

Decision Notice

& Finding of No Significant Impact

Grazing Authorization and Allotment Management Plans

Rain Creek - 74 Mountain Allotment

**USDA Forest Service
Gila National Forest
Glenwood Ranger District,
Catron and Grant Counties, New Mexico**

Background

This decision covers the authorization of grazing and selected improvements for the Rain Creek - 74 Mountain Allotment on the Glenwood Ranger District in Catron and Grant Counties, New Mexico. The allotment includes lands designated as Management Area (MA) 7G in the Gila National Forest Plan (GNFP).

The purpose and need for the Rain Creek - 74 Mountain Allotment EA is to authorize livestock grazing in a manner consistent with the GNFP and to provide long-term management direction on grazing through allotment management plans (AMPs). Rain Creek - 74 Mountain Allotment currently lacks sufficient environmental analysis to comply with Section 504 of the Rescissions Act of 1995 (P.L. 104-19). Completion of NEPA for this allotment fulfills a portion of the Region 3 and Gila National Forest's overall strategy to complete NEPA on all Forest allotments.

Monitoring data indicates that current conditions for this allotment are in satisfactory vegetative, watershed, and riparian condition. The Gila trout (a threatened species) occupies one section of Mogollon Creek and its habitat needs to be protected.

The authorization of grazing and the proposed management practices on the allotment were described in the Rain Creek - 74 Mountain Allotment Environmental Assessment (EA) in compliance with the Rescission Act of 1995 (P.L. 104-19) and the National Environmental Policy Act (NEPA). Four alternatives were considered but only three carried forward for detailed analysis. The EA analyzes and discloses the anticipated effects of the two action alternatives as compared to the No Action Alternative. It also describes specific mitigation and monitoring requirements that will be implemented as part of the proposed action. The EA is available for review at the Glenwood Ranger District office and the Gila National Forest Supervisor's Office.

Decision

Based upon my review of all alternatives, I have decided to approve the grazing management strategy described under Alternative Three of the EA with modifications to clarify monitoring and adaptive management as detailed below and in Appendix 1 to this decision. The selected alternative will authorize

managed livestock grazing on the Rain Creeek-74 Mountain Allotment that will maintain current satisfactory range and watershed conditions while providing increased emphasis on protection of riparian areas and Gila Trout habitat. The action consists of three components: authorization, management practices and monitoring. The action will be implemented using an adaptive management strategy.

Monitoring will be conducted to measure implementation of the decision and effectiveness in achieving management objectives. The Allotment Management Plan will specify necessary monitoring and adaptive management options to be implemented based on results of specified monitoring. Monitoring may include, but not necessarily be limited to, the following (for more details see Appendix 1):

- Seasonal forage use and actual livestock stocking. Used to determine whether adjustments are needed in timing and duration of use in a pasture. If use on 30% or more of any pasture exceeds conservative use in any two consecutive years or in two years out of five, the pasture would receive a full year of rest before next scheduled use.
- Utilization pattern, riparian herbaceous plant use, riparian woody plant use. Used to determine whether adjustments need to be made in management of livestock to prevent localized over use. Examples: change salt locations, access to water, install temporary fences, or herd.
- Annual forage use, annual forage production, and precipitation,. Used to determine whether stocking is within carrying capacity.
- Soil protection, riparian woody plant use, and residual stubble height. Used to determine whether management is moving in the right direction to meet resource objectives.
- Long term range and soil condition and trend, riparian function. Used to determine whether long livestock management has met or is meeting resource objectives and whether changes in livestock stocking or management are needed.

Alternative Description

Alternative Three incorporates management flexibility by providing a range of allowable numbers that reflects variations in resource conditions and management objectives over time. Within this range, annual permitted livestock numbers will be specified in annual operating instructions. Initial stocking rates will be set based on existing resource and infrastructure conditions and will be based on range resource conditions. Changes in stocking would occur as a result of changes in resource conditions or management objectives. Herd movements would be determined by utilization levels, forage conditions and water availability and will be specified in annual operating instructions. A new allotment management plan (AMP) will be developed. The plan will also include mitigation measures and Best Management Practices to avoid or minimize effects to wildlife, soil and water quality. Monitoring of forage availability and utilization, range readiness and resource conditions will be used to determine whether management is being properly implemented and whether the actions are effective at achieving or moving toward desired conditions. Existing range improvements are considered sufficient to accomplish management on the allotment.

The Glenwood Ranger District, Gila National Forest, proposes to authorize grazing on the Rain Creek - 74 Mountain Allotment under the following terms and conditions that define the limits for the numbers, duration, intensity, frequency and timing of grazing.

- **Numbers and Duration:** Authorize grazing for up to 2,290 Animal Months (AMs) (cattle, cow/calf, pairs or equivalent use by other kind or class of livestock) for up to 8.5 months per year (August 15 through April 30) with partial summer growing season deferment occurring each year.

- **Intensity:** Set herbaceous forage utilization for uplands at a conservative use level, approximately 31 to 40 percent utilization, including wildlife use, throughout all areas.
 - For areas where the dominate forage is composed of browse species, use on mountain mahogany and other palatable browse use will be limited to moderate level to ensure regeneration of desirable browse species.
 - To protect riparian vegetative communities the following restrictions would be applied:
 - Herbaceous forage utilization within the riparian bottom is not to exceed light use (less that 30% utilization) including wildlife use.
 - Use on palatable woody riparian species within a reach is not to exceed 25 percent moderately browsed and not to exceed 10 percent palatable woody riparian sprouts and/or seedlings heavily hedged.
 - To protect occupied and potential Gila trout habitat (upper section of Mogollon Creek above Buds Hole in Shelly Peak/West Fork Pasture and West Fork of Mogollon Creek in Haystack/West Fork Pasture)
 - **Upper Section of Mogollon Creek:** Using a natural barrier (waterfall) in Mogollon Creek above Bud’s Hole (Trail 189 crossing), livestock use will be discouraged with only incidental use upstream of this barrier (see specific steps to be taken under “Livestock Management” below) (see Map 2, Appendix A).
 - **West Fork of Mogollon Creek:** Livestock can only access this stream where FS 189 crosses. Access both upstream and down is very limited due to the boulder substrate. All except this portion of the West Fork of Mogollon Creek is inaccessible to livestock due to steep canyon walls. Within this one area where riparian is accessible use will be discouraged and limited to incidental use (see specific steps to be taken under “Livestock Management” below) (see Map 2, Appendix A).
- **Frequency and Timing:** Management systems will be designed to incorporate growing season rest or deferment in order to provide for grazed plant recovery. Timing of pasture moves will be dictated by utilization monitoring and management objectives specified in allotment management plans with the following design criteria:
 - All pastures will be rested from May 1 through August 14 when livestock will not be on the allotment. Grazing that will take place from August 15 through April 30 with a grazing system that will provide growing season deferment for each pasture.
 - Haystack and West Fork pastures would be used together as a single unit, since there are no effective barriers or fences between them.
 - Pasture rotation schedule would ensure each year that:
 - One pasture would be used August through March while other two will be used September through April. Pasture use would rotate each year. Management would follow natural tendency of cattle to use Haystack/West Fork and Shelley Peak Pastures during winter and drift into Mogollon Pasture in spring to calve.
- **Livestock Management:**
 - For Gila trout habitat (upper sections of Mogollon Creek and West Fork of Mogollon Creek, see description under “*Frequency and Timing*” above) if monitoring reveals greater than incidental use of the riparian vegetation cattle will be removed until area has recovered from use. If after a pasture is re-stocked and livestock use is found to be more than incidental a second time, livestock will be removed from the area until fencing is constructed to control livestock access to the riparian area.
 - If use in the spring within Mogollon Pasture along lower Mogollon Creek and associated benches exceeds allowable for two successive years or if range conditions appear to be

- declining, defer use of Mogollon Pasture until completion of approximately two miles of fence parallel to Mogollon Creek to control livestock use of soft bottom areas.
- Provide supplement for livestock as follows (to strategically manage livestock distribution and forage use):
 - Locate supplement sites 0.25 mile or more from waters except where prior written approval has been obtained from District Ranger.
 - Place supplements where forage is abundant and current grazing use levels are low. Supplements should not be place at any one location more than once during the grazing season to prevent the concentration of livestock.
 - Limit supplement types to salt, protein, and mineral blocks to reduce risk of spreading noxious weeds and to reduce the risk of creating areas of concentrated livestock use.
 - If there is a need to feed energy supplements such as grain, hay, surplus milk products, ethanol production by-products or molasses based products; a supplemental feeding plan will need to be developed and approved by the District Ranger prior to placing these energy type supplements on National Forest lands.
 - Ensure all future range fence reconstruction would be designed to be wildlife friendly including appropriate installation of elk crossings, use of smooth bottom wire, standard spacing to prevent entrapment, maximum height limits, and locations.

Monitoring: Continue monitoring livestock management activities and the effects that livestock grazing activities are having on the allotment. Monitoring will be accomplished annually through allotment inspections, measuring current year forage production and grazing intensity, and the normal allotment record keeping activities. Periodically, various data collection techniques will be used to record vegetative and watershed conditions for a point in time to be compared with the same area at a later time to determine vegetative condition trend.

- If monitoring indicates that resource conditions are no longer meeting or moving toward meeting Forest Plan direction, management in addition to possible changes listed above may occur. Such actions could include (but would not be limited to), adjustment in the grazing season of use, intensity, or density of livestock grazing (which may involve changing livestock numbers, seasons or periods of use, or grazing access). When changes in condition warrant implementation of a management option that has not been provided for in NEPA analysis, or when the predicted effects of implementation are determined to be greater than the effects originally predicted, a new NEPA analysis and decision would be made.

Rationale for the Selection

The selected alternative best meets the purpose and need and achieves desired conditions (EA pp. 10) in the following ways.

1. The alternative is consistent with the management emphasis, direction and standards and guidelines for MA 7G identified in the GNFP.
2. The alternative best achieves Forest Service Policy (FSM 2202) and the mission of the Gila National Forest Plan (Forest Plan p. 11) to manage for multiple use and sustained yield of goods and services in a way that maximizes long-term net public benefits consistent with resource integration, environmental quality, and management considerations.
3. The alternative provides the best balance between meeting resource objectives for sustainability while minimizing impacts on ranch viability and is practical to implement.
4. The selected alternative resolves specific issues to protect Gila trout and its habitat while maintaining the current satisfactory forage, watershed, and riparian conditions (EA pg 15-17).

5. The alternative provides protection of riparian areas through a reduced use level (herbaceous forage = light), adaptive management of livestock and adding moderate use riparian specific woody browse guidelines for all riparian areas.
6. The alternative will provide for growing season rest and conservative utilization that will maintain satisfactory vegetation, watershed, and riparian conditions by grazing only August 15 through April 30 each year.
7. The permitted numbers identified with this alternative reflects a range of numbers to allow management flexibility for timely adjustments in authorized use.
8. Livestock grazing would be continued with associated social, economic benefits to permittee and local community.
9. Income and revenue to permittee, community and local economy particularly in the long term would be maintained.
10. The alternative will provide an adaptive management framework that will allow the Forest and grazing permittee to adjust management to recognize changing resource conditions to maintain conditions where they are now satisfactory and reverse any downward vegetative trend.

Public Involvement

The proposal has been listed in the Schedule of Proposed Actions made public by request or by the Gila National Forest's web site. The Proposed Action was provided to the public and other agencies for comment March 17, 2007, during scoping. A total of five individuals, organizations, and agencies responded. Any concerns raised by the public had already been raised by the interdisciplinary team and was analyzed in the EA and specialist reports. (PR [Project Record] #23)

The history, existing resource conditions, desired resource conditions, purpose and need, Forest Plan goals and standards, alternatives and comparison of resource concerns between alternatives was distributed for comment August 29, 2008 to State, Federal, Tribal Governments, non-government organizations, and individuals detailing the purpose and need, existing and desired conditions, a detailed description of all alternatives, and the environmental consequences. Participants were provided 30 days to review and comment. All comments were analyzed and no new concerns were raised that had not already been analyzed in the EA. (PR#38)

Other Alternatives Considered

Current management was considered as an alternative, but was not carried forward for detailed analysis because Alternative Two, the Proposed Action is essentially current management with greater emphasis on monitoring and adaptive management.

Finding of No Significant Impact

After considering the context and intensity of the environmental effects described in the Environmental Assessment (EA), I have determined that these actions will not have a significant effect on the quality of the human environment as defined in the Council on Environmental Quality implementing regulations at 40 CFR 1508.27. Thus, an environmental impact statement will not be prepared. I base my finding on the following:

Context: The action is a site-specific action that by itself does not have international, national, region wide or statewide importance. Effects are limited to the locale of the project area.

Intensity: The following discussion is organized around the ten significance criteria described in the National Environmental Policy Act (NEPA) regulations at 40 CFR 1508.27.

Both *beneficial and adverse impacts* were considered in the analysis (EA, Chapter 3, pp. 24-55). Grazing as proposed will result in removal of herbaceous vegetation, but will be limited to conservative levels in order to allow for the retention of litter and plant stubble to provide soil cover and wildlife habitat. Only minor improvements are being considered under this decision. Adverse effects have been reduced or eliminated through project design and mitigation measures (EA pp. 16-18). A grazing system that provides growing season rest by not stocking during growing season months will be used to maintain and improve range and watershed conditions throughout the allotment (EA pp. 16-18).

1. No significant *effects on public health and safety* were identified. The scope of the grazing authorization is limited to the implementation of managed livestock grazing. This action is not expected to present significant hazards to workers or the public.
2. With the exception of wilderness there are no known *unique characteristics* associated with the allotments. Therefore, the project will not adversely affect parks, prime farm lands, wetlands, wild and scenic rivers, or other resources considered to have unique characteristics. Approximately 85 percent of the allotment is within the Gila Wilderness. The Wilderness Act provides for continuation of livestock grazing that was occurring at the time of designation of the wilderness. The allotment has been grazed by livestock since the 1880's. Short stretches of fence are proposed for potential adaptive management if it is necessary to deny livestock access to Mogollon Creek above Bud's Hole within the wilderness. Fence construction would be analyzed using minimum tool analysis and designed to be consistent with existing fences, the landscape and wilderness values. Because the remoteness of this area and since no new road or trails are proposed in any alternative, it is anticipated that there would be little or no effect from grazing activities on the wilderness values within the allotment.
3. The effects on the quality of the human environment are not likely to be *highly controversial*. The environmental analysis process has documented expected environmental effects from my decision. These effects have been disclosed in Chapter Three of the EA and the selected action has been designed and mitigated to address the various issues raised. The analysis represents the judgement and expertise of resource management professionals who have applied their knowledge to similar projects and resources in the past. The management practices proposed are commonly-used resource management practices described in agency directives, prescribed in the Forest Plan and used by other land management agencies. While some members of the public are opposed to public lands livestock grazing, this action is not highly controversial within the context of the National Environmental Policy Act.
4. The effects analysis (EA pp. 24-55) indicates the effects are not uncertain, and do not involve *unique or unknown risk*. The Forest Service has considerable experience with the types of activities to be implemented. The effects described in the EA are based on the judgement of experienced resource management professionals using the best available information.
5. The decision to reissue a grazing permit for the Rain Creek - 74 Mountain Allotment does not establish a *precedent for future actions* with significant effects. Future actions will be evaluated through the NEPA process and will stand on their own as to environmental effects and project feasibility.
6. The *cumulative impacts* of the action on soils, vegetation and terrestrial and aquatic wildlife resources were considered and disclosed in the EA (EA pp. 3, 25, 27, 29-30, and 50-51) and in a variety of specialist reports (PRs, #29, 34, 35, and 36). The direct and indirect effects of the

selected alternative limit livestock grazing during growing seasons and provides greater emphasis on adaptive management and are expected to be minor in the short term and beneficial or neutral over the long term. None of the effects are considered significant for reasons described herein. No past or future actions have been identified that will combine with the effects of the proposed action to cause cumulatively significant effects.

7. The action will have no significant *adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places* because none are identified within the project area. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources (EA pp. 55, PRs, #24.2, 24.7, and 26.5). Mitigation included as part of the selected alternative is designed to preclude effects to these resources. A Heritage Resources Investigation was prepared and submitted to the State Historic Preservation Office (SHPO) with a determination of no adverse effect to cultural resources and SHPO concurred (PR, #24.7).
8. A Biological Assessment and Evaluation (PRs, #27 and 36) have been completed for Rain Creek - 74 Mountain Allotment. The conclusions of these consultations document that the effects of Alternative Three would not likely jeopardize the Mexican gray wolf and would not adversely affect any other listed species. The USFWS concurred with these findings August 13, 2008. Management practices that have been incorporated into Alternative Three are sufficient to avoid effects to listed species (EA pp. 35-40).
9. This selected alternative is in full compliance with all federal, state and local law requirements imposed for environmental protection. Best Management Practices to protect water quality are included in the selected alternative (EA pp 16-18).

Findings Required by Other Laws and Regulations

National Forest Management Act. The Gila National Forest Management Plan (GNFMP) was adopted in 1986 and has been amended several times. The Rain Creek - 74 Mountain Allotment falls within Management Area (MA) 7G (EA pp 10-11). The Forest Plan identifies MA as suitable for grazing (GNFMP pp. 234-240). The term permit grazing authorization for this allotment is fully consistent with the long-term goals and objectives listed on pages 11-12 of the GFNP, as well as the standards and guidelines for MA 7G. Light to moderate utilization and growing season rest, in combination with prescribed mitigation features will meet the Forest Plan goals for range, wildlife, soil, water and riparian resources. There are no identified effects to management indicator species or sensitive species that would affect their Forest-wide populations or long-term viability (EA, pp. 41-48, PR, #36). Other NFMA consistency findings relate to the management of suitable timberlands. There is no suitable timber within MA 7G (GNFMP, pp. 235).

My conclusions regarding the effects of the proposed action are based on a review of the record that demonstrates a thorough review of the relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty and risk. Proposed grazing management was developed using data obtained and interpreted according to accepted monitoring practices for identifying rangeland condition and capacity (PR, #29 and 34-35). Alternative Three incorporates adaptive management actions necessary to adjust stocking to remain within capacity (EA pp. 16-18). Grazing intensity levels are based on comprehensive reviews of existing scientific literature regarding proper utilization levels (EA, pp 24-25 and PR, #34). The effects analysis for listed, sensitive and management indicator species is based on the most recent survey and distribution information (PRs, #27 and 36). Opposing viewpoints regarding permitted use were received and considered in my decision (PRs, #23 and 38). Effects determination for listed species were reviewed and concurred with by U.S. Fish and Wildlife Service (PR, #28). Soil and riparian monitoring and effects analyses were conducted in accordance with accepted Forest Service monitoring techniques (PR, #29 and

35) and are based on site-specific data collected within the project area. Based on the documentation in the record, I conclude the best available science was considered in developing and analyzing the proposal.

Multiple Use Sustained Yield Act. The selected alternative will not impair land productivity (EA pp. 24-30) and is therefore consistent with this law.

Endangered Species Act. Consultation with the U.S. Fish and Wildlife Service was completed for the Rain Creek - 74 Mountain Allotment. These consultations conclude that the effects of Alternative Three are not likely to jeopardize the continued existence of threatened, endangered or proposed species or critical habitat (PRs, #27 and 36).

National Historic Preservation Act. A Heritage Resource Investigation was completed with a finding of no adverse effect on cultural resources with concurrence from SHPO (PRs, #24.2, 24.7, and 26.5).

Executive Order 13186 (Migratory Birds). There are no identified effects on migratory birds (EA, pg 48-49).

Executive Order 12898 (Environmental Justice). This decision does not impose disproportionately high adverse human health or environmental effects on minority or low-income populations (EA pp.53).

Implementation Date

This project will be implemented no sooner than five business days following the close of the appeal filing period established in the notice of decision published in the *Silver City Daily Press*. If an appeal is filed, implementation will not occur sooner than 15 calendar days following a final decision on the appeal. Implementation means actually issuing the new permit. Field preparation work needed to implement this decision may proceed immediately.

Administrative Review or Appeal Opportunities

This decision is subject to appeal in accordance with regulations at 36 CFR 215. Individuals or organizations that provided comments or otherwise expressed interest in the proposed action during the comment period may appeal. A notice of appeal must be in writing and clearly state that it is a Notice of Appeal being filed in pursuant to 36 CFR 215. Appeals must be filed (regular mail, email, fax, hand-delivery, or express delivery) with the Appeals Deciding Officer and should be submitted to: Appeals Deciding Officer, Dick Markley, Forest Supervisor, Gila National Forest, 3005 E. Camino del Bosque, Silver City, New Mexico, 88061-7863, fax: (575) 388-8204, email: appeals-southwestern-gila-glenwood@fs.fed.us (.doc, .rtf or .txt formats only). If hand-delivered, the appeal must be received at the above address during business hours (Monday-Friday 8:00 am to 4:30 pm), excluding holidays.

Appeals, including attachments, must be filed in writing, consistent with 36 CFR 215.14 within 45 days of the date of legal notice of this decision in the *Silver City Daily Press*. This publication date is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely on dates or timeframes provided by any other source.

Relative to issuance of the term grazing permits, permittees may choose to appeal under the regulations listed at 36 CFR 251, Subpart C. The permittee must select which administrative review regulation (36 CFR 215 or 251) he/she will opt to use, because he/she cannot use both for the same appealed decision. An appeal by the permittee under the 36 CFR 251 regulations must be filed simultaneously with the Gila National Forest Supervisor Dick Markley (address above) and the Glenwood District Ranger, Pat Morrison, US Hwy 180 South, PO Box 8, Glenwood, New Mexico, 88039 within 45 days of the date of publication of legal notice in the *Silver City Daily Press*.

Contact Information

For additional information concerning this decision or the Forest Service appeal process, contact Pat Morrison, District Ranger, Glenwood Ranger District at (575) 539-2481.

PAT MORRISON
District Ranger
Glenwood Ranger District

Date_____