



File 1570 (215) Date: July 12, 1999
Code:
Route
To:
Subject: East Pioneers Grazing Allotments, Appeals #99-01-00-0132, 0133, 0134, 0135,
and 0136, Beaverhead-Deerlodge NF
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Josh Turner on behalf of the Montana Wildlife Federation protesting the East Pioneers Grazing Allotments Decisions (Birch Creek, Dutchman Mountain, Grasshopper, Lost Willow and Rattlesnake Allotment Management Plan Decision Notices (DN) signed by the Dillon District Ranger, Beaverhead-Deerlodge National Forest.

The District Ranger's decisions adopt a modified Alternative B which allows for 45 percent forage utilization for non-functioning and functioning-at-risk streams in the first 5- year period with adaptive management actions to be taken at the 5- year check point depending on monitoring results. The decisions also allow for a maximum utilization threshold on functioning streams of 55 percent on grass/grass-like types and 60 percent on grass/willow types, and a maximum utilization standard of 55 percent on all uplands except on elk winter range and sage grouse habitat, which have additional mitigation measures listed in the DN.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the Appellants' Issues and recommended changes, has been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The Appellants allege violations of the National Environmental Policy Act (NEPA). The Appellants strongly urge the Forest Service to rethink the Findings of No Significant Impact (FONSI). They are of the opinion the law requires an Environmental Impact Statement (EIS) and are certain the wildlife in the area need more. District Ranger David Fallis held an informal meeting with Glenn Hockett of Gallatin Wildlife Association and Dave Dittloff of the Montana Wildlife Federation on June 21, 1999. No resolution was reached. No interested party comments were received.

ISSUE REVIEW

Issue 1: Montana Wildlife Federation believes that an environmental impact statement is necessary to fully protect the flora and fauna of the area and to abide by the statutory mandates under which the Forest Service and BLM operate.

Contention A: The Environmental Assessment (EA) failed to address all the significant effects caused by changes in grazing practices. The changes in livestock grazing will certainly significantly affect wildlife sustainability, residual cover, erosion, and water quality, yet they were only addressed peripherally in the EA.

Response: 40 CFR 1501.4 guides the Forest Service on whether to prepare an environmental impact statement. In the case of the East Pioneers Grazing Allotment project, the District Ranger conducted an



EA to determine whether an EIS was required. This is in compliance with 40 CFR 1501.4.b, c, and e. The analysis found no past, present, or future significant adverse impacts or adverse cumulative impacts. In his DN, the District Ranger stated "Analysis of the environmental consequences [in] the EA (Chapter IV) indicated this is not a major federal action with significant effects on the quality of the human environment. Therefore, an environmental impact statement will not be prepared. I made this determination based on the...factors set forth in 40 CFR 1508.27."

The word "Significant(ly)" as used in NEPA requires considerations of both context and intensity of the action (CFR 40 1508.27). In the "Findings of no Significant Impact" (FONSI) the District Ranger addressed both the context and intensity of the action. The DN goes on to state the context of the project is localized and only has implications for the immediate area of each grazing allotment. Likewise, the action is of low intensity: it has no significant or unacceptable effect on public health or safety; known historic or cultural resources will be protected; the effects on the human environment are not likely to be highly controversial; the actions are common and have been employed in the past on similar sites and habitats; the decision does not set a precedent for future actions; the decision will not adversely affect threatened, endangered, or sensitive wildlife or plant populations; and the action does not violate any Federal, State, or local laws or requirements. The FONSI fully support the decision not to conduct an EIS.

Wildlife sustainability, residual cover, erosion, and water quality are central to the EA. Chapter III of the EA discusses the affected environment with emphasis on range management, riparian and soil resources, fisheries, and wildlife. Chapter IV then discusses the effects this decision will have on the affected environment. First the effects are discussed by alternative. Then the effects each alternative will have on riparian and soil resources, fisheries, and wildlife are discussed. A Biological Evaluation was also completed for threatened, endangered, proposed and sensitive species. This is found in the Project File. None of these analyses found any significant affects on wildlife sustainability, residual cover, erosion, or water quality. The EA addressed the effects on wildlife sustainability, residual cover, erosion, and water quality and found none of them to be significant.

Contention B: MWF believes a proposal that provides for extended rest of sensitive areas must be included.

Response: The idea of extended rest was considered in the Forest's response to scoping comments. The Interdisciplinary Team (ID team) developed a range of alternatives to focus on and help define the issues identified by the Forest Service, other Public Agencies and the public (EA, II-6). Extended "rest" or "no grazing" was included in Alternative A which was the no grazing alternative. The ID team and public did not show compelling reasons or issues to develop another alternative to close only portions of the allotment.

The District Ranger had the discretion to chose all or a portion of any alternative, including part or all of Alternative A if the analysis showed an extended rest of a certain area is necessary. The District Ranger stated in each DN/FONSI, "My decision would have been a lot easier if I could choose one alternative without modification. However, I wanted the best balance between helping maintain local social and economic needs and promoting recovery and maintenance of riparian function." The rationale for the decisions is documented in each DN.

RECOMMENDATION

I recommend the District Ranger's decisions be affirmed and the Appellants' requested relief be denied.

I also recommend that, pursuant to FSH 1909.15, Section 18.1, the Responsible Official conduct a review of this decision in light of the March 12, 1999, Update of the Northern Region Sensitive Species

List to determine if any plant species listed therein could be impacted by this project. The findings of this review are to be documented in a letter to the file with a copy sent to the Regional Forester.

/s/ Maureen McBrien

MAUREEN MCBRIEN

Reviewing Officer

Deputy Director, Recreation, Minerals, Lands, Heritage and Wilderness