. Faith advised you that the Forest Service Alternative for Sand Flat/Tule was 280 – 300 head of cattle and 20 head of horses.

In August of 2003, the second environmental assessment was made available to the public. This document evaluates the impacts of 280 to 300 head of cattle and 20 head of horse in the Modified Proposed Action (Alternative 5). This Alternative became the selected alternative. During the period of public Notice and Comment following the release of both documents, there is no documentation of communication between you and personnel from either Forest.

A review of earlier correspondence between you and the Forest Service found in the project record for the environmental assessment documents that both representatives from the Prescott and the Kaibab have responded to your information requests, suggestions, and proposals in a timely manner.

**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 Tule Allotment, which authorizes grazing and implementation of management actions.

As directed in 36 CFR 251.87 (c) (2), my decision can be appealed with the Regional Forester within 15 days of my decision.

Please feel free to contact NEPA Program Manager Charles Ernst at (928) 635-8317 if you have questions concerning this decision.

Sincerely,

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

cc: Constance J Smith, Berwyn Brown, Stephen Best