

United States
Department of
Agriculture

Forest
Service

Tonto Basin
Ranger District

HC02 Box 4800
Roosevelt, AZ. 85545
(520) 467-3200
(520) 467-3239 FAX

File Code: 2230

Date: May 4, 2001

George T. Cline Equity Trust
P.O. Box 397
Tonto Basin, AZ. 85553

Return Receipt Requested
7000 0600 0023 9694 8419

Dear Mr. Ewing:

This letter is my decision to take administrative action on your term grazing permit for your failure to comply with the terms and conditions of your term grazing permit (#12-801). I have reviewed the record in relationship to the action to be taken.

Your term grazing permit states:

Part 1 (3)

It is fully understood and agreed that this permit may be suspended or cancelled, in whole or in part, after written notice, for failure to comply with any of the terms and conditions specified in Parts 1, 2, and 3 hereof, or any of the regulations of the Secretary of Agriculture on which this permit is based, or the instructions of Forest officers issued there under; for knowingly and willingly making a false statement or representation in the permittee's grazing application, and amendments thereto; or for conviction for failure to comply with Federal laws or regulations or State and local laws relating to livestock control and to protection of air, water, soils and vegetation, fish and wildlife, and other environmental values when exercising the grazing use authorized by the permit. This permit can also be cancelled, in whole or in part, or otherwise modified, at any time during the term to conform with needed changes brought about by law, regulation, Executive order, allotment management plans, land management planning, numbers permitted or seasons of use necessary because of resource conditions, or the lands described otherwise being unavailable for grazing. Any suspension or cancellation action may be appealed pursuant to 36 CFR 251, Subpart C.

Part 2 General terms and Conditions – 1, 2, 3, & 8 (b) (c) (d):

1. Validation of Permit. The issuance of a Bill for Collection, payment of fees and actual turning on at least 90 percent of livestock the first grazing season after the permit is issued will validate this permit for the number, kind, and class of livestock, grazing allotment, and period of use for the particular year.
2. Bill for Collection. Each year, after validation and prior to the beginning of the grazing season, the Forest Service will send the permittee a Bill for Collection specifying for the current year the kind, number, and class of livestock allowed to graze, the period of use, the grazing allotment, and the grazing fees. This bill, when paid, authorizes use for that year and becomes part of this permit.
3. Payment of Fees. The permittee will not allow owned or controlled livestock to be on Forest Service administered lands unless the fees specified in the Bill for Collection are paid.

Range and Livestock Management:

The number, kind, and class of livestock, period of use, and grazing allotment specified in the permit may be modified when determined by the Forest Officer in charge to be needed for resource protection. Except in extreme emergencies where resource conditions are being seriously affected by livestock use or other factors, such as fire, drought, or insect damage, notice of a scheduled reduction of numbers of livestock or period of use under a term permit will be given one (1) full year before a modification in permitted numbers or period of use becomes effective. This does not apply to annual adjustment in grazing as provided for in Section 8 (c).

When, in the judgment of the Forest Officer in charge, the forage is not ready to be grazed at the beginning of the designated grazing season, the permittee, upon request of the Forest officer, will defer placing livestock on grazing allotment to avoid damage to the resources. The permittee will remove livestock from Forest Service-administered lands before the expiration-grazing season upon request of the Forest officer when it is apparent that further grazing will damage the resources.

The permittee will allow only the numbers, kind, and class of livestock on the allotment during the period specified in Part 1 hereof or the annual Bill for Collection, including any modifications made as provided for in Section 8 (c). If livestock owned by the permittee are found to be grazing on the allotment in greater numbers, or at times or places other than permitted in Part 1 hereof, or specified on the annual Bill for Collection, the permittee shall be billed for excess use at the authorized use rate and may face suspension or cancellation of this permit.

Background:

As stated in my last letter dated February 12, 2001, you were asked to remove all livestock from the Tonto Basin Allotment within thirty days (letter from the District Ranger to George T. Cline dated March 14, 2000). You did not remove your cattle by the deadline. You requested the deadline be extended for removing your livestock in your June 12, 2000 letter. District Ranger Tina Terrell responded to your request and gave you until July 31, 2000 to remove all livestock from your allotment (July 18, 2000 letter to you from Tina Terrell).

You appealed the March 14, 2000 decision requiring you to remove your livestock from your allotment because of drought. You were not granted a stay and the decision was affirmed on September 25, 2000. You were given sufficient notification and consideration for the difficulty in gathering cattle in rough terrain. However, your cattle remain on the allotment after asking for removal about one year ago.

Conclusion:

I stated your terms and conditions of the George T. Cline Equity Trust Permit (#12-801) previously in this letter. After a thorough review and careful consideration of what violations have occurred from not removing all your livestock. I have decided to cancel 50% of your term grazing permit. When livestock are allowed to restock on your portion of the Tonto Basin Allotment your term grazing permit will be modified as follows:

1. 266 Cattle (cows/bulls) 01/01 – 12/31
2. 193 Cattle (Yearlings) 01/01 – 05/31

If you do not to remove all your livestock within 30 days upon receipt of this letter, I will cancel the remaining portion of the George T. Cline Equity Trust grazing permit (#12-801).

The decision is subject to administrative review pursuant to 36 CFR 251 and any appeal of this decision must be fully consistent with 36 CFR 251.90. A notice of appeal, including the reasons for appeal, must be filed with the Forest Supervisor, 2324 East McDowell Road, Phoenix, Arizona 85006 within 45 days of the date of this decision. A copy of the notice of appeal must be filed simultaneously with the District Ranger, HC02 Box 4800, Roosevelt, Arizona 85545.

If you file a notice of appeal you may simultaneously request mediation pursuant to 36 CFR 251.103. If mediation is desired, you must request mediation as part of filing your appeal. If you request mediation, a stay of the decision will automatically be granted for the duration of the mediation period, which is 45 calendar days. If agreement has not been reached at the end of 45 calendar days, but it appears to the Deciding Officer that a mediated agreement may soon be reached, the Reviewing Officer may extend the mediation period for a period of up to 15 calendar days from the end of the 45-day appeal suspension period. If a mediated agreement is reached the Reviewing Officer will close the record without a decision on the merits of the appeal. If a mediated agreement cannot be reached under the specified timeframes, the stay granted during the mediation will be lifted and the timeframes and procedures applicable to the appeal will be reinstated. All negotiations are confidential and mediators are specifically trained to serve as a neutral third party in those States with United States Department of Agriculture certified mediation programs.

Thank you for your cooperation in this matter and if you have any questions please feel free to contact Linny Warren at this office.

Sincerely,



DAVID P. CUMMINGS
Acting District Ranger

Cc: Forest Supervisor
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