



United States
Department of
Agriculture

Forest
Service

Santa Fe National Forest

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File Code: 1570-1/2230-3

Date: June 16, 2005

Cornelio Salazar
Severiana Salazar and Sons
Canones Route
Abiquiu, NM 87510

Certified Mail
7004 2510 0005 5233 8096
Return Receipt Requested

Dear Mr. Salazar:

This letter constitutes my review and decision on the appeal you filed regarding the 2005 Annual Operating Instructions for the Youngsville 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 POINTS

My review will focus on the appeal points in your March 31, 2005 notice of appeal.

Issue 1: Appellants dispute the timing of the decision.

Contention: It is premature to issue a decision regarding authorized use three months before the start of the season as shown on the term grazing permit.

Response: The Annual Operating Instructions were developed during the annual meeting with the Youngsville Grazing Association on February 14, 2005. This meeting was held early in accordance with the Santa Fe and Carson National Forest Rangeland Management Action Plan which allows permittees time to appeal before the authorized livestock entry date. It also allows permittees time to make necessary adjustments in response to anticipated authorization levels.

The District Ranger has agreed to coordinate pre-grazing season monitoring with the affected permittees and to adjust his decision based upon the results of those monitoring activities. He has further agreed to coordinate mid-season monitoring and to consider adjusting the scheduled off-date based upon the results of those monitoring activities.

I find the District Ranger has complied with Forest Service policies and operational procedures relating to the issuance of Annual Operating Instructions.

Issue 2: Appellants dispute that the District Ranger has followed established policy regarding communication with grazing permittees.



Contention: The District Ranger failed to provide the appellants with a copy of the Santa Fe and Carson National Forest Range Action Plan.

Response: The Youngsville Association was presented with a copy of the Rangeland Management Action plan at the 2003 annual operating meeting by the District Ranger. The action plan was subsequently explained to them in detail. The District Ranger did not provide additional copies of the unchanged action plan during the 2005 annual meeting.

I find the District Ranger has complied with Forest Service policies and operational procedures relating to communication with grazing permittees on the Santa Fe National Forest.

Issue 3: Appellants dispute the need for a reduction in authorized use on the Youngsville allotments.

Contention: The decision is biased toward reducing authorized livestock without addressing elk populations and use. The decision to reduce authorized use is imposed for elk protection, not resource protection. The 40% utilization standard should apply to elk, as well as cattle.

Response: The District Ranger's decision to reduce 25% in permitted Head Months was partially based in the amount of precipitation for 2003 and 2004. He also considered data indicating that key forage species stubble height guidelines were exceeded at the end of the 2004 grazing season. In order to maintain rangeland resources the District Ranger considers the amount of precipitation and past forage utilization by all ungulate species.

The District Ranger has been working with the New Mexico Game and Fish (NMG&F) to determine the amount of utilization by elk. Ruben Leal (District Staff) and Robin Tierney (NMG&F) set utilization cages last year. Unfortunately, they were taken or destroyed. The District Ranger is planning to construct some elk exclosures this year and will be inviting Mr. Salazar to help pick monitoring sites. In a collaborate effort with NMG&F, District personnel dispersed salt in Tres Cerros and Cerro Pelon to keep elk away from key areas in 2003 with some success. NMF&G officials have frequently participated in annual meetings and range readiness inspections to answer questions about elk. The District Ranger plans to involve the NMG&F in future planning efforts for the Youngsville allotment.

Appellants were asked to provide recommendations regarding problem areas and times associated with elk use on the Youngsville allotment. This information will be forwarded to NMG&F with a request for action to reduce elk impacts within these high sensitivity areas.

I find the District Ranger has complied with Forest Service policies and operational procedures relating to the management of rangeland resources.

Issue 4: Appellants dispute the legitimacy of the Youngsville allotment boundaries.

Contention: National Forest System lands were illegally taken from this allotment and assigned to other grazing allotments.

Response: Historical Allotment boundaries have been brought to the District Ranger's attention. If it is appropriate, the District Ranger will consider allotment boundary adjustments during National Environmental Policy Act analysis of this allotment. An analysis was completed on 2002 on one of the neighboring allotments that may be affected by any adjustments to Youngsville allotment boundaries. The other neighboring allotment that may be affected is scheduled for simultaneous analysis with the Youngsville allotment.

I find this issue is beyond the scope of the Annual Operating Instructions decision subject to this appeal. The District Ranger has complied with Forest Service policies and operational procedures relating to grazing allotment administration.

Issue 5: Appellants dispute the proper use of science based information in the decision making process.

Contention: The District Ranger is not properly interpreting information published by Holechek and Gault (2000) regarding utilization monitoring. Individuals involved in Section 7 Endangered Species Act consultation may not have been qualified to be involved in the consultation.

Response: The District Ranger has provided a copy of the Holecheck and Gault guide to stubble heights to Mr. Salazar. The District is following the Holecheck guide that says 40 percent utilization of forage by weight is considered conservative grazing, which is desired by the District to conserve rangeland resources. The stubble heights used to make judgments on grazing utilization come from a list acquired from the Santa Fe National Forest Supervisors Office.

Section 7 consultation with the U.S. Fish and Wildlife Service was conducted at the Regional level as part of a multi-forest consultation. The 40% utilization level is part of the Mexican Spotted Owl Recovery Plan, as well as part of the goshawk management guidelines.

In order to continue livestock grazing, the Santa Fe National Forest was required to under go consultation with the US Fish and Wildlife Service as required by the Endangered Species Act. It is my understanding that 40 percent or conservative utilization was a result of that consultation.

I find the District Ranger has complied with Forest Service policies and operational procedures relating to the issuance and administration of Annual Operating Instructions.

Issue 6: Appellants dispute the pasture assignments in the 2005 Annual Operating Instructions for the Youngsville allotment.

Contention: The District Ranger is forcing the appellants to place 60 head of animals acquired through permit waiver in the wrong pasture, thus causing an over utilization problem in the Gurule pasture. These animals were previously allowed in other pastures within this allotment. By requiring placement of 60 additional head with the 197 head previously assigned to the Gurule pasture, the District Ranger is creating a situation where over utilization within this pasture cannot be avoided.

Response: In approximately 1999, Mr. Salazar preferred to run his entire authorized numbers in

La Grulla pasture season long because he did want to run livestock with the Youngsville Association. Since the advent of drought Severiana Salazar and Sons have changed their minds about that decision. This issue would be best addressed in the 2006 Grazing Environmental Analysis because of the forage allocation issues that will arise.

As agreed, Severiana Salazar and Sons has entered into negotiations with other members of the Youngsville Grazing Association to allow the 60 head of cattle in question to graze within other pastures of the Youngsville allotment during the 2005 grazing season.

I find the District Ranger has complied with Forest Service policies and operational procedures relating to the issuance and administration of Annual Operating Instructions.

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: Francisco B Sanchez, Berwyn Brown, Constance J Smith