



File Code: 1570-1/2200

Date: February 28, 2005

Billy Stern
Forest Guardians
312 Montezuma Avenue, Suite A
Santa Fe, NM 87501

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 70010320000384271170**

RE: Appeal #05-03-08-0001-A215, Bell Canyon and Cridebring Allotments, Sacramento
Ranger District, Lincoln NF

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 grazing of 90 head-months on Bell Canyon allotment and 222 head-months on Cridebring allotment. This is also described as 15 cattle from June 1 to October 31 on Bell Canyon allotment on 1,071 acres; and 37 cattle from May 16 to November 15 on Cridebring Allotment on 1,722 acres.

BACKGROUND

District Ranger Frank Martinez made a decision on December 3, 2004, and published on December 9, 2004, for the Lincoln National Forest on the Bell Canyon and Cridebring Allotments. 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.



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 Bell Canyon and Cridebring Grazing Allotments Project with the following instruction;

Survey reports for the sensitive species, Sacramento Mountain salamander, will be added to the project record. These surveys of all suitable habitat between 1987 and 2002 are referenced in PR #69 and in the wildlife report PR #120 p.48.

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

Sincerely,

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

cc: Frank R Martinez, Constance J Smith, David M Stewart, Berwyn Brown, Ron Hannan,
Jackie C Andrew

Enclosures (2)

REVIEW AND FINDINGS

of

Forest Guardians Billy Stern's**Appeal #05-03-08-0001-A215****Bell Canyon and Cridebring Allotments, Lincoln NF****ISSUE 1: The Decision violates the NFMA and Lincoln 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; and, 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.

The EIS for Lincoln National Forest Plan in the Affected Environment section, p. 112, describes acres considered suitable for rangeland. Suitable acres are again discussed in the Plan EIS Chapter 4 Environmental Consequences, page 164, 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 Lincoln National Forest Plan. 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.

Response: A determination of agency policy of grazing on National Forest System lands is outside the scope of this decision. The Lincoln National Forest Plan allocated lands for grazing activities. The Bell Canyon and Cridebring grazing allotments are located in Management Areas

4N and 4O (EA PR #103 p. 5). The primary emphasis in Management Area 4N is on range management. Grazing is also permitted in Management Area 4O where the primary emphasis is on management of wildlife habitat.

At the highest level, the Bell Canyon and Cridebring grazing allotments' purpose and need statement is to comply with the laws, regulations, and policies regarding grazing on National Forest System lands (EA PR#103 p. 2). At the project specific level, the primary purpose and need for action is to meet the Recession Act schedule for completion of NEPA addressing grazing on the allotments. The Proposed Action was developed to address identified environmental concerns associated with grazing on the allotments (EA, p. 3).

Finding: The selected alternative (Proposed Action) meets the purpose and need and is consistent with Forest Plan objectives.

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: The Wildlife, Fish, and Rare Plant report (PR #120) provides detailed discussions of existing information, surveys conducted, and analysis of effects on sensitive species. The report also gives the reasons for excluding species from analysis for each of the allotments, which in most cases, is because there is no suitable habitat present (PR #120 pp. 32-35). Copies of the surveys for the sensitive species Sacramento Mountain salamander are referenced (PR #120 p.48) but are not included in the Project Record. For those species with suitable habitat within the two allotments, an analysis is conducted on the extent of grazing impacts to the species, and effects to species viability (PR #120 pp.35-36, 48-65). The findings for all sensitive species considered in the analysis are that impacts would be incidental and limited to impacts to individuals, and would have no adverse impacts to viability of the four sensitive species (EA PR #103 pp.42-43). Increased monitoring in the Proposed Action would allow for adjustments to livestock management to ensure that viability is not compromised.

Finding: The Project Record contains sufficient information and analyses of sensitive species to ensure that the project would maintain viability of these species. These conclusions are supported by information in the Project Record (PR #120).

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.

Response: EA includes Forest-wide population trends for the three MIS (mule deer, elk and hairy woodpecker), but does not mention habitat trends. Effects of project alternatives are addressed, and states that "overall, suitable habitat would be maintained" (for hairy woodpeckers, mule deer, and elk) (PR #103 pp.43-44). EA discloses population data for elk

under Issue #5 (competition for forage), but does not give population data for deer or woodpeckers.

The Wildlife, Fish and Rare Plant report (PR #120) gives Forest-wide trends, and reasons for including only 3 of 9 MIS possible. The report also gives NMGF population data for deer and elk on the Forest, and uses BBS data for New Mexico for hairy woodpecker and explains why the trends on the Forest are expected to mimic state-wide data (PR #120 pp.22, 25). The Lincoln NF began bird surveys on the Forest in 2001, but has not surveyed long enough to get trend data specific to the Forest (PR# 120 p.18).

Both the EA and the Wildlife Report state that “overall, suitable habitat would be maintained” for these three species. This statement implies that there would be no change in habitat trends, and also implies that there would be no change in population trends. The EA further states that for the Proposed Action, increased coordination with NMFG would occur for management of elk, and increased monitoring would allow for adjustments in cattle management if increased impacts occur to MIS or their habitats.

Finding: The Project Record discloses population data for elk and deer on the Lincoln NF and for hairy woodpeckers statewide, with rationale why population trends of the woodpecker are expected to mimic statewide trends. The EA states that suitable habitat would be maintained for the three MIS species, and which of the alternatives would be of most benefit to wildlife. The decision is based on this information and is valid.

ISSUE 3: The term permit issuance must be suspended until the 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 term grazing permit issuance project can be tiered. Term permit must be suspended until the Forest publishes a new FEIS supporting a revised 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 2005 appropriations bill for the Forest Service allows that (section 320, General Provisions). “Prior to October 1, 2005, 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. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: Provided, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.”

The Lincoln National Forest 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: 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.

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 Bell Canyon and Cridebring Grazing Allotments Environmental Assessment described three alternatives: No Action (no grazing), Proposed Action, and Current Management. As described in the EA (PR#103 pp. 14-16), the Proposed Action incorporates adaptive management, allowing for adjustments in actual numbers and seasons of use, as needed, based on monitoring. As such, a range of stocking rates from none to the currently permitted maximum could occur. For this reason, the suggested alternative of 50 percent reduction was dropped from detailed analysis (PR#103 pp.13-14).

Chapter 3, of the EA clearly outlines the potential effects of implementing the Proposed Action, No Action, and Current Management alternatives.

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: Proper forage utilization standards are employed to sustain such things as plant health and vigor, long-term soil productivity, and protection for threatened, endangered, and sensitive species and their habitats. Forage utilization levels are determined based on guidelines set out in the R-3 Allotment Analysis Guidelines. These guidelines specifically describe appropriate forage utilization levels recommended for the purpose of improving rangeland condition.

Forage utilization is measured by key area on key forage species within various pastures encompassing a grazing allotment. Key areas are locations readily accessible to water and forage and are located on level to intermediate slopes. Key species are herbaceous and woody vegetation that domestic livestock prefer at any given time of the year. By monitoring key areas,

the Forest Service can ensure that an allotment or pastures within an allotment are not overgrazed.

The record demonstrates that monitoring is an important aspect of the proposed action and will include compliance, utilization, and effectiveness monitoring (EA PR #103 pp. 15-16). Utilization standards for herbaceous forage will be 35 percent of annual available forage.

Finding: Utilization standards for the Bell Canyon and Cridebring Allotments were developed in accordance with Forest Service policy. 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. As the selected alternative is implemented, all monitoring information will be available to the public.

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. Appellant states, “The EA contains virtually no analysis of cumulative effects...” The original proposal covers a number of allotments but this EA only covers two, the EA fails to consider any areas outside of the specific allotment boundaries in cumulative effects, which fails to meet NEPA.

Response: The EA includes a discussion of past, present, and reasonably foreseeable projects that have the potential to add to the effects of the current proposal. This discussion is found in the Background Section (PR #103 pp. 5-6); under Cumulative Actions (pp. 18-19); and in Chapter 3 effects analysis (pp. 32, 35, 38, 47, 50, and 52). Additionally, the project record contains specialist reports, emails, and other documentation referencing past, present and reasonably foreseeable projects (within and adjacent to the Bell and Cridebring allotments) and their consideration in the context of cumulative effects.

A scoping letter (PR #28) was sent to the public in January 2004, and clearly noted that eight allotments would be analyzed under several different Environmental Assessments. The EA (PR #103 p. 9) describes the public involvement strategy used in the analysis. It also states that eight allotments were included in the scoping and that the six other allotments are being addressed in four other EAs. As such, the public was clearly informed of the process.

Finding: The Bell Canyon and Cridebring Grazing Allotments EA and supporting project record include consideration of past, present, and reasonably foreseeable actions and their cumulative effects on various 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. Although the methodology for considering user days is not clear, hunting and other recreation use has an impact on the local economy that should have been considered in the EA.

Response: Projects such as the Bell Canyon and Cridebring grazing allotments 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 selected alternative

implements previously approved practices included in the current Lincoln National Forest Plan. The responsible line officer determines the scope, appropriate level and complexity of economic and social analysis needed (FSM 1970.6). Economic implications were not considered an issue in the environmental analysis and there is very limited work to be done as range improvement work (cleaning out stock tanks and constructing a water catchment apron- EA p. 15).

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 5: The FS failed to provide an EA for comment in violation of existing law in NEPA, Appeals Reform Act and Administrative Procedures Act.

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 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 additional scoping notice.

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.

A 30-day notice and comment period was conducted for the Bell Canyon and Cridebring Grazing Allotments analysis. Following the scoping period and identification of issues, a letter was sent out to interested parties on July 15, 2004, for the purpose of soliciting comments on the proposed action (PR # 47). The letter explained the process for comment and outlined changes in appeal regulations to ensure the public was provided with a clear understanding of the process. The letter included a detailed description of the proposed action, including monitoring requirements, and described issues identified from scoping that would be discussed in the EA. The information provided met the requirements of 36 CFR 215.3. The letter included sufficient 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. Sufficient information was provided to generate substantive comments from the public.

ISSUE 6: 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 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 Lincoln 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, Chapter 3 of the EA (PR #103) provides an analysis of the effects the selected alternative will have on various resources. The effects of the selected alternative comply with applicable forest plan direction and are described as showing improvement toward desired conditions. .

The Decision Notice (PR #116, p. 4) provides the Decision Maker rationale for selecting the Proposed Action. The selected alternative meets forest plan direction and meets the need of complying with the Rescission Act. Furthermore, the selected alternative provides for adaptive management which allows flexibility to effectively address desired conditions, it provides for needed range improvements, and it expands monitoring requirements to enable resource managers to implement changes in a timely manner.

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

ISSUE 7: The EIS violates the Administrative Procedures Act.

Contention A: 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.

Response: The EA/DN and documents in the record disclose the analysis done to evaluate resource conditions on the allotment and the effects of alternatives considered.

Finding: In the DN for the Bell Canyon and Cridebring Allotments, the Responsible Official properly assessed the issues, public input, and impacts to resources in his decision rationale. The Responsible Official made a reasoned and informed decision based on the analysis and has not violated the Administrative Procedures Act.

Contention B: The Responsible Official, Mr. Martinez, failed to consider the effects of grazing in MA 4O areas and arbitrarily dismissed the alternative to manage these areas primarily for wildlife habitat.

Response: This issue of competition between elk and cattle for forage was specifically mentioned and the effects of grazing in MA4O, mainly in the Bell Canyon allotment, is described and disclosed in the analysis of effects in the EA (PR #103 pp. 48-49). Because monitoring would be more extensive than current management, changes in livestock management could occur earlier to favor elk in MA4O. For mule deer, adaptive management would allow for revision in the livestock grazing if forage in deer habitat were to fall continuously below desired levels (PR #103 p. 44). Forage utilization limits are in place on both allotments to help ensure that pastures are not overgrazed, which helps maintain suitable levels of cover and forage for wildlife (PR #103 p. 41). This meets Forest Plan standards to maintain forage use by ungulates (PR #103 p.4). Finally, in response to comments, the answer to this issue is that allotting forage specifically to wildlife is unnecessary (PR #103 pp. 59-60).

Finding: The issue was considered and addressed in various places in the EA, the Forest Plan standard regarding wildlife forage is disclosed, and the dismissal of this proposal was not arbitrary and capricious.

Contention C: The EA arbitrarily decided not to analyze the relation between grazing and wildfires. Stating that grazing has negligible impacts on wildfire and the related increase in piñon–juniper woodlands before actually doing an analysis is arbitrary.

Response: The Responsible Official documented his rationale for dropping fire suppression and historic reduction of fine fuels by grazing as an issue to be included in the analysis (EA PR #103 pp. 10-11). The Responsible Official concluded fire suppression has been the primary reason for the expansion of woody species and that prescribed burning, timber harvest, and thinning projects will be used in the future to achieve desired conditions. As future projects are proposed they will be subject to site-specific analysis.

Finding: The role of fire in fire-adapted ecosystems is outside the scope of the analysis.

Contention D: The EA states that the determination for Mexican spotted owl and designated critical habitat is May Affect Not Likely to Adversely Affect, but the DN states that it is No Effect. Since the conclusions in the DN are based on No Effect, the final decision is arbitrary and capricious.

Response: The Decision Notice clearly states on page 5 for Endangered Species Act compliance that a find of “may affect, not likely to adversely affect” and “not likely to jeopardize” was made for the project (PR #116). A letter of concurrence was received from the US Fish and Wildlife Service on May 21, 2004 (PR # 39). The Decision to implement the Proposed Action was based on this information. Under the “Finding of No Significant Impact” on page 10, the document mentions a determination of “No Effect” on threatened and endangered species, but the same paragraph ends with the statement “I find that implementation of the Proposed Action, will not adversely affect any threatened and endangered species or their critical habitat”. The “no effect” is a typo – the conclusion in the DN is clearly stated in the last sentence.

Finding: The conclusions made in the Decision Notice are based on a determination that the project is “not likely to adversely affect” the Mexican spotted owl, concurrence by the US Fish and Wildlife Service, and a valid finding of no significant impact. The decision is not arbitrary and capricious.



United States
Department of
Agriculture

Forest
Service

Cibola National Forest
and National Grasslands

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File Code: 1570-1/2200
Route To:

Date: February 22, 2005

Subject: ARO, Appeal #05-03-08-0001-A215, Bell Canyon, Cridebring Allotment, FG

To: Forest Supervisor

This is my recommendation on the disposition of the Forest Guardians appeal filed in protest of Bell and Cridebring Grazing Allotment Decision Notice and Finding of No Significant Impact.

District Ranger Frank Martinez signed the decision on 12/03/2004. The District Ranger is herein termed as the Responsible Official. Forest Guardians filed an appeal of this decision under the 36 CFR 215 appeal regulations.

Informal Disposition

Pursuant to 36 CFR 215.17, there is no indication in the project record that informal disposition resulted in agreement to settle this appeal.

Review and Findings

My review was conducted in accordance with 36 CFR 215.19 to ensure that the analysis and decision are in compliance with applicable laws, regulations, polices, and orders. The appeal records, including the appellant's issues and requests for relief have been thoroughly reviewed. Having reviewed the Environmental Assessment (EA), decision, and the project record file, as required by 36 CFR 215.19(b), I conclude the following:

- 1) The decision clearly describes the actions to be taken in sufficient detail that the reader can easily understand what will occur as a result of the decision. The Proposed Action (selected alternative) authorizes the grazing of up to 90 head-months within the Bell Canyon Allotment and 222 head-months within the Cridebring allotment. The decision also includes range improvements on both allotments to improve water availability and cattle distribution. Monitoring for compliance, utilization and effectiveness and mitigations to reduce impacts are further included.
- 2) The identified Purpose and Need are to: make forage from lands suitable for grazing available to qualified livestock operators, consistent with land management plans and to meet the Rescission Act schedule for completion of NEPA addressing the Bell and Cridebring Allotments. The purpose and need stated in the EA reflect consistency with direction in the Forest Plan for the Lincoln National Forest. The selected alternative is consistent with the stated Purpose and Need.



- 3) The decision is consistent with policy and direction. The Bell and Cridebring Allotments are designated as suitable for grazing in the Lincoln National Forest Land Management Plan and the Rescission Act specified a schedule for NEPA completion. The Bell and Cridebring Grazing Allotment EA is consistent with this direction.
- 4) The record reflects that the Responsible Official provided ample opportunity for public participation during the analysis and decision making process. The public was offered the opportunity to comment during Scoping. When the issues raised in Scoping were evaluated and significant issues addressed and Alternatives developed, the public was given an additional opportunity to comment. This exceeds the requirement for a public comment period of 30 days. The Responsible Official's efforts enabled interested publics the opportunity to comment and be involved in the site-specific proposal both during the initial phase of planning and when information was developed to respond to those initial comments.
- 5) While I find that my decision would not have differed from that of the District Ranger, the logic of that decision is not as clearly defined as I would prefer. The reasons for choosing the Proposed Action are less clear than those identified for *not* choosing Alternative 1 or 2.

After considering the claims made by the appellant and reviewing the record, I found that the Responsible Official conducted a proper and public NEPA process that resulted in a decision that is consistent with the Lincoln National Forest Plan. I found no violations of law, regulations, or Forest Service policy.

Recommendation

I recommend that the Responsible Official's decisions relating to this appeal be affirmed with respect to all of the appellant's contentions.

/s/ Jackie Andrew
JACKIE ANDREW
District Ranger

cc: Constance J Smith