

Decision Notice and Finding of No Significant Impact

Livestock Grazing Management for El Rito Lobato East and West Allotments

**USDA Forest Service, Carson National Forest, El Rito Ranger District
Rio Arriba County, New Mexico**

Introduction

El Rito Lobato East Allotment and El Rito Lobato West Allotment are located adjacent to the town of El Rito, in northern New Mexico and are divided by Highway 554, within the El Rito Ranger District of the Carson National Forest in Rio Arriba County (figure 1). The environmental assessment (EA) for these allotments document the analysis of alternatives to address the specific ecological, social, and economic needs of the area. The project record and EA are available for review at the El Rito Ranger District.

Decision

I have reviewed the Carson National Forest Land and Resource Management Plan (forest plan) and the El Rito Lobato East and West Allotments Environmental Assessment. This decision and the environmental assessment considered the best available science. The project record demonstrates a thorough review of relevant scientific information. Based on my review and the examination of the alternatives, I have decided to implement alternative 2, the Proposed Action. My decision will change grazing management on the allotments as follows (figure 1):

- Permit up to 654 cow/calf units and 39 bulls. The actual number of animals authorized each grazing season would depend on resource conditions of the pastures.
- Permit season of use from May 1 to November 30, with the exception of Lopez Pasture Entry and exit dates may vary (up to one month within these dates) depending on resource conditions.
- Only graze Lopez Pasture from December 1 through January 31. Manage using a 13-pasture rotational grazing system.
- Brush hog sagebrush and replant with native cool season grass on 265 acres in Lower Placitas Pasture, 1921 acres in Upper Placitas Pasture, 396 acres in Perro Pasture, 2810 acres in Sage Pasture, and 636 acres in Madera Pasture. Pastures should be rested two years after treatment. Retreatment to maintain grass conditions of these areas would occur every 5-10 years.
- To better distribute cattle, reduce use on La Jara, Upper Placitas, Lower Placitas, Perro, Sage, and Sierra pastures and increase use on El Rito North, Potrero, Manzanares, Comanche, Lopez, Madera, and Amarilla pastures through the rotational grazing system.
- Relocate one water trough 200 feet from its existing location in the Comanche Pasture to protect one archeological site from livestock access. Construct approximately 600 feet of fence around the archeological site.
- Under the guidelines of the recovery plan for southwestern willow flycatcher, there would be no grazing in the Lower Placitas Pasture during the growing season.
- Adjust distribution of livestock and forage to achieve a light to conservative grazing intensity of 20-40% utilization. Except for riparian habitat, all vegetation types would not exceed 40% utilization. In riparian areas identified as suitable for the southwestern

willow flycatcher utilization would not exceed 35%. A 4-inch stubble height on grasses and forbs would be maintained in all riparian areas.

- Implement range improvements and vegetation treatments on the allotments, using table 1 as a guide to the adaptive management strategy for this decision.

Table 1. Adaptive management strategy for the decision

Pasture	Improvements and Vegetation Treatments	Interim Management until Improvements or Vegetation Treatments are Implemented (AUMs)	Management with Improvements and Vegetation Treatments Implemented (AUMs)
La Jara Pasture (EA, app. B, figure 1)	2 ¹ stock tanks ² 3 miles fence	673	673
Potrero Pasture (EA, app. B, figure 2)	1 spring development	344	344
El Rito North Pasture (EA, app. B, figure 3)	3 stock tanks ² 2 miles fence 2 cattle guards	103	127
Upper Placitas Pasture (EA, app. B, figure 4)	1 stock tank 1921 acres veg treatments	268	356
Lower Placitas Pasture (EA, app. B, figure 5)	1 stock tank 1 spring development ² 265 acres veg treatments	229	255
Sierra Pasture (EA, app. B, figure 6)	1 stock tank 4 miles fence ²	599	599
Amarilla Pasture (EA, app. B, figure 6)	1 stock tank 2 miles fence ²	613	613
Comanche Pasture (EA, app. B, figure 7)	3 stock tanks ²	383	723
Manzanares Pasture (EA, app. B, figure 8)	3 stock tanks ²	215	215
Madera Pasture (EA, app. B, figure 9)	5 stock tanks ² 636 acres veg treatments	865	865
Perro Pasture (EA, app. B, figure 10)	5 stock tanks 5 miles fence 396 acres veg treatments	460	646
Sage Pasture (EA, app. B, figure 11)	2810 acres veg treatments	616	900
Lopez Pasture (EA, app. B, figure 12)	3 stock tanks ² 1 spring development	102	102

¹ The stock tanks would be dirt tanks, the trick tanks would be above-ground water collection systems, and spring developments would consist of an above-ground tank, with an associated fence and trough.

² After the release of the proposed action for 30-day comment, additional field examination, and meetings with the permittees, the alternative 2 was modified to reflect a different number of proposed water developments or miles of fence.

Mitigation Measures

Stocking levels and the on and off dates would be adjusted annually through the annual operating instructions (AOI's), based on previous years' monitoring and anticipated forage as measured by range readiness inspections. The AOI's allow flexibility to respond to short-term resource conditions such as forage and water availability.

Best management practices (BMPs) applied on the analysis area can improve soil and watershed conditions by improving livestock distribution, removing grazing impacts in drainage areas and increase the vigor and diversity of riparian vegetation, specifically BMP 22.1-22.16.

Under the proposed action, distribution of livestock and forage use would be adjusted to achieve a light to conservative grazing intensity of 20-40% utilization, meeting guidelines. Utilization would not exceed 35% in riparian habitat that has been identified as suitable for the southwestern willow flycatcher. In all other vegetation types, utilization would not exceed 40%. A 4-inch stubble height on grasses and forbs will be maintained in all riparian zones.

If future surveys document Ripley's milkvetch to occur within the analysis area, occupied pastures would be rested one in three years or livestock grazing would be deferred after June to allow seed set.

Monitoring

Monitoring informs the decision maker, specialists, and interested public of progress towards the goals and objectives during the implementation of a project. By monitoring the effects of actions and evaluating the results, appropriate modifications in management practices can be made, resource trends can be analyzed, and new knowledge can be applied to similar projects in the future. The following monitoring will apply to the proposed action, if implemented:

- Range Readiness every year before grazing season.
- Parker 3-Step, cover frequency, and Rapid Assessment Methodology every 5-10 years.
- Forage utilization measured throughout each grazing season and at the end of each grazing season.
- Permit compliance including stocking levels, pastures grazed, and season of use monitored throughout the grazing season.
- Visual monitoring by range specialists throughout the grazing season for general resource concerns.
- Key grazing areas would be established and monitored in cooperation with permittees. Key grazing areas will be monitored and evaluated for utilization every year and range condition and trend every 5 to 10 years. The intent of monitoring in key grazing areas would be to maintain good to excellent range conditions in key areas while accommodating the needs of wildlife.

Rationale for the Decision

I have read the El Rito Lobato East and West Grazing Allotments Environmental Assessment. I fully understand the environmental effects disclosed therein. In making this decision I fully considered the health of the grazing area, including past and future effects to other resource management objectives. I selected alternative 2 because range vegetation and soil conditions within the analysis area (both allotments combined) would improve and it balances livestock use with the capacity of the analysis area (EA, pp. 23-24). The improvements incorporated into alternative 2, in conjunction with monitoring and compliance with annual operating instructions (AOIs), will ensure cattle do not remain in the same place for too long and give pastures sufficient time to rest and ecological health to improve (EA, pp. 8-11). Alternative 2 also provides for more reliable livestock operations, thus maintains traditional land uses and values in the area.

Besides alternative 2, fifteen alternatives were considered; thirteen were eliminated from detailed analysis (EA, pp. 7-8). The no action alternative (alternative 1) was the no grazing alternative and used as a baseline to compare the effects of alternative 2. The U.S. Fish and Wildlife Service was consulted and a concurrence letter was received on September 23, 2008.

Public Involvement

The proposal for livestock management on the El Rito Lobato East and El Rito Lobato West allotments was first listed in the schedule of proposed actions on October 2006. It has subsequently been listed every three months. The proposed action was provided to the public and other agencies, including Native American tribes, for scoping on June 17, 2008. Five scoping response letters were received. In addition, as part of the public involvement process, the agency held two public meetings on February 20, 2008 and May 22, 2008 to discuss historical and future use of the analysis area. In conjunction with these meetings a letter dated July 25, 2008 was mailed to all permittees to advise them of their applicant status with U.S. Fish and Wildlife Service. Using the scoping comments, issues were identified and alternatives were developed to address these issues. The alternatives were provided to the public during a 30-day notice and comment period beginning July 24, 2008. A legal notice of availability was published in *The Rio Grande Sun* in accordance with 36 CFR 215.5(b). A total of three comment letters were received.

Finding of No Significant Impact

Based on the interdisciplinary environmental analysis, review of the National Environmental Policy Act (NEPA) criteria for significant effects, and my knowledge of the expected impacts, I have determined this decision will not have a significant effect on the human environment therefore an environmental impact statement will not be prepared. This determination is based on the following factors:

- (a) **Context** – The physical and biological effects of the proposed actions and alternatives described in the environmental assessment are site-specific actions limited to this analysis area. The significance of the proposed action is evaluated within the context of the El Rito Ranger District and Rio Arriba County.
- (b) **Intensity** – The severity of the environmental effects of the proposed projects, were considered in evaluating intensity (40 CFR 1508.27).

1. Impacts that may be both beneficial and adverse

Both beneficial and adverse effects and their significance were discussed for the alternatives considered in detail. Effects were lessened or eliminated through design and mitigation measures. None of the adverse effects were determined to be significant, singularly or in combination. The beneficial effects of the action do not bias my finding of no significant environmental effects. The anticipated environmental effects and their intensity have been disclosed for each alternative in chapter 3 of the EA (pp. 15-53). Beneficial impacts were not used to minimize the severity of any adverse impacts. The proposed uses of National Forest System lands will not result in any known significant irreversible resource commitments or a significant irreversible loss of soil productivity, water quality, wildlife habitats, heritage resources or recreational opportunities. In reaching my conclusion of no significant impacts, I recognize that this project is likely to have impacts, which are perceived as negative as well as positive.

2. The degree to which the proposed action affects public health or safety

Grazing activities do not constitute a threat to public health or safety. This decision does not involve national defense or security. Livestock grazing has occurred in the same types of vegetation on the Carson National Forest for many years and there is a high degree of site-specific knowledge on the implementation and effects of livestock grazing.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas

There are no unique characteristics of the geographical area that will be significantly affected by my decision. There are no effects to prime farmlands, wetlands, floodplains, or ecologically critical areas (EA, pp. 25-30). There are no effects to designated wilderness areas, wilderness study areas, inventoried roadless areas, or wild and scenic rivers (PR³ # 87, EA, pg. 51). The Sierra Negra Inventoried Roadless Area is within the analysis area, where

³ An interdisciplinary analysis on the proposed action is documented in a project record found in Appendix A of the environmental assessment. Source documents from the project record are incorporated by reference in this Decision Notice and FONSI by showing the document number in brackets (PR#). The project record contains copies of the effects analysis for the resources analyzed.

construction or reconstruction of roads is not allowed. This decision does not include any road building or change in the current road system. Continued livestock grazing on the analysis area would not have any direct, indirect, or cumulative effects to the roadless characteristics of Sierra Negra Inventoried Roadless Area. There are no effects to any unique areas (PR # 87). See significance factor #8 for discussion related to historic or cultural resources.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial

The activities associated with this decision will not significantly affect the quality of the human environment, and the effects are unlikely to be highly controversial in a scientific sense. No evidence has been presented that raises substantial questions as to the correctness of the environmental consequences that have been estimated. I have considered the best available science in making this decision. The project record demonstrates a thorough review of relevant scientific information.

The effects on the human environment are not likely to be highly controversial based on the involvement of Forest Service resource specialists, other agencies, and the public. The public scoping for project initiation received four responses and the 30-day comment period generated comments from three responders. After reviewing the project record and EA, I am confident the interdisciplinary team reviewed the comments and incorporated them into alternatives or addressed them in the appropriate resource section. It is my judgment, while portions of the public disagree with various components of the project and have raised concerns related to the action alternatives, there is no unusual or high degree of controversy related to this project.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks

This decision has no known effects on the human environment that are highly uncertain or involve unique or unknown risks. All of the effects of the selected alternative are similar to those taken into consideration and disclosed in the Carson Forest Plan's final environmental impact statement chapters 2 and 4. Livestock grazing is an historic use and has been practiced on the Carson National Forest for many years.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration

This decision does not represent a precedent for future actions with significant effects or represent a decision in principle about a future consideration. The environmental assessment is site-specific and its actions incorporate those practices envisioned in the Carson Forest Plan and are within forest plan standards and guidelines.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts

There are no significant cumulative effects of this decision along with other past, present, or reasonably foreseeable actions implemented or planned in the area. The EA describes the anticipated cumulative effects for each of the affected resources (EA pp. 15-53). After reviewing the EA, I am satisfied none of the cumulative effects of my decision are significant.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the national Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources

An archeological survey and site-record check were completed for the allotments. A review of site information indicates no known historic structures, ruins with standing walls, rock art sites or rock shelters are being impacted by current grazing. Consultation with the State Historic Preservation Officer has determined that continued grazing will have no adverse effect on heritage resources within the analysis area. Continued grazing is not expected to result in significant impacts to archaeological and historic properties (EA, pp. 50-51).

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973

The U.S. Fish and Wildlife Service provided a list of threatened and endangered species that occur in Rio Arriba County for consideration in analysis. The biological assessment (PR # 55) determined there will be “no effect” to the black-footed ferret, Rio Grande silvery minnow, southwestern willow flycatcher, southwestern willow flycatcher critical habitat, and interior least tern. A “may effect, not likely to adversely affect” was determined for the Mexican spotted owl and its habitat. The US Fish and Wildlife Service concurred with this determination (Cons. #22420-2008-I-0151, September 23, 2008) (PR #68).

10. Whether the action threatens a violation of Federal, State or local law or requirements imposed for the protection of the environment.

Implementation of the selected alternative will not violate any Federal, State, or local law or requirements imposed for the protection of the environment. Including:

- Clean Water Act (EA, pp. 25-30)
- Clean Air Act, as Amended in 1977 (EA, pg. 30)
- Endangered Species Act of 1973, as Amended (EA, pp. 30-32)
- Executive Order 11990 of May, 1977 [Wetlands] (EA, pp. 25-30)
- Executive Order 11988 of May, 1977 [Floodplains] (EA, pg. 30)
- Executive Order 13186 of January, 2001 [Migratory Bird Treaty Act] (EA, pp. 40-50)

Finding of Consistency with Other Laws – (see significance factor 10)

This decision is consistent with the National Forest Management Act (NFMA) and the Carson forest plan. This decision is also in compliance with the National Environmental Policy Act (NEPA).

Forest Service Administrative Review or Appeal Opportunities

Opportunities under CFR 215

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. Only individuals and organizations who submitted written or oral comments during the 30-day comment period for the proposed action may appeal this decision. An appeal must be mailed,

faxed, or e-mailed to the Appeal Deciding Officer within 45 days of publication of the legal notice of this decision in *The Rio Grande Sun*. The publication date is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Mail: Appeal Deciding Officer, Forest Supervisor Kendall Clark.
Carson National Forest
208 Cruz Alta Rd.
Taos, NM 87571
Fax: (575) 758-6213
E-mail: appeals-southwestern-carson@fs.fed.us

Electronic appeals must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), Word (.doc) or portable document format (.pdf). Hand-delivered appeals can be submitted at the above office during normal business hours from 8:00 to 4:30 weekdays (excluding holidays).

The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals. Appeals must meet the content requirements of 36 CFR 215.13-15. Any appeal must be postmarked or submitted to the Appeal Deciding Officer within 45 days of the date of publication of this legal notice.

Opportunities under CFR 251

Decisions related to the issuance, denial, or administration of written instruments to occupy and use National Forest System lands may be appealed by permit holders under 36 CFR 251. A Notice of Appeal must be consistent with 36 CFR 251.90 and filed simultaneously with the Carson National Forest Supervisor, Appeal Reviewing Officer and El Rito District Ranger, Deciding Officer. The notice of appeal must be filed within 45 days from the day after the written notice of the decision being appealed. 36 CFR 251 appeals should be sent to:

Forest Supervisor, Carson National Forest
Appeal Deciding Officer
208 Cruz Alta Road
Taos, NM 87571
FAX: (575) 758-6213
Email: appeals-southwestern-carson@fs.fed.us

And

El Rito District Ranger
Deciding Officer for El Rito Lobato East and West Allotments
P.O. Box 56
El Rito, NM 87530
FAX: (575) 581-4554

A permit holder may appeal the decision under 36 CFR 215 or 36 CFR 251, but not both. Appeals may be filed electronically, as described above under the 36 CFR 215 process. The deciding officer is willing to meet with permit applicants or holders to hear and discuss any

concerns or issues related to this decision. This decision may be implemented during an appeal, unless the Reviewing Officer grants a stay under 251.91.

Implementation Date

If an appeal is filed within the 45-day time period, implementation may begin on, but not before, the 15th business day following the date of the last appeal disposition. If no appeal is filed within the 45-day time period, implementation of this decision may begin on, but not before, the 5th business day following the close of the appeal filing period.

Information

For additional information, contact Diana M. Trujillo at the El Rito Ranger District, at the address listed above, or by phone at (575) 581-4554.

DIANA M. TRUJILLO
El Rito District Ranger

Date

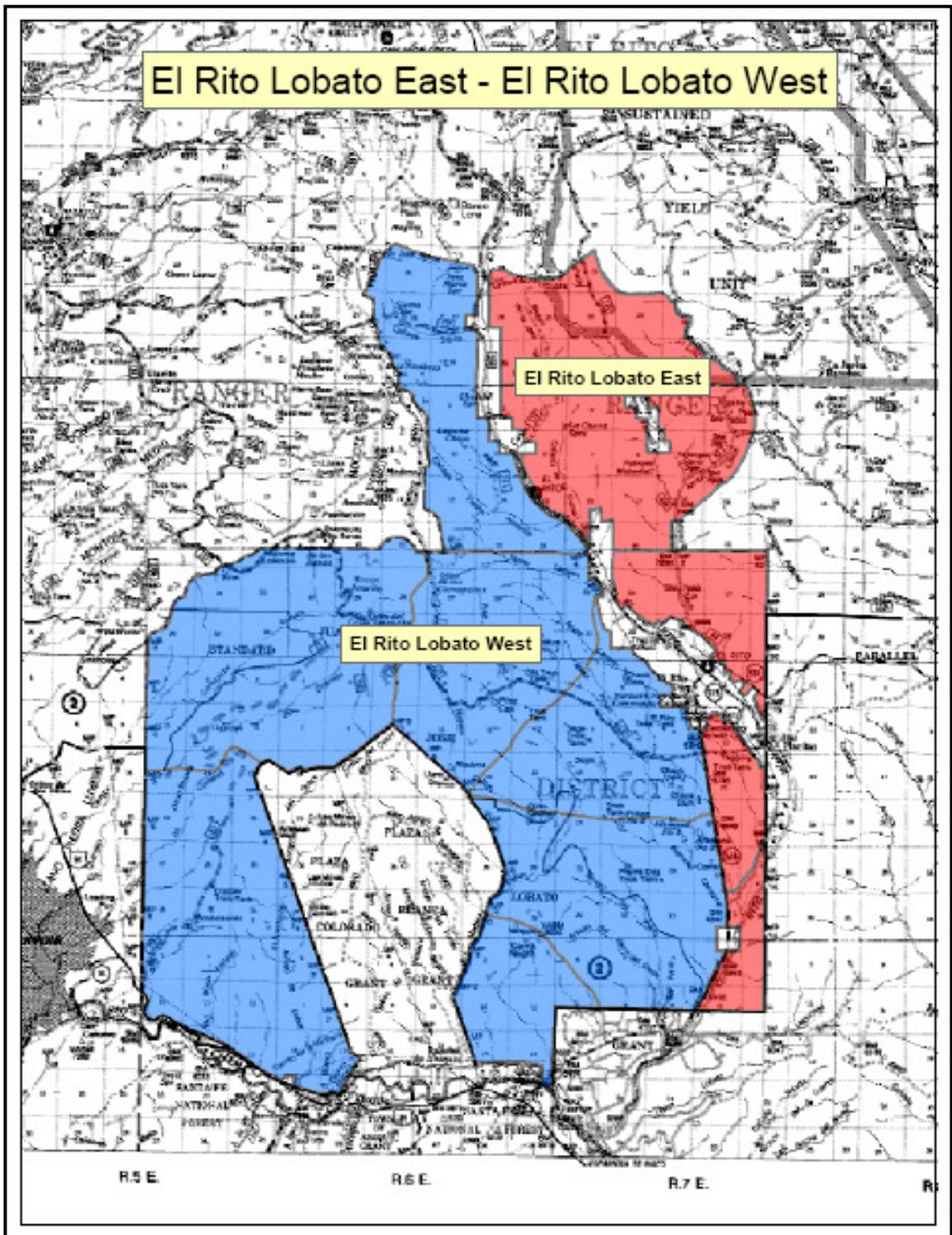


Figure 1. El Rito Lobato East and West Allotments

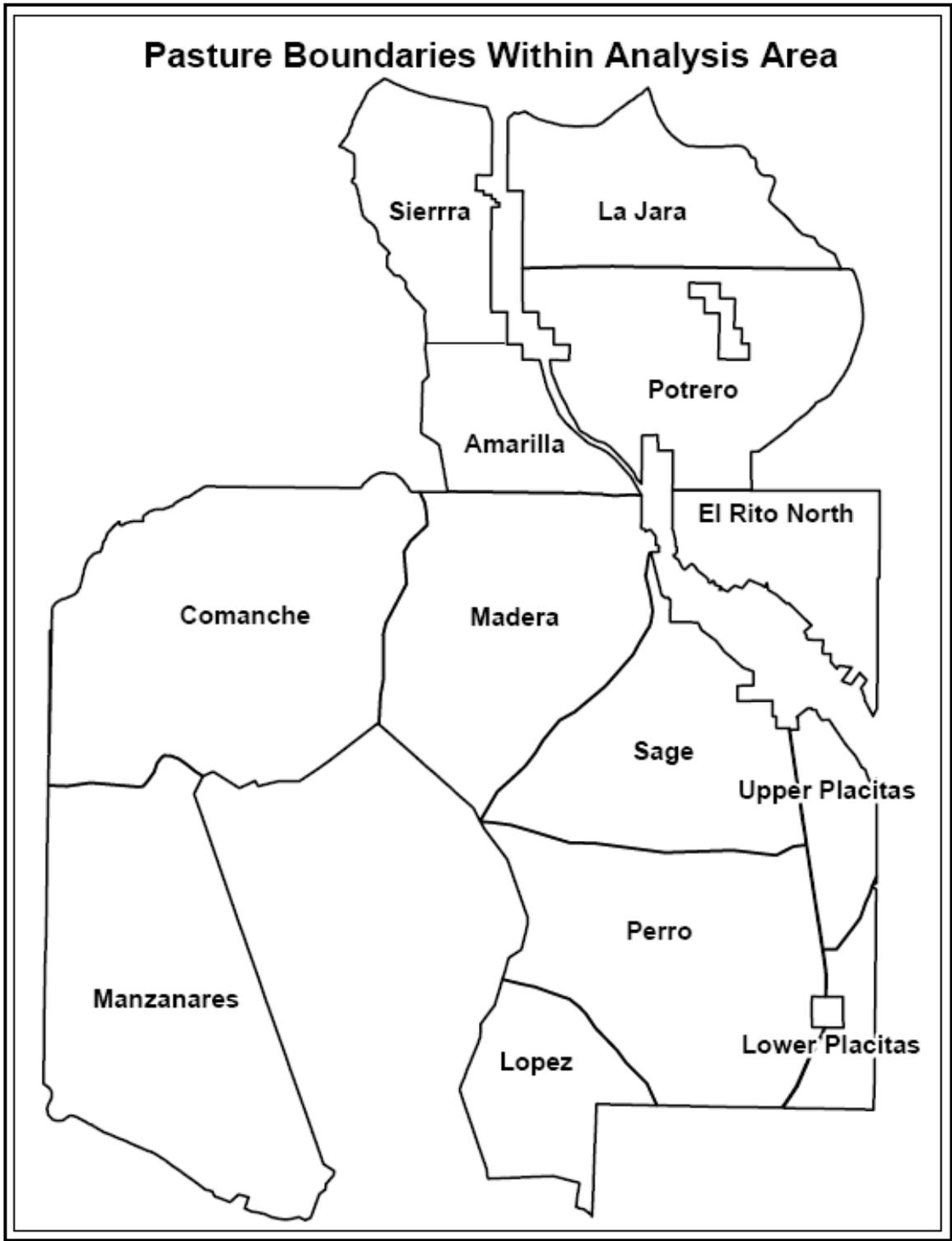


Figure 2. Pasture boundaries within the analysis area