



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 17, 2004

John Young Hernandez
P.O. Box 158
Cuba, NM 87013

CERTIFIED MAIL
7002 2410 0003 5797 4751
Return Receipt Requested

RE: Appeal No. 04-03-10-0017-A251

Dear Mr. Hernandez:

Pursuant to 36 CFR 251.98(d) the appeal record closed on June 17, 2004.

This letter constitutes my review and decision on the appeal you filed regarding the 2004 Annual Operating Instructions for the Vacas Allotment.

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.

APPEAL POINT

My review will focus on the appeal points in your May 4, 2004 notice of appeal.

Issue 1: Appellant disputes the validity of weather data used in development of the Annual Operating Instructions.

Contention: The Wolf Canyon station is historically drier than the Vacas allotment and is not representative of conditions on the allotment.

Response: The NOAA weather reporting station selected to gather precipitation data is the nearest station with long term data to the allotment. The data are used to determine general patterns in precipitation, not as a representation of the quantity of rainfall. These data are entered into a scientifically developed model for estimating variation in forage production from the long-term average. The model outputs are the starting point for stocking rate projections that are modified in response to additional data from field observations.

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 disputes the validity of data from the designated key areas.

Contention: The identified key areas are not representative of the allotment or the pastures within which they are located.

Response: Key area locations have been selected using the following criteria. They must be representative of grazing that occurs in the allotment or pasture. They must be at least 0.5 mile from any water source, on slopes less than 40 percent and have species composition that meet management goals and desired conditions.

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

Issue 3: Appellant disputes the qualifications of Forest Service personnel.

Response: Decisions involving Agency personnel matters are not appealable under 36 CFR 251. This is not a valid appeal issue.

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

If you have any questions regarding this appeal or the appeal process, please contact Barry Imler at the letterhead address or by phone at (505) 438-7801.

Sincerely,

/s/ Gilbert Zepeda
GILBERT ZEPEDA
Forest Supervisor

cc: Steve F Romero, Berwyn Brown, Constance J Smith