



United States
Department of
Agriculture

Forest
Service

Black Hills National Forest
Supervisor's Office

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File Code: 1570
Appeal #11-02-03-011
Date : January 18, 2011

JONATHAN RATNER
WESTERN WATERSHEDS PROJECT
PO BOX 1160
PINEDALE, WY 82941

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Mr. Ratner:

On December 5, 2010, you filed a notice of appeal on behalf of Western Watersheds Project on the Rangeland Allotment Management Planning on the Mystic Range Analysis Area. Your appeal was timely filed pursuant to 36 CFR 215 and was assigned appeal number 11-02-03-0011 for tracking purposes.

I have reviewed the appeal record, including your appeal, the ROD's, and supporting documentation in the project record. I have weighed the recommendation from the Appeal Reviewing Officer (ARO) and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on your appeal including the specific relief requested.

Action Appealed

On October 12th 2010 District Ranger Robert Thompson signed the decision for the Rangeland Allotment Management Planning on the Mystic Range Analysis Area, Palmer Gulch Allotment. The decision selected Alternative C, with modifications as it relates to Norbeck Wildlife Preserve (NWP) (EIS pp 41-45 & Palmer Gulch ROD pp 2-5). Alternative C continues to permit grazing on non-NWP acres in the Palmer Gulch allotment under an adaptive management strategy. The NWP acres in the allotment will be phased out of grazing within 3-5 years. On October 12th 2010 District Ranger Robert Thompson signed the decision for the Rangeland Allotment Management Planning on the Mystic Range Analysis Area, Bald Horse, Deerfield, Porcupine, Redfern, Rimmer, Slate Prairie, and Tigerville Allotments. The decision selected Alternative C, with minor modifications (EIS pp 41-45 & Seven Allotments ROD pp 2-8). Alternative C continues to permit grazing on the allotments under an adaptive management strategy.

You requested relief by asking the Forest Service to withdraw the decision. Associated with that request you ask:

- that a proper and defensible NEPA process be conducted and a new decision issued that protects our public resources



If the Forest chooses to issue a new decision, they must first be instructed conduct NEPA in accordance with CEQ NEPA regulations at 40 CFR § 1502.9 and prepare a thorough, rigorous, accurate, non-arbitrary analysis and assessment of impacts.

Further, you requested:

- that the Forest makes good faith efforts to work with appellants to redesign the project to reduce environmental impact, create a defensible monitoring plan and take measures to adequately protect Sensitive Species and the habitats on which they depend
- that the Forest develop a defensible monitoring plan for the project area that is fully funded
- that experts from the RMRS, the Regional Office and other institutions be utilized in the design criteria needed to fully protect Sensitive Species and their habitats

You also requested that the Forest Service review various documents and attachments included in your appeal. Those documents and attachments have been reviewed and considered in my response. Further, you requested that we incorporate your original comments on the EA as specific appeal points because you claim that they were not adequately addressed in the Final EA.

Appeal Reviewing Officer's Findings and Recommendation

Your appeal was formally reviewed by a US Forest Service team, led by ARO Robert Sprentall. This team provided an objective review and was not involved in the development, analysis or decision of the Bearlodge Range 2010 Project. The team evaluated your appeal and the project record, and provided a recommendation to me. The ARO found that your appeal contained multiple issues which are summarized in the enclosed recommendation letter. The ARO recommends the District Ranger's decision be affirmed, finding no violation of law, regulation, or policy.

Decision

I have reviewed and considered the appeal record, EA, DN and notice of appeal pursuant to and in accordance with 36 CFR 215.19. I find no violation of law, regulation, or policy. Therefore, I have decided to affirm in whole the Ranger's decision, denying your request for relief.

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

Sincerely,

/s/ Dennis L. Jaeger

DENNIS L. JAEGER

Appeal Deciding Officer

Enclosure

cc: Robert Sprentall, Mark L Martin, Edward Fischer, Katie Van-Alstyne, Robert J Thompson