

DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT
HEBER-RENO/MORGAN MOUNTAIN SHEEP DRIVEWAYS
U.S. FOREST SERVICE
TONTO AND APACHE-SITGREAVES NATIONAL FORESTS
MARICOPA, GILA, COCONINO, NAVAJO, APACHE COUNTIES,
ARIZONA

INTRODUCTION

The Heber-Reno/Morgan Mountain sheep driveways have been used to move sheep to and from winter grazing grounds to summer pastures above the Mogollon Rim since the late 1890s. This use began before the establishment of national forests. When the national forests were established, use of the driveways was authorized by Forest Service Manual (FSM) direction. Per *FSM 2234.13*, the Heber-Reno/Morgan Mountain sheep driveways are not grazing allotments. They are used for the movement of sheep between private land in the Chandler, Arizona, area and the Long Tom and Beehive/Sheep Springs allotments on the Apache-Sitgreaves National Forests (Apache-Sitgreaves NFs). This use is specific to about 80 miles of driveway on the Tonto National Forest (Tonto NF) and about 60 miles on the Apache-Sitgreaves NFs. The purpose of this project is to authorize use of the driveways in a manner that balances permitted use with physical and biological resources.

There is a need to supplement the environmental analyses that were completed under the terms of the 1995 Recission Act for the Long Tom (in 2007) and Beehive/Sheep Springs (in 2002) sheep allotments, because associated use of the driveways was not analyzed in either analysis. There is a need to complete an environmental analysis of use of the driveways to comply with the Settlement Agreement and Order in the lawsuit "*The Fund for Animals et al. vs. Gale Norton*", 03/09/2004. There is a need to document existing management designed to protect riparian areas, southwestern willow flycatcher habitat, Mexican spotted owl habitat and camp sites in the term grazing permits, instead of in annual operating instructions as at present.

An environmental assessment (EA) was prepared to evaluate the proposal. Three alternatives were analyzed in detail by an interdisciplinary team: Alternative 1 – the No Action Alternative, Alternative 2 - the Proposed Action Alternative, and Alternative 3 – The Partial Use Alternative. Further description of alternatives can be found in Chapter 2 of the EA. A copy of the final EA is available for public review at the Apache-Sitgreaves National Forest Supervisors Office, 30 South Chiricahua Drive, P.O. Box 640 Springerville, AZ 85938 or at <http://www.fs.fed.us/r3/asnf/projects/>. The project record is available at the Apache-Sitgreaves Supervisors Office.

DECISION

This Decision Notice documents our decision and reasons for this decision. The Heber-Reno/Morgan Mountain Sheep Driveways project purpose and need for action provides the focus

and scope for the Proposed Action and alternatives. Given the purpose and need, we have reviewed the alternatives and carefully considered the public comments received on the draft EA. Public feedback, the analysis disclosed in the EA developed in consideration of the best available science, and management direction and policy considerations contributed collectively to determining the selected alternative. We have reviewed the project record, which shows thorough review of relevant scientific information, consideration of responsible opposing views, and acknowledgement of incomplete or unavailable scientific information, scientific uncertainty, and risk.

Based upon our review of the Heber-Reno/Morgan Mountain Sheep Driveways EA, we have decided to implement Alternative 2, the Proposed Action, as described in the final EA.

Planned Activities for Selected Alternative

In order to meet the purpose and need, the Apache-Sitgreaves and Tonto NFs are proposing to:

- Authorize the use of the Heber-Reno Sheep Driveway for 8,000 domestic sheep and up to 4,000 domestic sheep on the Morgan Mountain Sheep Driveway. Use would occur two times per year, spring and late summer. Annual trips would include the necessary pack stock for the sheep herders. Total travel time would not exceed 57 days, normally 31 days in the spring and 26 days in the fall.
- Incorporate an adaptive management strategy that would enable the Forest Service and individual grazing permit holders to respond to changing resource conditions or management objectives in compliance with Forest Service policy contained in *FSH 2209.13, Chapter 90*.
- Continue to authorize the driveway use through the existing allotment term permits-for Long Tom and Beehive/Sheep Springs.
- Manage driveway use through Annual Operating Instructions (AOIs) prepared in coordination with permittees and the ranger districts from the Apache-Sitgreaves and Tonto NFs. The AOIs would provide driveway entry and exit dates for each permittee and various instructions for the permittees to follow, while herding sheep along the driveways. AOIs designate bedding grounds (areas generally up to two acres where sheep rest/sleep), locations for counting of sheep, water haul locations, creek crossings, adjustments based on drought conditions, livestock shipping locations, and travel routes within the driveways on National Forest System lands.
- Exclude all riparian areas, southwestern willow flycatcher critical habitat, Mexican spotted owl protected activity centers, and developed and dispersed recreation camping areas from use as bedding grounds.
- Continue to use historical channel crossings on the Tonto portion of the Heber-Reno, many of which are armored (rock and cobble or dry washes) or cross on road surfaces.¹
- Identify water hauling locations annually through the AOIs, so that temporary trough locations differ each year. All riparian areas, southwestern willow flycatcher critical habitat,

¹ Most of these crossings have little to no riparian vegetation located at the crossings and no potential to produce riparian vegetation because they are dry washes, road surfaces, or cobble and boulder.

Mexican spotted owl protected activity centers, existing developed and dispersed camping areas, and main roads would be excluded from water haul locations.

- Use Tonto NF drought guidelines in the event drought conditions exist on the Tonto NF portion of the Heber-Reno Sheep Driveway. The guidelines would be used to determine if any modifications are needed in the AOIs to mitigate adverse drought effects on vegetative health, water availability, and soil conditions. On the Apache-Sitgreaves NFs, applicable guidelines would be used to determine if any modifications to the AOIs are necessary to mitigate the same drought concerns.

Mitigation Measures

The mitigation measures would be made part of the AOIs for the Long Tom and Beehive/Sheep Springs allotments. The permittees are responsible for having their employees follow the stated instructions in the AOI and/or any additional instructions from Forest Officers concerning use of the driveways. Failure to comply with these instructions would constitute a violation of the Term Grazing Permit and would be dealt with through the administrative process.

- Adaptive management for use of the driveways will be incorporated into and monitored through the AOI. Annually adjust, as needed, the number of livestock, the length of time spent within the driveways, and the time of year allowed on the driveways in allotments where livestock (cattle) use overlaps with sheep use of the driveways to meet forage utilization guidelines.
- As part of adaptive management, implementation and effectiveness monitoring will be conducted. Implementation monitoring determines if activities are implemented as designed. Effectiveness monitoring determines if management is effective in meeting the goals for desired resource conditions.
- The permittees will notify the ranger districts of the intended trailing route, overnight stops, bedding grounds, and when they come onto the ranger districts. Contingency routes and alternate bedding grounds would be identified. This information would be recorded on allotment maps in coordination with ranger district personnel.
- Permittees and their herders are required to provide the Forest Service with prompt (within 24 hours) notification of interaction between wild sheep and domestic sheep. Notification procedures (including phone numbers/contact information for permittees, and use of satellite phones in backcountry settings) will be included (as needed) in AOI.
- The AOI will require periodic inventory of domestic sheep and addressing the management, retrieval, and disposition of stray domestic sheep on the forests during grazing and trailing periods. Every reasonable effort would be made to retrieve the strays.
- Sheep bands will maintain progress on a direct travel route through each ranger district. Herding techniques that promote the movement of sheep steadily in one direction would be used. The permittees would not add stops or camps for the purpose of securing additional forage or period of use on the driveways.
- Herders will confine sheep to the driveways at all times and keep them in a herd not more than one-quarter mile wide while trailing.

- The permittees are required to provide for public safety, while trailing the sheep on/across established roads.
- Sheep will be kept out of all riparian areas except when crossing and watering. Herders would avoid allowing sheep to parallel streams to keep them off the banks. Crossings would be made perpendicular to the stream channel.
- Herders will not bathe themselves or wash their clothes directly in streams.
- Herder camps will be maintained free of trash and trash would be packed out, when camp is moved. All fires, if permitted, would be extinguished prior to leaving camp.
- Supplemental *weed-free* hay may be hauled as a main source of feed at each bedding ground. It may also be necessary to haul water to various locations. If watering troughs need to be used, locations of the troughs must receive prior approval by district range personnel.
- Fences that are cut or wire that is pulled up to access the trailing routes will be repaired immediately in a manner to prevent access by other grazing animals. Repaired fences will be restored to the previous wire spacing within five days. All gates opened to allow passage would be closed once the sheep are through. If a fence is lifted for the sheep bands to pass under, the herders would put the fence back after each passing.
- Range improvements will be in working order prior to sheep arriving at their locations.
- Forage Use/Utilization levels should not exceed 40 percent on herbaceous perennial vegetation.
- Sheep will not be permitted to graze within reforestation exclosures, riparian and spring protection exclosures, or campgrounds. Bedding grounds and salting locations would avoid areas susceptible to adverse soil and vegetative impacts associated with concentrated sheep use. Locations of concern would be identified through the AOI.

Any sheep that are left behind would be discovered to be missing, reported, gathered, and removed from the ranger district within five days. The permittee would notify the ranger district when removal is complete. Counts would be made at identified road crossings.

Mitigation by Ranger District per Annual Operating Instructions

Mesa RD, Tonto NF:

- The length of time on the ranger district shall not exceed 12 days per band.
- Sheep would be kept overnight at Bushnell Tanks, while on the Diamond Grazing Allotment. The two new water improvements located south of Bushnell Tanks would be avoided.
- To avoid possible contact with bighorn sheep, domesticated sheep using the driveways would not bed down or be held over within known bighorn sheep habitat.
- To avoid possible contact with bighorn sheep, domesticated sheep using the driveways will trail along the western portion of the driveway between Usery Pass and the Blue Point Bridge at the Salt River.

Tonto Basin RD Tonto NF:

- The length of time on the ranger district shall not exceed a total of ten days.

- The following is a list of bedding grounds that should be used on the Tonto Basin RD portion of the driveway: (1) Reno Pass, (2) West side of Tonto Creek (no loafing in Tonto Creek Riparian Unit), and (3) Breeched tank on top of mountain.
- Herders would use the same bedding ground for each band. Each herder camp that is used in association with each bedding ground would be used for only night per band.

Pleasant Valley RD, Tonto NF:

- The maximum amount of time on the Pleasant Valley RD is 14 days per band.
- No bedding grounds would be located in these areas on the Pleasant Valley RD: (1) Within ½ mile of the Dutchman's Windmill at T9N, R13E, Section 33 (alternate bed grounds are located at Mailbox Mesa or West Cline Mesa); (2) Potato Butte Allotment common cattle-sheep use areas: T9N, R13E, Section 21, 22, 27, & 28; and (3) Saddle north of Ruth Tank at T9N, R13E, Section 10 (alternate bed grounds are located north of Steve Tank).
- No bedding or grazing within the fenced wildlife plot at Clay Spring in Naegelin Canyon.
- Camps would be used for only one night by each band.

Black Mesa RD, Apache-Sitgreaves NFs:

- The same bedding grounds would not be used in consecutive years. The permittee would coordinate bedding ground use with the Black Mesa RD.

Lakeside RD, Apache-Sitgreaves NFs:

- The permittee would contact the Lakeside RD three working days prior to livestock entry on the Morgan Mountain Sheep Driveway (both spring and fall). Current conditions and special instructions that are not identified in the AOI would be discussed at that time.
- The period of use on the stock driveway would be limited to the amount of time necessary for trailing.
- Concentration would be minimized at the gate when crossing Highway 60.
- Use of Porter Springs is as follows: (1) sheep would pass through the area with minimal use, and, (2) Sheep would not bed down anywhere near Porter Springs to allow for recovery.

Other Mitigation Measures Proposed Through the Collaborative Risk Assessment by Arizona Game and Fish Department

Mitigation measures were developed to minimize negative impacts to the driveways' resources in response to the alternatives that propose continued use of the driveways. The following mitigation measures were developed primarily from the Collaborative Risk Assessment (as shown in appendix B) provided by a task force that was led by Arizona Game and Fish Department (AZGFD) and representatives from Tonto and Apache-Sitgreaves NFs, U.S.D.A. Wildlife Services, AZ Department of Agriculture, Navajo Nation Tribal Wildlife DVM, Sheep Springs Sheep Company, Joseph Auza Sheep Company, Arizona Wildlife Federation, Arizona Desert Bighorn Sheep Society, and four veterinarians. Public comments on the proposal indicated that those mitigations should stay in place.

Additional mitigation by AZGFD may be applied, as needed, to reduce the risk to wild bighorn sheep. The primary area of risk, as defined in the Collaborative Risk Assessment, is within the designated low-density occupied bighorn habitat near Stewart Mountain on Mesa RD. The Heber-Reno Sheep Driveway crosses through the defined area in a valley west of Stewart Mountain for less than one mile. The domestic sheep cross through this area in less than an hour; however, to reduce the risk to wild bighorns (Holt, 2008):

- Aerial surveys of wild sheep may be conducted by AZGFD prior to domestic sheep entering the Heber-Reno Sheep Driveway, including the use of volunteers to haze wild sheep and locate domestic sheep strays on both driveways.
- A policy for removing wild sheep that have come into contact with domestic sheep would be developed by AZGFD, if needed.
- A Memorandum of Understanding (MOU) between the permittees, AZGFD, and the Arizona Department of Agriculture would be developed for the removal of stray domestic sheep, if needed.

Monitoring of Resources

The USFS would monitor implementation of the selected alternative. Other resource specialists would be involved in monitoring of specific measures relating to their particular resource area. Monitoring items are listed below.

- Adaptive management for use of the driveways would be incorporated into and monitored through the AOI. Implementation and effectiveness monitoring would be conducted. Implementation monitoring determines if activities are implemented as designed. Effectiveness monitoring determines if management is effective in meeting the goals for desired resource conditions.

PUBLIC INVOLVEMENT

This action was listed as a proposal on the Tonto and Apache-Sitgreaves NF's Schedule of Proposed Actions (<http://www.fs.fed.us/sopa/>) updated periodically during the analysis. The Forest Service invited people to review and comment on the proposed action including members of the public, other public agencies, tribal governments, adjacent property owners, interest groups and Forest Service specialists. Various methods were used to request comments.

- A scoping letter was mailed on March 31, 2008 to 1,017 interested parties including adjacent property owners, interest groups, and tribal representatives. This letter included a description of the project area, an overview of the NEPA process, a general explanation of the proposed actions, and an invitation to comment. An updated Proposed Action was sent to 22 interested parties (those who responded to the first scoping) on November 17, 2009.
- Other information sharing, communication, and interaction with interested parties, agencies, and individuals has occurred on a continuing basis during the project planning period. The EA lists agencies and people consulted in chapter 4.
- A legal notice of availability of the draft EA was published in Arizona Capital Times, Payson Roundup, Copper Country News and White Mountain Independent on April 30, 2010. The comment period ran for 30 days.

During the 30-day public comment period, 17 letters were received. Members of the Heber-Reno/Morgan Mountain Sheep Driveway interdisciplinary team analyzed public comments received on the draft EA and provided agency responses. Agency responses to these comments can be found in Appendix C of the EA.

Some items have been changed for the final EA from what was sent out for 30-day notice and comment. Changes made based on public input include:

- Expanded discussion on soils, riparian and climate, and added discussion to the range section regarding invasive species, monitoring and adaptive management.
- Wildlife discussion was modified to include added information regarding disease transmission risk to bighorn sheep.
- New information from AZGFD regarding stray domestic sheep was added.
- Maps were changed to include newly designated occupied bighorn sheep habitat in the Goldfield area. The width of the southern end of the driveway was narrowed to move it away from the occupied habitat.

Tribal Consultation

The 1992 amendments to the National Historic Preservation Act (1966) require the Forest Service to consult with Tribes (defined as federally recognized Tribes and Alaska Native Corporations) regarding potential effects on historic and archaeological sites. Executive Orders 13084 and 13175 also require the Federal agencies consult with Tribes during planning activities. Tribes culturally affiliated with the lands within the Apache-Sitgreaves and Tonto NFs were consulted regarding the Proposed Action. The proposal was sent to 33 Tribal contacts of the Tonto NF and ten Tribal contacts on the Apache-Sitgreaves NFs between March 31 and April 20, 2008. The Tribes have not expressed concerns or identified sacred or traditional cultural places that would be affected by the Proposed Action.

Issues

The planning team used public comments on the project to help define issues, develop alternatives and analyze effects. Among the topics raised during scoping, the Forest Service identified the following key issues:

Issue #1: Disease transmission risk to bighorn sheep populations. Use of the driveways by domestic sheep may negatively affect bighorn sheep populations. **Response:** Alternative 1, No Action, addresses this issue by eliminating sheep use of the driveways. Alternative 2, the Proposed Action, includes mitigation to address the potential for interaction. Alternative 3, partial use, was developed to eliminate the potential for domestic and wild sheep interaction within occupied bighorn sheep habitat. The indicator used to evaluate impacts to bighorn sheep populations is the potential for nose-to-nose contact (mucus exchange).

Issue #2a: Social. Use of the driveways predates the establishment of the national forests. Discontinuing the use of the driveways would negatively affect the traditional, cultural, and aesthetic values associated with its use. **Response:** Both the No-Action and Proposed Action alternatives respond to this issue. The indicator to evaluate social consequences is a qualitative discussion on how traditional, cultural, and aesthetic values could be affected by either continuing or discontinuing use of the driveways.

Issue #2b: Social. Having a native wildlife species occupying its habitat has social value. Continuation of use of the driveways by domestic sheep may negatively affect the bighorn sheep population and adversely affect social values. **Response:** A qualitative assessment of how each

alternative affects the potential for disease transmission (potential risk to bighorn sheep population) was used to evaluate environmental consequences.

Issue #3a: Economics. Eliminating domestic sheep as a potential source of disease threat to bighorn sheep where bighorns occur along the driveways may have a positive economic effect to the State-level economy, as related to hunting license receipts and other bighorn-related recreation, assuming the State takes actions to increase bighorn populations. **Response:** Alternative 1 (No Action) and Alternative 3 (Partial Use) respond to this issue by eliminating domestic sheep from occupied and nearby bighorn habitat. The indicators used are qualitative assessments of how each alternative potentially affects the State economy.

Issue #3b: Economics. Removing all or part of the driveways from domestic sheep use would have an adverse economic effect on the grazing permittees, from loss of permitted grazing authorizations, increased trucking costs and the need to find and pay for alternative feed sources for the days eliminated. **Response:** The Proposed Action alternative responds by authorizing domestic sheep use along the current length of the driveways. The indicators used are qualitative assessments of how each alternative potentially affects local economies and the permittees.

DECISION RATIONALE

We have decided to implement Alternative 2 because it best meets the purpose and need for this action as determined from management direction and conditions on the ground, and because it responds well to key issues and public comments. Our decision to authorize continued use of the sheep driveway takes into consideration both effects to the physical and biological resources as well as to the social and economic environment. Use of the driveways is historic and has been occurring for many years. There are mitigation measures in place, which will help to address potential impacts to natural resources. We feel that continued use of the driveways is possible in a manner that balances permitted uses with forest plan objectives and desired conditions on both the Tonto NF and the Apache-Sitgreaves NFs.

Reasons for Not Selecting Other Alternatives

We did not select Alternative 1 because the results of the analysis indicated that stopping use of the sheep driveways was not warranted.

We did not select Alternative 3 because based on the risk assessment (Appendix B of the EA), the probability for nose-to-nose contact between domestic sheep and wild bighorn sheep is low to very low. Consequently, the risk for disease transmission is low. Give the low risk of disease transmission and the mitigations measures to be put in place we determined it was not necessary to eliminate that portion of the driveways from use by trailing sheep, as this alternative proposed.

FINDING OF NO SIGNIFICANT IMPACT

We have determined through the EA that this is not a major federal action that will significantly affect the quality of the human environment; therefore, and Environmental Impact Statement is not needed. There were no significant, adverse, or controversial impacts to the human

environmental identified in this review. This determination is also based on the following findings and criteria listed below.

CONTEXT

The significance of effects of our decision has been analyzed in several contexts. Our decision is consistent with the requirements of the two Forest Plans and contributes to meeting the goals of the Forest Plans. The analysis considers and discloses cumulative effects on the resources within the project area and associated resource areas. In addition, direct, indirect and cumulative effects in and around the project area have been considered in this determination.

INTENSITY

The intensity of effects was considered in terms of the following:

1. **Impacts may be both beneficial and adverse.** Consideration of the intensity of environmental effects is not biased by beneficial effects of the action. The EA considers and discloses both beneficial and adverse effects. Beneficial impacts were not used to minimize the severity of any adverse impacts. The proposed uses of National Forest System lands will not result in any known significant irreversible resource commitments or a significant irreversible loss of soil productivity, water quality, wildlife habitats, heritage resources or recreational opportunities. In reaching my conclusion of no significant impacts, I recognize that this project is likely to have impacts, which are perceived as negative, as well as positive (EA Chapter 3, Environmental Consequences).
2. **The degree to which the proposed action affects public health or safety.** Sheep trailing activities do not constitute a threat to public health or safety. There will be no significant effects on public health and safety from the trailing of sheep along the driveways.
3. **Unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** As shown in the EA Chapter 3 discussions on riparian resources, heritage resources and wildlife, there will be no significant adverse effects on unique characteristics.
4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial.** The activities associated with this decision will not significantly affect the quality of the human environment, and the effects are unlikely to be highly controversial. No evidence has been presented that raises substantial questions as to the correctness of the environmental consequences that have been estimated. We have considered the best available science in making this decision. The project record demonstrates a thorough review of relevant scientific information.

The effects on the human environment are not likely to be highly controversial based on the involvement of Forest Resource specialists, other agencies, and the public. After reviewing the project record and EA, we are confident the interdisciplinary team reviewed the comments and incorporated them into alternatives or addressed them in the

appropriate resource section. It is our judgment, while portions of the public disagree with various components of the project, and have raised concerns related to the action alternatives, there is no unusual or high degree of controversy related to this project.

5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** Sheep trailing is a historic use that has been ongoing for many years. The effects analyses show the effects are not uncertain, and do not involve unique or unknown risk (EA Chapter 3, Environmental Consequences).
6. **The degree to which the action may establish a precedent for future actions with significant effects, or represents a decision in principle about a future consideration.** The action is not likely to establish a precedent for future actions with significant effects, because there are no significant effects. The proposed actions do not predetermine any future decisions regarding authorizations of land uses within either National Forest. The EA is site-specific and its actions are within standards and guidelines of both forest plans.
7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** Cumulative effects were considered in the environmental assessment. There will not be a significant cumulative impact from this action, individually or in concert with other related actions, past, present or in the foreseeable future (EA Chapter 3, Environmental Consequences and the various resource specialist reports included in the project record)
8. **The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed, or eligible for listing, in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.** 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. Although it has not been formally designated, the Heber-Reno Sheep Driveway is recognized as an historic site, and is informally considered eligible for the National Register of Historic Places by the Arizona State Historic Preservation Officer. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources because project implementation will be managed for a no adverse effect to heritage resources. This project is in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (EA Chapter 3 Heritage Environmental Consequences). The State Historic Preservation Officer has concurred with this decision (ISA report dated 1/30/2010, in project record).
9. **The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.** The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973. The U. S. Fish and Wildlife Service has concurred that the proposed action will have insignificant and/or discountable effects to endangered or threatened species or their critical habitat (EA Chapter 3 Wildlife Section; Biological Assessment for the project in the project record; USFWS Concurrence letter dated August 4, 2010 in the project record).

10. **Whether the action threatens to violate Federal, State, or local law or requirements imposed for the protection of the environment.** The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (Chapter 2 – Alternatives; Chapter 3 – Environmental Consequences, especially for wildlife and watershed; resource specialist reports found in the project record; Biological Assessment and USFWS concurrence letter found in the project record).

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

A. Compliance with the Forest Plans

The action is consistent with the Tonto and Apache Sitgreaves National Forest Land Management Plans. Planned activities are consistent with management area direction, comply with Forest Plan standards, and contribute to Forest Plan goals and objectives.

B. Compliance with Other Laws and Regulations

National Environmental Policy Act – The Forest Service involved members of the public, interested private groups, grazing permittees and County, State and Federal agencies in the environmental analysis. The environmental assessment discloses the direct, indirect and cumulative effects of the proposed action. This decision is in compliance with the National Environmental Policy Act of 1969 as amended.

National Forest Management Act (NFMA) of 1976, as amended: This project, and its associated design features and mitigation measures, addresses the Apache-Sitgreaves and Tonto National Forests Plan standards and guidelines and management area direction as they apply to the project area.

Endangered Species Act: The United States Fish and Wildlife Service (USFWS) has concurred with the following effects determinations to threatened and endangered species on the project: “may affect, not likely to adversely affect” the Mexican spotted owl and southwestern willow flycatcher and their critical habitats, the Chiricahua leopard frog, Apache trout, bald eagle, Yuma clapper rail, lesser long-nosed bat, and the Little Colorado spinedace. In addition, the USFWS concurs that the proposed action is not likely to jeopardize the Mexican gray wolf. This decision is in compliance with the Endangered Species Act.

Clean Water and Clean Air Acts: Implementation of the mitigations will ensure compliance with the Clean Water Act. The ADEQ has indicated that the airsheds within the Apache-Sitgreaves National Forests are currently in attainment (satisfactory condition). While not all the airsheds within the Tonto National Forest are in attainment, the proposed action is covered under the exemptions provided in 40 CFR 93.153c(ii and xi) (see the EA references). The decision does not provide any additional actions that would detrimentally affect air quality.

National Historic Preservation Act: The continuation of grazing at or below current levels is not expected to result in significant negative impacts to heritage resources. New improvement locations have been or will be surveyed for heritage resources. Maintenance, replacement or reconstruction of existing facilities are not considered undertakings and do not require additional

survey. The overall allotment management of the proposed action has been concurred with by the State Historic Preservation Officer.

No concerns have been expressed by Indian tribes or other interested parties regarding traditional uses or significant places within the project area related to livestock management. The proposed project activities are not expected to result in negative effects to heritage resources. This project is in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, and with Section 101 (b)(4) of the National Environmental Policy act of 1969.

Executive Order (E.O.) #11988 (Floodplain Management) and #11990 (Protection of Wetlands)

The selected alternative addresses the intent of both orders by promoting improvement in watershed and riparian conditions on the project area.

E.O. # 12898 – Environmental Justice: The proposed action is not expected to cause disproportionately high and adverse human health or environmental effects on minority and low-income populations. Effects of the proposal on socio-economics have been addressed in the environmental analysis. (EA, Chapter 3, and Resource Specialist Report included in the Project Record).

E.O. # 12962 – Aquatic Systems Recreational Fisheries: Site specific forage utilization standards when incidental use occurs are expected to result in improved riparian and upland conditions. The proposed livestock management strategy should reduce indirect effects to aquatic species by improving watershed conditions and limiting sediment contribution to stream habitats from both riparian and upland range. Best Management Practices will be implemented to minimize soil movement and ground disturbance during incidental livestock use. (EA Chapter 3, and Resource Specialist Reports included in the Project Record).

E.O. #13186 – Protection of Migratory Birds: The effects of the proposal on migratory birds were considered in the analysis. The analysis concluded that no significant effects will occur to migratory birds because (during incidental use) allowable utilization levels are established and are monitored to provide for prey base habitat and best management practices will be utilized to minimize impacts to the habitat (Migratory Bird Effects Analysis, Project Record).

E.O. Facilitation of Cooperative Conservation: Cooperation occurred with the Arizona Game and Fish Department; Department of the Interior, United States Fish and Wildlife Service; as described in the EA and Project Record.

E.O. #13175 - Consultation and Coordination with Indian Tribal Governments: Consultation with Indian Tribal Governments occurred and is documented in the Project Record.

IMPLEMENTATION

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

CFR 215

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215.

Individuals or organizations who provided comment or otherwise expressed interest in the proposed action during the comment period may appeal. Interest expressed or comments provided on this project prior to or after the close of the comment period do not have standing for appeal purposes. The appeal must be filed (regular mail, fax, email, hand-delivery, express delivery, or messenger service) with the appropriate Appeal Deciding Officer. Submit appeals to: Appeal Deciding Officer, Corbin Newman, Regional Forester, USDA Forest Service Southwestern Region, 333 Broadway Blvd., SE, Albuquerque NM 87102-3407. Fax: 505-842-3800. 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. Electronic appeals may be submitted to: appeals-southwestern-regional-office@fs.fed.us (.doc, .rtf, or .txt formats only). The appeal must have an identifiable name attached or verification of identity will be required. Names and addresses of appellants will become part of the public record. A scanned signature may serve as verification on electronic appeals. When emailing an appeal, you will receive an automated reply if the message is received. If you do not receive this automated reply, it is the responsibility of the appellant to ensure the appeal is received by the deadline (36 CFR 215.15).

Appeals, including attachments, must be in writing, fully consistent with 36 CFR 215.14, and filed (postmarked) within 45 days following the date this notice is published in the Arizona Capital Times and White Mountain Independent newspapers. This publication date is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframes provided by any other source.

CFR 251

Decisions related to the issuance, denial or administration of written instruments to occupy and use National Forest System lands may be appealed by permit holders under 36 CFR 251. A Notice of Appeal must be consistent with 36 CFR 251.90 and **filed simultaneously** with the Appeal Deciding Officer Corbin Newman (see filing information above), and with the two Deciding Officers (see filing information below). Appeals must be filed within 45 days of the date on the legal notice of the written decision being appealed.

Forest Supervisor, Tonto National Forest	Forest Supervisor, Apache-Sitgreaves National Forests
Appeal Deciding Officer	Appeal Deciding Officer
2324 E. McDowell Road	P. O. Box 640 / 30 S. Chiricahua Drive
Phoenix, AZ 85006-2496	Springerville, AZ 85938
FAX: 602-225-5295	FAX: 928-333-5966
appeals-southwestern-tonto@fs.fed.us	appeals-southwestern-apache-sitgreaves@fs.fed.us

A permit holder may appeal the decision under 36 CFR 215 or 36 CFR 251, but not both. Appeals may be filed electronically, as described above in the 36 CFR 215 process.



The deciding officers are willing to meet with permit applicants or holders to hear and discuss any concerns or issues related to this decision. This decision may be implemented during an appeal, unless the Reviewing Officer grants a stay under 251.91.

CONTACT

For additional information concerning this decision, contact: Denise Van Keuren, Range Program Manager, Apache-Sitgreaves National Forests, P. O. Box 640, Springerville, AZ 85938, 929-333-6309.

Gene Blankenbaker 2/15/2011
GENE BLANKENBAKER Date

Forest Supervisor, Tonto National Forest

Chris Knopp 2/15/2011
CHRIS KNOPP Date

Forest Supervisor, Apache-Sitgreaves National Forests

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Figure 1 – Map of selected alternative

