



United States
Department of
Agriculture

Forest
Service

Coconino National Forest
Red Rock Ranger District

P.O. Box 300
Sedona, AZ 86339-0300
Phone: (928) 282-4119
Fax: (928) 203-7539

File Code: 2230
Date: August 18, 2004

Bank One Farm and Ranch Management
Attention: Mr. Walter C. Richburg
c/o C. A. Ward Trust – Herbert B. Ward
TX1-1351, P.O. Box 2050
Fort Worth, Texas 76113-2050

Dear Walt:

This letter will serve as a Notice of Non Compliance of your term grazing permit and an Amendment your 2004 Annual Operating Instructions (AOI) for the Fossil Creek Allotment, documenting the livestock grazing use and management instructions for the period of time from March 1, 2004 to February 28, 2005.

Your current ten-year term permitted livestock numbers are for 477 head of cattle (cow/calf/bull) yearlong and 6 head of horses from June 1 through September 30.

We commend you for the reduction in permitted livestock during the 2002-2004 grazing seasons due to the current six-year drought. However, at the present time I have two issues with your current authorized livestock numbers on the allotment.

First, rangeland conditions across your entire allotment are poor due to the extended drought, especially within your winter range pastures where this summer's monsoon moisture has been very limited and forage re-growth has not occurred. Consequently we are certain further reduction in your authorized numbers will be required.

Second, over the last several months we have found numerous term permit and AOI management violations on your allotment. These violations include: 1) grazing use in excess of proper allowable use; 2) salting and/or supplemental feeding within one-quarter mile of water; and 3) final removal of remnant stock from used pastures have extended well beyond the designated five (5) day period.

Livestock grazing use within several winter and spring pastures have exceeded the proper allowable use of 50 percent. Dorens Defeat Pasture had severe (80-90 percent) grazing use this May, and this pasture had not recovered from its heavy grazing use that occurred in November 2002. Jerry Bradley on numerous occasions has discussed in-depth with your ranch foreman the requirements of proper allowable use.



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Movement of cattle from pasture to pasture by the Ranch has not been satisfactorily performed this season. All cattle have not been successfully removed from a pasture within the specified five (5) day period as described below. The most recent occurrence has been in the Basin Pasture where eight head of remnant cattle were 61 days late in final removal.

The ranch's practice of salting on water has been thoroughly discussed with the ranch foreman every year since the 2000 grazing season. Yet again this year salt was found placed right on water at numerous stock tanks within the allotment's spring pastures. On June 2, Bradley met with the ranch foreman in Sycamore Basin of the allotment to put the ranch on notice and promptly rectified the salting practice violation. But the situation should have never occurred, especially following numerous repeated prior warnings.

Any repeat of these points of noncompliance will result in a minimum suspension of twenty (20%) percent of your authorized livestock numbers for a three year period. If you have any questions on this subject, be sure to contact Jerry Bradley.

Now, getting on to the number of livestock we are authorizing, on January 22, 2004, we approved your 2004 grazing application for 360cattle from March 1 to August 31 and 6 horses for the months of June through September. Your 2004 grazing season's pasture rotation for the Fossil Creek Allotment is scheduled below:

2004 Livestock Yearlong Herd Rotation

PASTURE NAME	PLANNED GRAZE PERIOD	LIVESTOCK NUMBERS	ALLOWABLE USE PERCENT
COW HERD ROTATION			
CHALK SPRINGS	3/10-4/14	225	50
SALLEY MAE	4/15-5/12	248	50
DORENS DEFEAT	5/13-6/2	248	50
HOG BACK	6/3-6/14	352	50
MUD TANKS	6/15-7/1	352	50
PINE	7/2-7/22	352	50
TIN CAN & MANZANITA	7/23-8/21	352	50
HOUSE	8/22-9/11	352	50
MUD TANKS	9/12-9/21	352	50
GRASS PATCH	9/22-10/12	352	50
TANQUE LOMA	10/13-10/20	352	50
SHIPPING	10/21-10/28	352	50
HOUSE	10/29-11/5	290	50
TIN CAN	11/6-11/20	290	50
PINE	11/21-11/30	290	50
UPPER EDS POINT	12/1-12/20	290	50
LOWER EDS POINT	12/21-12/31	230	50
BOULDER	1/1-1/30	230	50
SALLEY MAE	2/1-2/29	230	50
CHALK SPRINGS	3/1-3/30	230	50
SURGE TANK	4/1-4/21	230	50

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STEHR LAKE	4/22-5/6	230	50
2-YEAR OLD HEIFER ROTATION			
FUNNEL	1/1-1/1	35	50
DOESKIN	1/2-1/10	35	50
LOWER SYCAMORE CANYON	1/11-3/5	35	50
UPPER SYCAMORE CANYON	3/6-4/30	35	50
SYCAMORE BASIN	5/1-6/1	35	50
YEARLING HEIFER ROTATION			
HEIFER	12/2-3/10	25	50
THIRTEEN MILE ROCK	3/11-4/15	25	50
BARRY	4/16-5/5	25	50
SALMON LAKE SOUTH	6/1-6/31	25	50
NATURAL PASTURE SOUTH	7/1-7/31	25	50
NATURAL PASTURE NORTH	8/1-8/31	25	50
THIRTEEN (13) MILE RIDGE	9/1-10/31	25	50
TANQUE LOMA	11/1-11/30	25	50
HEIFER	12/1-2/28	25	50
BULL HERD ROTATION			50
BULL	2/3-3/1	23	50
MANZANITA POINT	8/15-8/31	30	50
SALMON LAKE SOUTH	9/1-9/20	30	50
SALMON LAKE NORTH	9/21-10/15	30	50
LOWER SYCAMORE CANYON	11/2-12/15	30	50
UPPER BULL	12/16-1/20	30	50
LOWER BULL	1/21-2/28	30	50

Grazing Strategy

Continue to graze livestock in an intensive deferred-rest rotation management strategy. Permitted livestock will be run as four separate herds as shown above: a cow herd; two heifer herds; and a bull herd. For a controlled breeding season, bulls are placed with the cow herd in early March and separated again in mid August. Fall round-up and shipping of stock to market will occur annually in late October.

The management of livestock pasture moves will continue to be based upon a plant forage phenology scheme of management. Winter range pastures grazed during the winter dormancy period typically do not exceed a time period of approximately 50 days. In contrast, the allotment's summer range pastures that are grazed during the forage's active growing seasons the livestock graze period per pasture is shortened to periods of approximately 10 to 20 days.

Pasture moves will be completed with a five (5) day period. Due to the relatively small size of the allotment's pastures, gathering and movement of your permitted livestock should be completed during this five (5) day period. And it is imperative that once pasture moves occur, the livestock remain within the designated pasture. For various reasons, (i.e. pasture gates are left open, cattleguards are not maintained, fences are cut, etc.), cattle may stray from pasture to pasture.

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Prevention of stray livestock is the permittee's responsibility; whereby preventing grazing of adjacent allotments, grazing of your allotment's rested pastures, or regrazing of previously used pastures. Prevention of stray livestock protects the rangeland resources and the well-being of your stock.

Grazing Mitigation Measures

The following list, dictates livestock grazing mitigation measures that are specific actions required for maintenance and improvement of Mexican spotted owl habitats within the Fossil Creek Allotment. Forest Service personnel will field-check your compliance of these mitigation requirements.

1. No salt will be placed within 0.25 mile of riparian areas.
2. Salt will not be placed in non-riparian drainages in the ponderosa pine areas, unless it is being used for a watershed restoration project.

Even though Fossil Creek Allotment has little Peregrine falcon and Mexican spotted owl suitable and/or occupied habitat, below are grazing mitigation measures for the Peregrine falcon and Mexican spotted owl. Please review these attachments and understand the actions are required for management compliance; "**Mitigation for the Mexican Spotted Owl and Peregrine Falcon on Grazing Allotments for Annual Operating Plans.**" and "**Mitigation for Buckhorn, Walker and Hackberry/Pivot Rock Allotments for the Mexican Spotted Owl for the 1998 AOP's.**"

Resource Monitoring

Forage Utilization cages are installed annually on each grazing allotment. Where possible, the cages are located within the following four Management Areas (MA's) and they include: MA 12 (riparian); MA 5 (aspen); MA 9 (mountain meadow) and MA 3 (ponderosa pine/oak). MA 5 (aspen) does not exist on this allotment; consequently, cages will be installed in the following areas for monitoring:

<u>Pasture Name</u>	<u>Management Area</u>	<u>Legal Description</u>
Stehr Lake	12 (Riparian) (Fossil Creek)	T14N, R6E, Section 32, NW 1/4 SE1/4;

These forage monitoring cages will be installed in representative "key area" locations on productive soils, 0 to 15% slopes, approximately 20 to 500 acres in size, and minimum of 0.25 to 1.0 miles away from livestock water sources. The cages will monitor forage utilization on designated "key species" in "key areas" during three crucial periods of the grazing season: immediately before livestock entry; immediately after the livestock graze; and lastly at the end of the forage growing season. Reference the end of the attached Appendix B, for monitoring cage locations and monitoring data record area.

Because the Winter Pasture's riparian (MA 12) cages is immediately at the water's edge on West Clear Creek and frequently subjected to washing away during normal spring run-off and/or flood event(s), the Forest Fisheries Biologist, District Range Staff Officer and the grazing permittee will monitor this key area by inspection and survey of the riparian habitat the first week of March annually.

A Forage Utilization Spreadsheet, attached, will be completed by the grazing permittee during this 2004 grazing season. This monitoring will be completed by the ranch personnel with instruction

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and review from the District's Range staff Officers. The spreadsheet, identifies: individual pasture; pasture graze period; actual use livestock numbers; stage of plant growth, (fast, slow, dormant); average utilization of all forage species by pasture before livestock entry, following livestock graze and end of growing season; and identification of the pasture's "key species" and average grazing utilization percentage within the pasture's "key area(s)". The permittee will document the individual pasture's forage utilization percentage estimates by five categories of use; no use, light, moderate, heavy and extreme. Continue to implement and monitor grazing utilization standards to attain good to excellent range conditions over time.

The monitoring of forage utilization by livestock and wildlife ungulates in the above management areas will provide an assessment of the allotment's grazing management, and permitted livestock, plus the numbers, wildlife big-game ungulates and their distribution. If upward utilization trends are observed, the District will coordinate with the grazing permittee and/or the Arizona Game and Fish Department to bring use within the Forest Land Management Plan's guidelines to promote and improve range and watershed conditions.

The allotments riparian and open water areas within Fossil Creek proper have been fenced to control livestock grazing use and management. However, these very important and diverse areas will still be closely monitored by the District Range Staff and the permittee to insure proper allowable use met and where necessary grazing is restricted. The District will coordinate with you to improve and maintain riparian vegetative communities by promoting three age classes of woody vegetation. A 20% or less utilization of woody species is acceptable as all three classes of riparian vegetation are present

Range Improvements

No range improvements are scheduled for your allotment this year

"Permittee Maintenance Responsibilities of Range Improvements" have been identified in red color on the permit maps of your term grazing permit. These improvements are to be fully maintained annually as a minimum, to comply with permit requirements. Please notify the District Range Staff Officer, 60 days prior any maintenance of improvements where heavy-duty equipment is required, i.e. maintenance of earthen-dam stock tanks, because biological and cultural surveys and clearances are required.

You have clearances and approval to clean Buzzard and Stehr Tanks within your winter range of the allotment.

Appeal Rights

Grazing permittees have appeal rights. Annual Operating Plan is appealable and subject to review under 36 CFR 251.82(a)(3), grazing and livestock term permits issued under 36 CFR part 222, subpart A. Appealable decisions apply to written decisions of Forest Service line officers related to issuance, denial, or administration of written instructions to comply and use National Forest System lands.

Permit Compliance

This 2004 Annual Operating Instructions (AOI) is a part of the Term Grazing Permit, as provided for in Part 2, section 8(a). If you fail to comply with any of the terms and conditions of specified in Parts 1, 2, and 3 of your Term Grazing permit, the Forest Service may suspend or cancel your

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permit, in part or in whole, after written notice to you. This is found within Part 1, Section 3, of your Term Grazing Permit. This AOI is in compliance with the standards and guidelines found within the Coconino National Forest's Land Management Plan.

These Annual Operating Instructions have been reviewed by the District wildlife biologists and found consistent with the endangered species Act, as amended and with all conditions agreed to in consultation with the US Fish and Wildlife Service.

Wildland Fire Prevention

Caution must be used during all ranch activities that could potentially start a fire. All ranch vehicles must be equipped with an axe, shovel, and water bucket. Any internal combustion engine tools and equipment require inspection by qualified Forest fire personnel prior to use on National Forest Lands. All open camp and branding fires require a ten foot fire ring cleared down to mineral soils. All state and local fire restrictions and regulations must be observed. Report all fires to the Ranger District Offices at; Beaver Creek/Sedona (928/282-4119), Happy Jack (928/354-2216), Blue Ridge (928/477-2255) and the Flagstaff Zone Dispatch Office at (928/526-0600).

Prescribed Burning

No prescribed burning is scheduled for your allotment this year. The District will coordinate with you in future burn projects to insure that range improvements are protected and other resources are properly accounted for.

Bruce, this AOI covers all the topics discussed during your grazing application meeting and several subsequent meetings that have followed to date. If you have questions or comments regarding this plan, please feel free to call Jerry Bradley

Sincerely

Ken Anderson

KEN ANDERSON
District Ranger

Enclosures

cc: Cecelia Overby, S.O.; and
Larry Sears, Mogollon Rim R.D.

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Allotment Name: Fossil Creek

Year: 2004

Pasture Name	Graze Period Planned	Graze Period Actual	Livestock Numbers	*Plant Growth	**Before Livestock	**After Livestock	**End of Growing Season	**Key Species	% Use on Key Area	LMP Mgmt Area
COW HERD ROTATION										
CHALK SPRINGS	3/10-4/14		225							11
SALLEY MAE	4/15-5/12		248							11
DORENS DEFEAT	5/13-6/2		248							7
HOG BACK	6/3-6/14		352							7
MUD TANKS	6/15-7/1		352							7
PINE	7/2-7/22		352							7
TIN CAN & MANZANITA	7/23-8/21		352							7
HOUSE	8/22-9/11		352							7
MUD TANKS	9/12-9/21		352							7
GRASS PATCH	9/22-10/12		352							7
TANQUE LOMA	10/13-10/20		352							7
SHIPPING	10/21-10/28		352							7
HOUSE	10/29-11/5		352							7
TIN CAN	11/6-11/20		290							7
PINE	11/21-11/30		290							7
UPPER EDS POINT	12/1-12/20		290							7
LOWER EDS POINT	12/21-12/31		230							7
BOULDER	1/1-1/30		230							11
SALLEY MAE	2/1-2/29		230							11
CHALK SPRINGS	3/1-3/30		230							11
SURGE TANK	4/1-4/21		230							11
STEHR LAKE	4/22-5/6		230							11

*D = Dormant S = Slow Growth F = Fast Growth

**N = No use (0-10%) L = Light use (11-25) M = Moderate Use (26-50%) H = Heavy Use (51%-70%) E = Extreme Use (71+%)

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Pasture Name	Graze Period Planned	Graze Period Actual	Livestock Numbers	*Plant Growth	**Before Livestock	**After Livestock	**End of Growing Season	**Key Species	% Use on Key Area	LMP Mgmt Area
2-YEAR OLD HEIFER ROTATION										
FUNNEL	1/1-1/1		35							7/11
DOESKIN	1/2-1/10		35							7/11
LOWER SYCAMORE CANYON.	1/11-3/5		35							7/11
UPPER SYCAMORE CANYON.	3/6-4/30		35							11/7
SYCAMORE BASIN	5/1-6/1		35							
YEARLING HEIFER ROTATION										
HEIFER	12/2-3/10		25							
THIRTEEN MILE RIDGE	3/11-4/15		25							
BARRY	4/16-5/5		25							
SALMON LAKE SOUTH	6/1-6/31		25							7
NATURAL PASTURE SOUTH	7/1-/7-31		25							7
NATURAL PASTURE NORTH	8/1-8/31		25							7
THIRTEEN (13) MILE RIDGE	9/1-10/31		25							7
TANQUE LOMA	11/1-11/30		25							7
HEIFER	12/1-2/28		25							11
BULL HERD ROTATION										
BULL	2/3-3/1		23							11/7
MANZANITA POINT	8/15-8/31		30							7
SALMON LAKE SOUTH	9/1-9/20		30							7
SALMON LAKE NORTH	9/21-10/15		30							7
LOWER SYCAMORE CANYON	11/2-12/15		30							7/11
UPPER BULL	12/16-1/20		30							11
LOWER BULL	1/21-2/28		30							11

*D = Dormant

S = Slow Growth

F = Fast Growth

**N = No use (0-10%)

L = Light use (11-25)

M = Moderate Use (26-50%)

H = Heavy Use (51%-70%)

E = Extreme Use (71+%)

Grazing Allotment Annual Operating Mitigation Instructions for Mexican Spotted Owl

The following mitigation measures would apply for Buck Springs, Bar-T-Bar, Willow Valley, Baker Lake/Calf Pen, Apache-Maid, Beaver Creek, Lost Eden, Fossil Creek, Buckhorn, 13 Mile Rock, Walker Basin, and Hackberry/Pivot Rock Allotments.

The purpose of the mitigation measures is to improve and protect habitat for prey species such as birds and small mammals in sensitive areas, and to protect nesting birds from disturbance associated with gathering or construction activities. Thank you for your cooperation.

1. Follow these guidelines to meet the intent of the grazing guidelines listed in the Mexican Spotted Owl Recovery Plan:

A. Continue to monitor grazing use by livestock and wildlife in "key grazing" areas such as riparian areas (MA12), meadows (MA9), pine/oak types (MA3), and aspen (MA5). If cattle show an increasing utilization trend, then change management strategies to reduce the trend. If wild ungulates show an increasing utilization trend, the Forest Service will work with the Game and Fish Department to reduce this trend.

B. Continue to implement and enforce grazing utilization standards to attain good to excellent range conditions in "key areas" over time.

C. Continue to restore good conditions to degraded riparian communities by maintaining or promoting three age classes in woody vegetation. If the mid-age class is absent, 5% utilization or less is required to promote three structural stages. If all three classes are present, utilization of 20% or less of woody vegetation is acceptable.

2. To reduce animal concentrations and trampling of vegetation which may impact prey species forage and cover, follow these guidelines for placing salt, mineral blocks or food supplements.

A. Do not place these items in riparian areas, mountain meadows, or non riparian drainages in ponderosa pine unless being used for a watershed restoration project.

B. Do not place these items in spotted owl habitat or near peregrine falcon nesting areas. The attached map shows areas (shown as mitigation) where salt, supplemental feeding, or mineral blocks should not occur.

C. Rotate salt and mineral supplement sites regularly.

3. To eliminate potentially disturbing activities in spotted owl habitat or near peregrine nesting areas during their breeding season, do not allow the following types of activities in areas displayed in red on the map between March 1 and August 31 without prior consultation with the District Range Staff.

A. Spring branding or fall gathering.

B. Construction activities such as; new construction of fences, corrals, or buildings, or cleaning or construction of tanks.

Mitigation For Chiricahua Leopard Frogs

Live fish, crayfish, bullfrogs, leopard frogs, salamanders, or other aquatic organisms shall not be moved among livestock tanks or other aquatic sites.

If a site is identified as occupied by Chiricahua leopard frogs, water shall not be hauled to the site from another aquatic site or tank that supports leopard frogs, bullfrogs, crayfish, or fish. When water is needed, such as for a bentonite application, all precautions shall be taken (use of fish screens of 1/8 inch or smaller mesh and adding bleach or use of municipal water source) to ensure that fish, bullfrogs, and their tadpoles, and crayfish are not moved among tanks.

If the chytrid fungus is detected and/or leopard frogs are found on the allotment, the permittee shall take precautions to minimize disease transmission and translocation of aquatic organisms. All equipment (front-end loader, shoes, waders, shovels, fence posts, etc.) used at an aquatic site shall be flushed clean of all dirt, mud, and debris, rinsed in a ten percent bleach solution, and allowed to thoroughly dry before coming into contact with another aquatic site.

All ranch hands, construction personnel, and others implementing the proposed action shall be given a copy of these terms and conditions, and informed of the need to comply with them.

At least 60 days prior to maintaining or cleaning out livestock tanks, the permittee shall inform the Coconino of planned activities. Authorized personnel shall survey the tank for Chiricahua leopard frogs and if frogs are found, shall work with the U.S. Fish and Wildlife Service to develop and implement a plan to minimize take of frogs. Measures to minimize take should include salvage and temporary holding of frogs, limiting disturbance and work areas to the minimum area practicable, leaving stands of emergent vegetation in place, and/or measures to minimize the likelihood of disease transmission. Plans to minimize take shall be approved by the USFWS.