

**First Level Review
Appeal Issues and Response**

**Eloy Garcia, Chicoma C&H Allotment
Appeal #09-03-10-0005-A251**

AND

**Carlos Salazar, Chicoma C&H Allotment
Appeal #09-03-10-0006-A251**

Process Information

On, September 14, 2009 I received two Notices of Appeal and Requests for Oral Presentation on the decision dated July 29, 2009, by Espanola District Ranger Sandy Hurlocker. Ranger Hurlocker signed a Decision Notice/Finding of No Significant Impact (DN/FONSI) approving managed livestock grazing on the Chicoma Allotment.

The appeals were filed in accordance with 36 CFR 251, subpart C, and included a request for an oral presentation as provided in 36 CFR 251.90(c) and 251.97. The appeals were designated #09-03-10-0005-A251 and #09-03-10-0006-A251, for Eloy Garcia and Carlos Salazar, respectively. I have decided my review decision will consolidate the two appeals since they are relevant to the same decision (Chicoma Allotment) and involve common issues. This is consistent with 36 CFR 251.95(b).

In my October 1, 2009 Letter of Acknowledgement of the appeal, I outlined the steps and timeline that would be followed in processing this appeal, including the opportunity to request an oral presentation. In this letter I also denied Appellents request for stay since the Cerro Pedernal project will not be implemented until the 2010 grazing season and this appeal will be resolved prior to implementation, per 36 CFR 251.91(b). The Deputy Regional Forester notified you in her October 19, 2009 letter that she would not exercise her discretion to review my decision as provided for in 36 CFR 251.91(k),

The Deciding Officer prepared a Responsive Statement and submitted copies to the Appellants and myself on October 14, 2009. On October 30, 2009 you submitted a reply to the Deciding Officer's responsive statement. Also on that date, Ted Trujillo, attorney representing the Cerro Pedernal stockmen, submitted a request for an oral presentation to be held either November 7 or 14, 2009. I responded to Mr. Trujillo on November 5, 2009 by proposing to hold the oral presentation on November 21, 2009. An oral presentation was made to me on November 21, 2009 at the Rio Arriba County Rural Event Center in Abiquiu, New Mexico. At the conclusion of the oral presentation I informed you the appeal record would be officially closed in the near future and that I would issue a decision no later than 30 days after closing the record.

On December 2, 2009 I received the written supplement to the comments you provided in the Oral Presentation, which I accepted, and reviewed prior to making my decision. On January 8, 2010 I notified you by letter the appeal record would be officially closed on January 8, 2010, and that I would render my decision no later than February 8, 2010.

As the Appeal Reviewing Officer I will be determining if Ranger Hurlocker reached a reasonable conclusion in the Polvadera Decision Notice/Finding of No Significant Impact. My decision is to either affirm or reverse the Deciding Officers decision.

I reviewed the Cerro Pedernal Environmental Assessment, Ranger Hurlocker's Decision Notice/Finding of No Significant Impact, the Appeals, Responsive Statement of the Deciding Officer, Appellant's Reply Statement, and Supplemental Oral Presentation Information. I considered the entire record in formulating my decision.

History and Background

The Santa Fe National Forest completed an Environmental Assessment (EA) in July 2009 that disclosed the effects of livestock grazing on four grazing allotments. The four allotments are located, two each, on the Espanola and Coyote Ranger Districts. The District Rangers issued a separate decision for each allotment analyzed in the EA. Fourteen appeals were filed on the decisions, however one appeal was dismissed on the basis of not having standing to the appeal as provided for in 36 CFR 251.86(b).

The Espanola District Ranger, in the Decision Notice and Finding of No Significant Impact for the Chicoma Allotment, decided to approve an adaptive management strategy for livestock grazing. Two appeals were filed specific to the Chicoma Allotment and have been consolidated for this review and decision as provided for in 36 CFR 251.95(b).

Both appellants included a request for stay of the District Ranger's decision in their appeals, which were denied by the Forest Supervisor and the Deputy Regional Forester.

Appeal Issues and Responses

The Appellants do not list any clear claims for relief, but do include many issues or points of contention in their appeals. I have grouped the issues brought forward into the following major categories and will address them by category.

Appeal Point Categories:

- 1) Livestock grazing is a right instead of a privilege, as documented in the Treaty of Guadalupe Hildago, Kearny Code, the Organic Act, the Taylor Grazing Act, and the Federal Land Policy and Management Act;
- 2) Grazing management criteria, including capacity estimates, stubble height, and utilization levels, are questioned;

- 3) Adaptive Management, including the proposed range improvements, affect permittee rights and economic situation;
- 4) Elk management, including the area within the Valles Caldera is not adequately addressed, and also that elk damage their fences;
- 5) Other forest management practices should have been considered;
- 6) Decision violates the Public Rangelands Improvement Act and National Environmental Policy Act;
- 7) The permittees were authorized full numbers in 2007-2009 when conditions described in the EA were in a downward trend;
- 8) The New Mexico Game and Fish Department does not restrict fishing in streams that are listed as impaired in the EA.

Category 1. Livestock grazing is a right instead of a privilege.

Appellants state the permitted allotment entry dates, season of use, and livestock numbers are private property rights, not subject to negotiation and must be protected and honored. They base this claim on the Treaty of Guadalupe Hidalgo, Kearny's Code, the Organic Act, the Taylor Grazing Act, and the Federal Land Policy and Management Act.

Response:

Support to Decision

The District Ranger described how the Treaty of Guadalupe Hidalgo and Kearny's Code were addressed in the Cerro Pedernal Environmental Assessment (EA) in his Responsive Statement (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg 9; Hurlocker Responsive Statement to E. Garcia, 10/13/2009, pg 1). The terms and conditions of these documents have been decided by law and do not address the stated purpose and need of the EA, which is to authorize grazing in a manner which results in the landscape meeting or moving towards objectives in the Santa Fe National Forest Land and Resource Management Plan (Forest Plan) and allotment specific desired conditions (Cerro Pedernal EA, 7/2009, pg 2).

I acknowledge there is debate between the appellants and Forest Service about the role played by the Treaty of Guadalupe Hidalgo and Kearny's Code regarding occupancy and use of National Forest System (NFS) lands, including those encompassed by the Chicoma Allotment. I appreciate the difference of opinion held by the appellants in this regard but conclude resolution of our differences is not within the authority of the Forest Service, and that the referenced documents are not relevant to this decision under appeal.

However, I am clear as to how law, regulation, and policy are applied to activities conducted on NFS lands. The U.S. Congress and Secretary of Agriculture have mandated the Forest Service to manage livestock grazing activities on NFS lands through issuance of a permit subject to terms and conditions for occupancy and use of the land. The Forest Service is authorized to manage rangelands to protect basic soil and water

resources, provide for ecological diversity, improve or maintain environmental quality, and meet public needs for interrelated resources.

Regulations promulgated from law that guide, in part, livestock management on NFS lands are found at 36 CFR 222. Specific to the appellants issue of grazing rights not subject to negotiation, 36 CFR 222.3(a), (b), and (c) states, “ (a) Unless otherwise specified by the Chief, Forest Service, all grazing and livestock use on National Forest System lands and on other lands under Forest Service control must be authorized by a grazing or livestock use permit, (b) Grazing permits and livestock use permits convey no right, title, or interest held by the United States in any lands or resources, and (c) The Chief, Forest Service, is authorized to issue permits for livestock grazing and other use by livestock of the National Forest System and on other lands under Forest Service control as follows...” Further, Forest Service Manual at 2230.3.2 states, “The holding of such permits is a privilege, not a property right.”

The Cerro Pedernal EA, was prepared within the parameters of applicable Federal laws, regulations, and policies (Cerro Pedernal EA, 7/2009, pgs 1, 2; Chicoma DN/FONSI, 7/29/2009, pg. 6). Besides providing sideboards to the environmental analysis process, several of these laws, regulations, and policies provide guidance to regulating livestock use of NFS lands. The Organic Act states, “The Secretary of Agriculture... may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction;...”. Section 402 of the Federal Land Policy and Management Act states, “...permits and leases for domestic livestock grazing on public lands issued...by the Secretary of Agriculture, with respect to lands within National Forests in the eleven contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, ...”. The Taylor Grazing Act applies only to the Department of the Interior.

Forest Supervisor Determination

The project record substantiates that the District Ranger followed applicable federal laws, regulations, and policies in documenting the effects of continued livestock grazing on the Chicoma Allotment in the Cerro Pedernal EA. Although not required for analysis by the National Environmental Policy Act, the authority to manage livestock grazing activities is included in the legal and policy guidance documents utilized by the Forest Service when documenting the effects of livestock grazing in this EA.

Category 2. Grazing management criteria, including capacity estimates, stubble height, and utilization levels, are questioned.

Appellants state that the EA should address why slopes greater than 30% were not identified as suitable rangelands, the Forest Service needs to address how the 30%

riparian and 40% upland utilization levels were derived, and that the EA fails to describe why a 4 inch stubble height is used in forage utilization measurements.

Response:

Support to Decision

The District Ranger described how the grazing management criteria were developed and used in the analysis for the Cerro Pedernal EA (Hurlocker Responsive Statement to E. Garcia, 10/13/2009, pg 1; Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pgs 9,12). The EA provides references to support a conservative level of utilization and stubble height (Cerro Pedernal EA, 7/2009, pgs 109, 110). These guidelines have been incorporated into Annual Operating Instructions since 2001 (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg 9). In addition, Forest Service Handbook 2209.13, Chapter 90.5 supplies information on grazing intensity as depicted as a utilization level, citing the same references as the EA.

The District Ranger addressed how, since 2004, Annual Operating Instructions (Miera letter to Garcia, 3/18/2004) have incorporated conservative stubble height guidelines (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 12). These Rapid Assessment Method guidelines were cooperatively developed between the Forest Service and the Range Improvement Task Force (D. Stewart letter to Dr. J.Fowler, 4/8/2003, pgs. 1-10) and are incorporated into the monitoring section of the Chicoma Decision Notice/Finding of No Significant Impact (Chicoma DN/FONSI, 7/29/2009, pgs. 14-19).

Forest Supervisor Determination

The EA (Cerro Pedernal EA, 7/2009, pgs. 48-51) describes the existing condition for rangeland vegetation, concluding there is a need to change grazing management on all four allotments (which includes the Chicoma Allotment). The District Ranger's selection, evaluation, and documentation of grazing management criteria in the EA are reasonable.

Category 3. Adaptive Management, including the proposed range improvements, affect permittee rights and economic situation.

Appellants state that the Forest Service use of an adaptive management strategy is affecting their rights. They further state the proposed improvements are too expensive and favor elk over cattle.

Response:

Support to Decision

Forest Service Handbook 2209.13, Chapter 90, Section 92.23 describes the parameters of how grazing allotment NEPA decisions can include an adaptive management strategy as part of the proposed action. An adaptive management strategy is appropriate for consideration, and is being used by many Forests across the National Forest System.

This concern, initially brought forward during the 30-day public comment period, was addressed in the EA (Cerro Pedernal EA, 7/2009, pgs. 106-107). On May 27, 2009, the adaptive management strategy was again explained during the Annual Operating Instruction Meeting with the permittees from the Chicoma Allotment. The District Ranger described what an adaptive management strategy is, how it is incorporated into the NEPA process, and how actions described as part of the adaptive management strategy would be implemented (Hurlocker Responsive Statement to C. Salazar 10/13/2009, pgs 3-5). The District Ranger appropriately included an adaptive management strategy within the proposed action (Cerro Pedernal EA, 7/2009, pgs. 18-23) and fully described it in the Chicoma Decision Notice/Finding of No Significant Impact (Chicoma DN/FONSI, 7/29/2009).

The adaptive management strategy for the Chicoma Allotment, described in Alternative 2 in the EA (Cerro Pedernal EA, 7/2009, pgs 18-21), does not reduce the permitted livestock numbers, season of use, or change allowable utilization levels. The strategy does provide that elements of the grazing activity, including timing, duration, intensity, and frequency can be modified or adjusted if significant progress towards desired conditions is not made (Cerro Pedernal EA, 7/2009, pg. 18).

Range improvements were identified (Cerro Pedernal EA, 7/2009, pgs. 20, 21) for the Chicoma Allotment that will help achieve the desired conditions for the allotment. The Decision Notice (Chicoma DN/FONSI, pg. 12) also lists and categorizes each range improvement as to whether implementation is mandatory or discretionary. The list is comprehensive and represents potential improvements to improve livestock distribution, and to control the timing, duration, and frequency of livestock use towards achieving desired conditions. The feasibility and effectiveness of each improvement will be determined and a prioritized construction schedule developed during Allotment Management Plan development, with the improvements identified as mandatory generally being higher priority than those listed as discretionary.

Construction costs for the proposed range improvements would be shared under a cost share agreement with the allotment permittees (Cerro Pedernal EA, 7/2009, pg. 19). All available funding sources will be utilized. Progress towards implementing all proposed range improvements will depend on available funding and permittee cooperation. The Economic Analysis (Cerro Pedernal EA, 7/2009, pgs 77,78) states, "Under the proposed action, no significant changes in permitted use are proposed and actual use is expected to remain similar to recent past use; therefore the propose action is unlikely to affect the economic viability of individual ranches. The conservative to moderate stocking and utilization rates proposed are consistent with existing research that indicates that such practices can optimize financial return over the long term." However, the decision does include identified water developments critical to the implementation of the proposed action, the installation of which will be cost shared between the Forest Service and permittees.

The appellants claim an adaptive management strategy will affect their rights to graze livestock on National Forest System lands. I addressed the issue of right-to-graze in the Category 1 discussion above.

Forest Supervisor Determination

The options evaluated within the adaptive management strategy are practices commonly used to manage livestock on National Forest System lands throughout the West. The range improvement practices identified as part of the adaptive management strategy will be constructed under a cost share agreement with the permittee so not all costs will be borne by the permittee. The District Ranger's decision to select Alternative 2, which describes implementation of an adaptive management grazing strategy, with no changes to permitted livestock or season of use is reasonable.

Category 4: Elk management, including the area within the Valles Caldera is not adequately addressed, and also that elk damage their fences

Appellants state the high population densities of elk, including the area within the Valles Caldera, are affecting the Chicoma Allotment and that a game fence should be constructed between the Valles Caldera and the allotment. They state the Forest Service fails to address hazards associated with existing boundary fences that are in disrepair. They further allege the Forest Service should consult with the New Mexico Game and Fish Department regarding elk, and that elk impact the high country prior to livestock entry.

Response:

Support to Decision

Information received from the New Mexico Game and Fish Department, and considered by the District Ranger indicated elk numbers within Game Management Unit (GMU) 6C (which includes the Chicoma Allotment) decreased from 2001 to 2008, with few elk observed during an elk survey in GMU 6C. (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 2). Elk populations are expected to remain stable or decrease in GMU 6C to maintain the management objective for the unit. (Cerro Pedernal EA, 7/2009, pg. 62). The New Mexico Game and Fish Department has indicated no plans to increase the number of elk in GMU 6 (includes the Valles Caldera) (Cerro Pedernal EA, 7/2009, pg. 101). Because the numbers of elk do not appear excessive, construction of an elk-proof fence on the north boundary of the Valle Caldera does not appear to be necessary at this time.

Fence (and other improvement) maintenance is included as a provision of the Term Grazing Permit (C. Salazar Term Grazing Permit, 5/29/2008). The specifications for fence construction/reconstruction are identified in the Cerro Pedernal EA (Cerro Pedernal EA, 7/2009, pg. 24).

The District Ranger also informed the appellant of Forest Service responsibilities to maintain viable populations of native and non-native wildlife, and that direction exists in the Santa Fe National Forest Plan to manage livestock to maintain or enhance elk and deer winter range, elk calving, and to maintain suitable habitat (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 8). These same issues were addressed through the 30-day comment period (Cerro Pedernal EA, 7/2009, pg. 101) and in the environmental effects section of the EA (Cerro Pedernal EA, 7/2009, pgs. 62, 65-66).

The District Ranger described how the Forest Service works with the New Mexico Game and Fish Department on an annual basis and submits comments to proposed hunting regulations and management plans (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 8).

The District Ranger selected an adaptive management strategy that takes into account and focuses on monitoring to determine adjustments in allowable livestock use. This approach allows flexibility needed to meet utilization guidelines and long-term desired conditions. The District Ranger addressed the issue of elk impacts prior to livestock entry in the high country by committing to collaborative range readiness surveys to determine vegetation status and other factors that could influence livestock entry into the allotment (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 8).

The District Ranger disclosed in the Decision Notice there were no identified effects to Management Indicator Species (elk) as a result of the analysis (Chicoma DN/FONSI, 7/29/2009, pg. 6).

Forest Supervisor Determination

The record indicates the District Ranger thoroughly analyzed and disclosed the issues surrounding elk management within and adjacent to the Chicoma Allotment, and his decision was consistent with applicable federal laws, regulations, and policies in this matter.

Category 5: Other forest management practices should have been considered

Appellants state the EA fails to address the real issues of thinning and logging (and high elk population densities, which are addressed in Category 4, above); that these elements are the cause of problems in the allotment and by implementing forest health initiatives a reduction in grazing pressure in riparian areas would result.

Response:

Support to Decision

A scoping letter for this NEPA analysis was sent to the public on March 30, 2007, with seven responses received (Cerro Pedernal EA, 7/2009, pg 14). The Interdisciplinary Team analyzed internal comments and comments received from the public during the

scoping period and determined the concerns raised could be addressed by the two alternatives. (Cerro Pedernal EA, 7/2009, pg. 17).

Two alternatives were developed and analyzed in detail, the No Action and Proposed Action alternatives. Two additional alternatives were considered but eliminated from detailed study - Continuation of Current Management and Vegetative Treatments. The vegetative treatments alternative included meadow restoration by thinning encroaching conifers on the borders of open meadows, general thinning to promote more herbaceous growth, and letting fire play a natural role. Vegetative treatments would more appropriately be proposed under future fuels reduction, ponderosa pine restoration, or habitat improvement projects. Fire use is being analyzed on a larger Forest-wide scale through a Fire Management Plan (Cerro Pedernal EA, 7/2009, pg. 17).

On August 4, 2008, a legal notice was published in the Albuquerque Journal announcing the 30-day notice and comment period for this proposed action. Fifteen responses were received, one of which stated, "The Forest Service needs to do thinning, which will increase the amount of forage by opening up the canopy". The Forest Service responded to this comment by noting this comment was heard early in the planning stages of this project and that the Service recognizes the need for additional vegetation treatments to improve rangelands and watersheds. The Forest Service also stated an intent to target vegetation treatments that would improve watersheds and also reduce fuels and meet Wildland Urban Interface (Cerro Pedernal EA, 7/2009, pg. 104).

The stated purpose and need for the Cerro Pedernal Allotments project is to meet Congressional intent and Forest Service regulation and policy by issuing authorizations for grazing activities that move the landscape towards objectives in the Santa Fe National Forest Plan and allotment specific desired conditions (Cerro Pedernal EA, 7/2009, pg 1, 2). This purpose and need was intentionally narrowly defined to provide the Interdisciplinary Team clarity of the issues and improved efficiency of the analysis.

Forest Supervisor Determination

Consistent with Forest Service regulation and policy, the District Ranger fully considered comments provided by the appellants to include other vegetation treatments in the analysis (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 1; Hurlocker Responsive Statement to E. Garcia, 10/13/2009, pg. 17), and appropriately focused the analysis on the stated purpose and need, which was authorization of grazing in a manner that meets Forest Plan objectives and maintains or improves conditions resulting from such authorization(s).

Category 6: Decision violates the Public Rangelands Improvement Act and the National Environmental Policy Act.

Appellants state the Forest Service did not consult with them as required by the Public Rangelands Improvement Act. They state an EIS should have been completed instead of

an Environmental Assessment, due to a failure to adequately assess the socioeconomic impacts of the decision.

Response:

Support to Decision

Public Rangelands Improvement Act – Statutory authorities to protect, manage, and administer National Forest System lands for range management purposes include the Public Rangelands Improvement Act of 1978. This law has been codified into regulations which confer authority to the Chief of the Forest Service. In turn, the Chief has developed policy that requires units to coordinate, cooperate, and consult with grazing permittees and grazing associations, and other interested parties in developing allotment management plans (AMP). Although the policy statement references permittee involvement during development of AMPs and not NEPA analyses/decisions, one direct product of a NEPA-based decision of an allotment is an AMP. Therefore, it is standard practice on the Santa Fe National Forest to collaborate with affected permittees throughout the plan-to-project, NEPA, and allotment management plan writing phases of AMP development.

The project record indicates the Forest Service met with the permittees of the Chicoma Allotment at least four times, beginning on December 19, 2005 and most recently on June 5, 2009, to discuss the analysis of the allotment (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 1; Hurlocker Responsive Statement to E. Garcia, 10/13/2009, pg 2). In addition, project scoping letters were sent to the permittees on March 30, 2007 (Cerro Pedernal scoping letter, 3/30/2007) and the notice of a 30-day comment period to the proposed action was printed in the Albuquerque Journal on August 1, 2008 (Cerro Pedernal legal notice, 8/1/2008).

Forest Supervisor Determination

The District Ranger did provide opportunities to engage the permittees in the planning work for the Chicoma Allotment and has followed Forest Service policy and met the intent of the PRIA.

National Environmental Policy Act – Socioeconomic concerns were raised during the 30-day notice and comment period and were addressed in the EA (Cerro Pedernal EA, 7/2009, pgs. 77-78, 102) and DN/FONSI (Chicoma DN/FONSI, 7/29/2009, pg.4-6). The Interdisciplinary Team analyzed the effects of the proposed action to socioeconomics and determined there were no significant effects from the proposed action, based on the direction provided in 40 CFR 1500 – 1508, Forest Service Manual 1950, and Forest Service Handbook 1909.15 (Cerro Pedernal EA, 7/2009, pg. 102). The appellants state an EIS should have been completed instead of an Environmental Assessment, due to a failure to adequately assess the socioeconomic impacts of the decision.

An objective stated for the Forest Service range management program is to “contribute to the economic and social well being for people by providing opportunities for economic diversity and by promoting stability for communities that depend on range resources for

their livelihood” (FSM 2202.1). A Forest-wide goal of the Santa Fe National Forest Plan states, “Manage Forest activities and programs within the capability of the land while recognizing the value of maintaining the traditional cultures of northern New Mexico” (Cerro Pedernal EA, 7/2009, pg. 2) Additionally, Presidential Executive Order 12898 requires Federal agencies to respond to the issue of environmental justice by “identifying and addressing disproportionately high and adverse human activities on minority and low income populations.” The effects of the proposed management activities are to encompass both human health and environmental effects, and are to include the cumulative and indirect effects on a community (Cerro Pedernal EA, 7/2009, pg. 76).

The EA includes analysis of the effects of both alternatives analyzed in detail to the environmental justice and socioeconomic conditions present in the area. Economic viability of individual ranches or the ranching community at large is subject to a variety of influences, including market fluctuations, weather, ranch management decisions, variable operating expenses, and the availability of other sources of income (Cerro Pedernal EA, 7/2009, pg. 78). The District Ranger’s decision to select the proposed action results in no change in permitted use (numbers of livestock or season of use) and actual use is expected to remain similar to recent past use. However, the decision does include identified water developments critical to the implementation of the proposed action, the installation of which will be cost shared between the Forest Service and permittees. The Decision Notice and accompanying Finding of No Significant Impact describe why this action will not have a significant effect on the human environment, and therefore, why an EIS was not prepared (Chicoma DN/FONSI, 7/29/2009, pgs. 4-6).

Forest Supervisor Determination

The Forest Service is committed to sustaining long-term resource management including the continuance of traditional uses, and serving communities in northern New Mexico. The proposed action continues to permit livestock grazing within the capabilities of the allotment; therefore the effects are not likely to result in adverse impacts to environmental resources and the socioeconomic conditions to the local ranching community or individuals. The District Ranger’s decision is in compliance with the National Environmental Policy Act.

Category 7: The permittees were authorized full numbers in 2007-2009 when conditions described in the EA were in a downward trend.

The appellants question why they were authorized to graze full numbers during the 2007-2009 grazing seasons when the conditions described in the EA are in a downward trend.

Response:

Support to Decision

The District Ranger acknowledges that stocking rates on the Chicoma Allotment were slightly below permitted levels for the 2007 and 2008 grazing seasons and at full permitted stocking for the 2009 grazing season. He states that utilization

(implementation) monitoring in key areas completed during the 2007-2009 grazing seasons, as identified in the Annual Operating Instructions, indicated use levels within the prescribed thresholds (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 7). Management of livestock, including the year to year stocking decisions, are based on current and predicted climatic conditions and the results of the short-term and long-term resource monitoring (Cerro Pedernal EA, 7/2009, pgs. 18, 19).

He also states that long-term (effectiveness) monitoring data collected in 2007 suggests an overall downward trend in most key areas within the allotment (Range Specialist Report, 5/30/2008, pgs. 19-24). Data are typically collected over a longer interval (every 3-5 years) at long-term monitoring sites when compared to short-term monitoring (annually). This provides information to determine vegetative trends and evaluate departure toward or away from the desired plant community (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 7). Additional long-term monitoring data will be used to determine the effects of authorized grazing to other resources (Cerro Pedernal EA, 7/2009, pg. 89).

Management of livestock, including the year to year stocking decisions, are based on current and predicted climatic conditions and the results of the short-term and long-term resource monitoring (Cerro Pedernal EA, 7/2009, pgs. 18, 19).

Forest Supervisor Determination

The District Ranger fully considered the information available to him and his decisions regarding authorized stocking levels in 2007-2009 were reasonable.

Category 8: The New Mexico Game and Fish Department does not restrict fishing in streams that are listed as impaired in the EA.

The appellants state the New Mexico Game and Fish Department does not restrict fishing in streams that are listed as impaired in the EA, and because of that, why are the streams identified as impaired.

Response:

Support to Decision

The District Ranger acknowledges that fishing regulations are established by the New Mexico Game and Fish Department (Hurlocker Responsive Statement to C. Salazar, 10/13/2009, pg. 10). This concern is not within the administrative authority of the Forest Service.

Forest Supervisor Determination

The District Ranger considered the information available to him and his response and decision is reasonable.

