



United States  
Department of  
Agriculture

Forest  
Service

Lincoln National Forest

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File Code: 1570-1

Date: July 29, 2002

David Kent Gabel and Paul Gabel  
P O Box 9  
Sudan, TX 79371

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

RE: Appeal No. 02-03-08-0001-A251, Panama/Prude and National Allotments,  
Guadalupe Ranger District, Lincoln National Forest

Dear Mr. Gabel:

On July 10, 2002 I received your notice of appeal per 36 CFR 251 dated July 8, 2002.

Your appeal states, "We are respectfully appealing the May 24, 2002 decision to force us to remove all livestock from the Panama and National allotments made by Ms. Kingsbury."

In order to determine if the appeal meets requirements, I have reviewed the May 24, 2002 letter from District Ranger Kingsbury referenced in your appeal and an April 24, 2002 letter to you from Acting District Ranger Rick Newmon.

Upon review of these two letters I have found that the requirement to remove all livestock was actually contained in the April 24, 2002 letter by Acting District Ranger Newmon. The letter from Kingsbury to you documented the results of a meeting with you on May 21, 2002 and she records in the letter, "I then stated that I was not going to change Rick Newmon's decision except to extend the date for removal of cattle."

The decision requiring the removal of all livestock on the Panama/Prude and National Allotments being appealed was actually made April 24, 2002 by Acting District Ranger Rick Newmon, thus your appeal was mailed 75 days after the April 24, 2002 written decision. In a letter from you to me dated May 16, 2002 you acknowledge Newmon's April 24, 2002 decision requiring removal of cattle as being the decision of concern. Enclosed with the April 24<sup>th</sup> letter Newmon enclosed a copy of the appeal regulations. In 36 CFR 251.89(a) it states; "Time for filing a notice of appeal is not extendable."

After review of your notice of appeal, the May 24, 2002 letter from District Ranger Jamie Kingsbury, the April 24, 2002 letter from Acting District Ranger Newmon, and your letter of May 16, 2002, I have decided to dismiss your appeal and close the record as provided in 36 CFR 251.88 (a)(2) and 36 CFR 251.92 because your appeal was not filed within 45 days.



My decision to dismiss this appeal and close the record is subject to discretionary review by the Regional Forester.

Sincerely,

/s/ Jose M. Martinez  
JOSE M. MARTINEZ  
Forest Supervisor

cc: Patrick L Jackson, David M Stewart