



File Code: 1570-1 (215)
#01-01-00-0043
Date: July 9, 2001

Thomas M. France
Attorney for
National Wildlife Federation
240 North Higgins, Suite #2
Missoula, MT 59802-4445

CERTIFIED MAIL – RETURN RECEIPT
REQUESTED

Dear Mr. France:

This is my decision on disposition of the appeal you filed on behalf of the National Wildlife Federation regarding the Big Sheep Grazing Allotments Decision Notice (DN) signed by the Dillon District Ranger (Beaverhead-Deerlodge National Forest).

FINDINGS

Following is my evaluation of the objections raised in your appeal and your requested changes.

Scope of Decision

Decisions made in Forest Plans are subject to administrative review under 36 CFR 217 and are not subject to review in project or activity decisions [36 CFR 215.8(a)(1)]. These decisions are considered to be beyond the scope of the project-level decision, and the opportunity to challenge these decisions has been exhausted.

Similarly, appellants may not request review of activities that are not "connected" to the project decision being challenged or ask that additional decisions be made that are not "ripe" for decision. Under NEPA, the Responsible Official has the discretion to propose actions and determine which actions warrant a decision and which do not. I have determined your objections are within the scope of the decision.

APPEAL REVIEWING OFFICER RECOMMENDATION

The Appeal Reviewing Officer has considered your arguments, the appeal record, and the transmittal letter and recommends the District Ranger's decision be reversed, but that grazing continue on the allotments pursuant to the Rescission Act of 1995 (Public Law 104-19).

DECISION

My review of your appeal was conducted pursuant to, and in accordance with, 36 CFR 215.17 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. I have thoroughly reviewed the appeal record, your arguments, the information referenced in the District Ranger's June 15, 2001, transmittal letter (copy enclosed), Interested Party comments, and the Appeal Reviewing Officer's analysis and recommendation (copy enclosed). The transmittal letter provides specific page references to discussions in the Environmental Assessment (EA), DN, and project file,



which bear upon your objections. I specifically incorporate in this decision the appeal record, the references, and citations contained in the transmittal letter, and the Appeal Reviewing Officer's analysis and recommendation.

The District Ranger's decision was moving the Beaverhead-Deerlodge National Forests in the correct management direction and was fulfilling the Settlement Agreement between the USDA Forest Service and the National Wildlife Federation. The District Ranger's decision was also consistent with the Beaverhead National Forest Plan, as amended by Riparian Amendment #7, dated 1997. However, based upon a review of the references and citations provided by the District Ranger, I agree with the Appeal Reviewing Officer's analysis and conclusions in regard to your appeal objections.

I reverse the District Ranger's decision to implement the Big Sheep Grazing Allotments project. The Rescission Act of 1995 (Public Law 104-19) directs that livestock grazing continue as authorized, with the same terms and conditions in the existing term-grazing permits, pending completion of a NEPA analysis and decision. Therefore, I direct the Forest to graze the Big Sheep Allotments consistent with the Beaverhead National Forest Plan, as amended by Riparian Amendment #7, dated 1997, until such time as the deficiencies can be remedied in a new EA, DN, and FONSI.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ David D. Rittenhouse
DAVID D. RITTENHOUSE
Appeal Deciding Officer
Acting Deputy Regional Forester

Enclosures (2)

