



United States  
Department of  
Agriculture

Forest  
Service

Region 1

200 East Broadway  
P.O. Box 7669  
Missoula, MT 59807

File 1570 (215)

Date: September 3, 1998

Code:

Route

To:

Subject: Horse Creek Allotment Decision Notice, Gallatin NF, Livingston Ranger District,  
Appeal #98-01-00-0079

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Belle Richards protesting the Horse Creek Allotment Decision Notice signed by the Livingston District Ranger (Gallatin National Forest).

The District Ranger's decision proposes to reauthorize livestock grazing on the Horse Creek Allotment.

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' objections and recommended changes, has been thoroughly reviewed.

### FINDINGS

My recommendation is based upon the following evaluation:

#### Clarity of the Decision and Rationale

The decision is clearly stated, but could use additional background information explaining the need for and how private land grazing permits are used. A more thorough discussion of the range of alternatives would be very helpful.

#### Purpose of the Proposal and Comprehension of Benefits

The No-Action alternative could have been discussed more completely, which would have aided the comprehension of benefits.

#### Consistency with Policy, Direction, and Supporting Information

The decision is tied to the Forest Plan goals and objectives, but could benefit from a broader discussion of other available information such as range monitoring, BMP audits, utilization data, etc.

#### Effectiveness of Public Participation Activities and Use of Comments

Public participation efforts were appropriate to the size of the project. However, the information gathered and how comments were used could have been more thoroughly discussed.

#### Appeal Review Findings



The Appellant alleges violations of the National Environmental Policy Act (NEPA), the Clean Water Act, and the National Forest Management Act. The Appellant requests the decision be remanded. A telephone conversation to discuss informal resolution was held, but an informal meeting was declined. Two interested party letters were received.

**Objection 1: An EIS should have been completed rather than an EA because of significant effects.**

Response: The Horse Creek Allotment Finding of No Significant Impact supports the preparation of an Environmental Assessment.

**Objection 2: The DN incorrectly includes the Appellant's property in the description of the Horse Creek Allotment.**

Response: This issue was resolved in the Transmittal Letter, dated August 6, where the Forest documented their intent to remove all reference to the Appellant's property in any further descriptions of the Horse Creek Allotment.

**Objection 3: The proposed alternative represents an unacceptable depreciation in the wilderness quality of the area (an area considered for wilderness designation).**

Response: The area in the allotment is not a designated wilderness area, however, it is considered to be a roadless area. The District conducted an analysis of the potential impact to roadless area characteristics (including natural integrity, apparent naturalness, solitude, and remoteness) (Project File, Document 80). It was determined the effect on the roadless area characteristics would not be significant. There will continue to be a minor effect on apparent naturalness, solitude and remoteness. None of these are irreversible in nature and are limited in space or time. There is no change as a result of this decision from the current situation.

**Objection 4: The EA did not include an adequate soils analysis.**

Response: The EA states that sites where soil compaction is taking place have been identified. The EA affirms that Forest Plan standards for soil productivity are being met.

**Objection 5: The Appellant contends the Forest Service, not the permittee, should be responsible for monitoring noxious weeds.**

Response: In the permit, the permittee is responsible for monitoring the allotment for listed noxious weeds, and notifying the Forest Service. The permittee and the Forest Service both have responsibility for identifying and treating new noxious weeds sites on the allotment.

**Objection 6: The Biological Evaluation was not signed by a botanist and there is no indication the 1998 field survey for sensitive plants will be conducted by a botanist.**

Response: Forest Service Manual direction requires a Biological Evaluation be conducted or reviewed by journey or higher-level biologists or botanists (FSM 2672.42). Many biologists have skills in botany and are full-qualified to evaluate sensitive plant habitat and data and, project impacts. In this case, the Biologist made his determination based on 10 sensitive plant surveys completed in the Crazy Mountains,

two of which were completed within the Horse Creek Allotment (Project File, Document 82). The District contracts with a botanist to conduct surveys and monitoring.

RECOMMENDATION

I recommend the District Ranger's decision be affirmed and the Appellant's requested relief be denied.

/s/ Elizabeth L. Horn

ELIZABETH L. HORN  
Reviewing Officer