

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED - 3 APR 10 1997
CLERK OF DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

DIAMOND BAR CATTLE COMPANY
and LANEY CATTLE COMPANY,

Plaintiffs,

v.

UNITED STATES OF AMERICA,
et al.

Defendants.

CIV No. 96-0437 HB/JHG

ENTERED ON DOCKET:

4/3/97

FINAL JUDGMENT

In accordance with the Memorandum Opinion filed in this case on December 4, 1996, it is therefore ORDERED that:

1. The United States' Motion for Summary Judgment, seeking dismissal of Plaintiff's complaint and seeking judgment on its counterclaims against Plaintiffs, is GRANTED.
2. Plaintiffs' Complaint is DISMISSED with prejudice.
3. Plaintiffs are ENJOINED from grazing their livestock on the Gila National Forest and the Apache National Forest without a permit from the Forest Service.
4. Plaintiffs shall pay to the United States \$55,778.87 for unlawful grazing and other damages through February 28, 1997.
5. Plaintiffs shall pay to the United States an additional \$124.70 for each day of unauthorized grazing after February 28, 1997, subject

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to adjustment as the unauthorized livestock are removed from National Forest System lands.

6. Plaintiffs shall physically remove their cattle from National Forest Service lands (not merely move them from one pasture to another) in accordance with the following schedule:

A. Laney Allotment: Plaintiffs shall complete removal of their cattle from the riparian pastures within the Laney Allotment (the San Francisco, Section, Trail and Strawberry pastures depicted on Forest Service allotment management maps) and any cattle located on other Forest Service lands outside of the allotment no later than April 20, 1997. Plaintiffs shall complete removal of the balance of their cattle from all remaining pastures no later than May 25, 1997.

B. Diamond Bar Allotment: Plaintiffs shall complete removal of their cattle from the East Fork and Montoya pastures depicted on Forest Service allotment management maps and any cattle located on the Donaldson tract or other Forest Service lands outside of the allotment no later than April 15, 1997. Plaintiffs shall complete removal of their cattle from the Upper Black Canyon, South Diamond and Upper Diamond pastures depicted on Forest Service allotment management maps no later than May 15, 1997. Plaintiffs shall complete removal of the balance of their cattle from all

remaining pastures no later than June 15, 1997.

C. If a few, isolated cattle are not located and removed from the pastures by the dates specified, Plaintiffs will not be held to have failed to complete removal provided Plaintiffs diligently remove any such cattle when they are located.

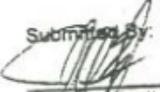
D. In the event acts of God, extreme weather conditions or other extraordinary circumstances beyond the control of Plaintiffs cause delays in removal by the dates specified, Plaintiffs will not be held to have failed to complete removal provided Plaintiffs diligently remove the cattle after any such extraordinary delays.

7. If Plaintiffs fail to remove all or any part of their cattle in accordance with the provisions of paragraph 6, the United States acting through the Forest Service may remove and dispose of all remaining cattle and horses in the manner provided in 36 C.F.R. 262.10, in addition to any other remedy it may have at law.

Dated this 3 day of April, 1997.

Howard C. Patton

UNITED STATES DISTRICT JUDGE

Submitted By:


John W. Zavitz
Assistant U.S. Attorney

Approved as to Form:

~~Telephonically approved 4/3/97~~

Larry G. Patton
Attorney for Plaintiffs

