



United States
Department of
Agriculture

Forest
Service

Santa Fe National Forest

1474 Rodeo Road
P.O. Box 1689
Santa Fe, New Mexico 87504-1689
505-438-7840 FAX 505-438-7834

File Code: 1570-1/2230-3

Date: June 1, 2004

George E. Adelo, Esq.
Attorney at Law
P.O. Box 2477
Santa Fe, NM 87504

CERTIFIED MAIL
7004 0750 0003 2033 1023
Return Receipt Requested

RE: Appeal #04-03-10-0007-A251

Dear Mr. Adelo:

This letter constitutes my review and decision on the appeal you filed as representative for Mr. Ramon I. Vigil regarding delayed entry onto the Springs Allotment in 2004.

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

Points of Appeal

My review will focus on the appeal points in your March 16, 2004 notice of appeal.

ISSUES 1 and 3: Appellant disputes the existence of extreme drought conditions on the Springs Allotment. Appellant further claims the February 5, 2004 decision was made without current information including precipitation levels or growth measurements.

Contention: The District Ranger's decision and response are based on outdated information. Current precipitation totals should be relied upon in determining whether Extreme to Exceptional condition still exist on the Springs Allotment.

Response: Ranger Reddan relies upon information presented in monthly updates to the U.S. Drought Monitor, Climate Assessment for the Southwest, and National Climate Data Center data that are interpreted by experts in their fields of study or work.

In his responsive statement, Ranger Reddan described vegetation conditions after the most recent forage growing season and removal of livestock from the allotment. He also described his rationale for scheduling collection and analysis of monitoring data based upon vegetation growth requirements.

I find the District Ranger has complied with Forest Service operational procedures, including the proper application of accepted scientific principles and practices.



ISSUE 2: Appellant claims the February 5, 2004 decision is contradictory to information provided by the Forest Service at the December 16, 2003 meeting.

Contention: Mr. Vigil stands by his recollection that conditions were to be reevaluated in March 2004.

Response: The District Ranger does not believe the Forest Service stipulated to the appellant that the Springs Allotment would be reevaluated in March 2004. He believes the Forest Service stated the earliest that plant growth would be monitored would be July 2004.

I find the District Ranger has complied with Forest Service policy and operational procedures regarding communication with the appellant.

ISSUE 4: Appellant claims the February 5, 2004 decision was vague and that permittees have no basis to plan management of their livestock resources.

Contention: Mr. Vigil believes that the Forest Service has been remiss in refusing to reevaluate conditions on the Springs Allotment based upon current conditions, which review might demonstrate that there has been sufficient improvement in precipitation and soil moisture to salvage grazing in the current season.

Response: The record shows the appellant was repeatedly provided with advance information that the forage on the allotment would not support livestock grazing into the 2004 grazing season. The District Ranger worked with the appellant during removal of livestock from the allotment during the 2003 grazing season. The February 5, 2004 decision was a restatement of basic information previously provided to the appellant, without extensive details provided in previous discussions.

I find the District Ranger has acted within his authority and complied with Forest Service policy and operational procedures.

REQUESTED RELIEF

The only relief specifically requested was a stay of this decision. The request for a stay was denied on March 19, 2004. Deputy Regional Forester Camarena determined not to exercise his right of discretionary review of that decision on March 23, 2004.

In response to unique circumstances involving the appellant, the District Ranger approved the appellant's application for a Temporary Grazing Permit on another allotment. By doing so, the District Ranger responded to the appellants need to provide summer forage for a base herd of livestock.

DECISION

After review of the appeal record, I find that the District Ranger's decision was based on a reasonable assessment of current resource objectives and conditions. The District Ranger's decision is in conformance with applicable laws, regulations, policies, and procedures. I find no evidence indicating the District Ranger has acted in an arbitrary or capricious manner. The District Ranger's decision is affirmed.

My decision is subject to further administrative review under 36 CFR 251. Any appeal of this decision to the second level must be fully consistent with 36 CFR 251.90, content of notice of appeal. Pursuant to 36 CFR 251.87(c) (2), "the appeal for a second level of review is filed with the regional forester within 15 days of the first level appeal decision. Upon receiving such a request, the regional forester shall promptly request the first level file from the forest supervisor. The review shall be conducted on the existing record and no additional information will be added to the file."

Appeals must be filed with:

Regional Forester
Southwestern Region
333 Broadway SE
Albuquerque, NM 87102

Sincerely,

/s/ Clifford J. Dils (for)
GILBERT ZEPEDA
Forest Supervisor

cc: Joe Reddan, Constance J Smith, Berwyn Brown