



United States  
Department of  
Agriculture

## Apache-Sitgreaves National Forests

### *Unauthorized Livestock History*



5 head of feral horses in the South Pasture of the West Fork Allotment, Alpine Ranger District, Apache-Sitgreaves National Forests, 17 May 2005. USFS photo by Mike Hill, Records of the Apache-Sitgreaves National Forests.



Forest  
Service

June  
2021

# Unauthorized Livestock History

## Apache-Sitgreaves National Forest

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# I. Introduction

## Overview

This report documents the history of horse presence on the Sprucedale-Reno and West Fork Allotments, Alpine Ranger District, Apache-Sitgreaves National Forests, Arizona. The report is based on a close examination of allotment records held by the Apache-Sitgreaves National Forests.

## Terminology

Grazing of livestock (cattle, horses, sheep, goats) have to be authorized on National Forest System lands. As stated in 36 CFR 222.3 Issuance of grazing and livestock use permits. (a) Unless otherwise specified by the Chief, Forest Service, all grazing and livestock use on National Forest System lands and on other lands under Forest Service control must be authorized by a grazing or livestock use permit.

The definition of authorized is found in 36 CFR 222.1 Authority and definitions. (5) A grazing permit is any document authorizing livestock to use National Forest System or other lands under Forest Service control for the purpose of livestock production.

The definition of unauthorized is subsequently found in FSM 2200 Range Management 2230.5 – Definitions. Unauthorized Livestock is any cattle, sheep, goat, hog, or equine not defined as a wild free-roaming horse or burro by 36 CFR 222.20(b)(13), which is not authorized by permit (or Bill for Collection) to be upon the land on which the livestock is located and which is not related to use authorized by a grazing permit (livestock owned by other than a National Forest grazing permit holder). Noncommercial pack and saddle stock used by recreationists, travelers, other forest visitors for occasional trips, as well as livestock to be trailed over an established driveway when there is no overnight stop on Forest Service administered land do not fall under this definition.

These terms are used in this document to refer to livestock that is authorized and unauthorized for use. Unauthorized, and trespass are both used to describe livestock, namely horses and cattle, found in a place where they were not authorized to graze.

The term wild was defined in the WILD FREE-ROAMING HORSES AND BURROS ACT OF 1971; PUBLIC LAW 92-195 §1332. Definitions (b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States.

However, the term "wild" is not only a legal definition but is also a label commonly used to describe any animal found without immediate evidence of care or ownership. In more than one instance, supporting records for the Sprucedale-Reno and West Fork Allotments have used the term "wild," while based on context, clearly meaning that the animals were simply unauthorized. In these instances, this term was applied and used outside the context of the Wild Free-Roaming Horses and Burros Act. There were no references to "wild horses" in these records that refer to the definition of "wild" as defined in the Act.

## Location

Sprucedale-Reno and West Fork Allotments, Alpine Ranger District, Apache-Sitgreaves National Forests, Arizona. Both allotments abut the Fort Apache Indian Reservation on the west. The West Fork Allotment also adjoins the Springerville Ranger District of the Apache-Sitgreaves National Forests on the north. The most prominent watercourse in the area is the Black River drainage. The nearest town is Alpine, Arizona, the site of the Alpine Ranger Station.

## Methodology

To develop this report, a historian from the USDA Forest Service Enterprise Program, Heritage Service Line, used records provided by the Apache-Sitgreaves National Forests in addition to secondary literature. The historian reviewed rangeland and grazing history in the West, the Forest Service, the Southwest Region, and the Apache-Sitgreaves National Forests; conducted a review of other ongoing horse-related concerns in Arizona such as the Heber Wild Horse Territory and the Salt River Horses on the Tonto National Forest; and did a page by page survey of all the file materials provided by Apache-Sitgreaves personnel. Citations attempt to recreate the original document titles as closely as possible, to aid in reviewing materials. Each relevant document was photographed, and a note was made. Lastly, the historian compiled the material and created a narrative.

## Executive Summary

On November 14, 2019, historian Leighton Quarles met an A-S employee in Payson, AZ, and took receipt of approximately two linear feet of documents for review. These documents consisted entirely of materials related to the West Fork and Sprucedale-Reno grazing allotments on the Apache National Forest. Nearly all were 2210/2230 files: grazing permits, annual operating instructions, and similar. A few published reports were mixed in. The aim was to uncover any history of unauthorized horses. Materials largely covered the period between 1960 and 2000. 1940 was the oldest date of any document and almost no documents predated 1958. Close reading of the material indicates no consistent presence of unauthorized livestock and only minimal trespass on the West Fork and Sprucedale-Reno Allotments until the 2000s. Before the mid-1990s, most incidents of unauthorized livestock appear to have occurred as a result of fence problems between allotments rather than between allotments and the reservation. Fewer than ten documented incidents of unauthorized livestock from an unknown location or the Fort Apache Indian Reservation occurred between 1944, the first mention of possible trespass livestock, and 2000, when trespass livestock were becoming a clear problem. Substantial supporting evidence indicates (1) that the Forest Service was keenly aware of the importance of fencing and possible issues from at least the 1960s and probably the 1940s, and (2) that both the West Fork and Sprucedale-Reno Allotments' permittees continually struggled to maintain their fence lines, whether between one another's allotments or along the Reservation boundary. Based on the information available, it is the historian's opinion that there were no free-roaming unauthorized

horses consistently resident on either the Sprucedale-Reno or the West Fork Allotments between the 1940s and the mid-1990s.

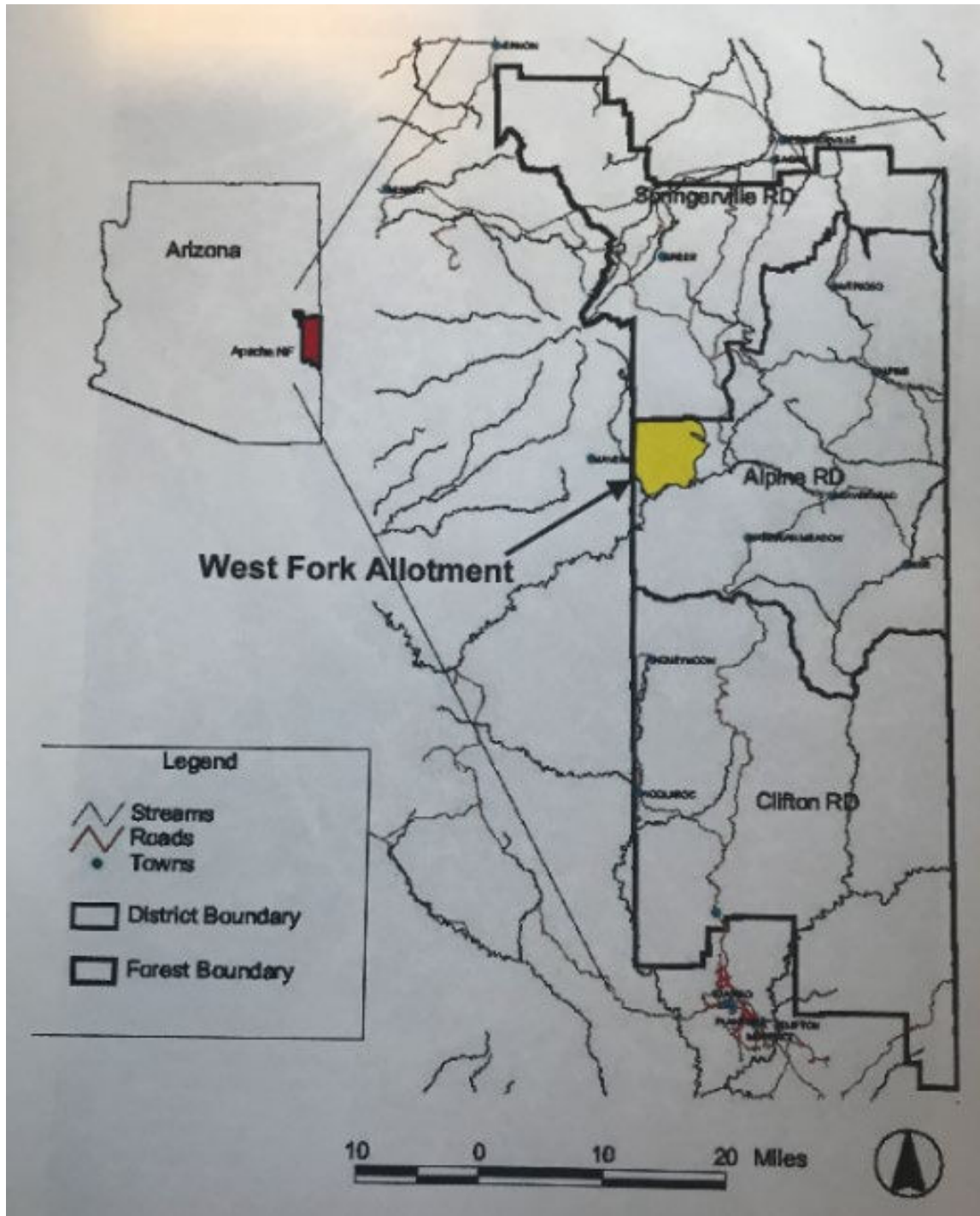


Figure 1 West Fork Allotment, Apache-Sitgreaves National Forests. USFS map.



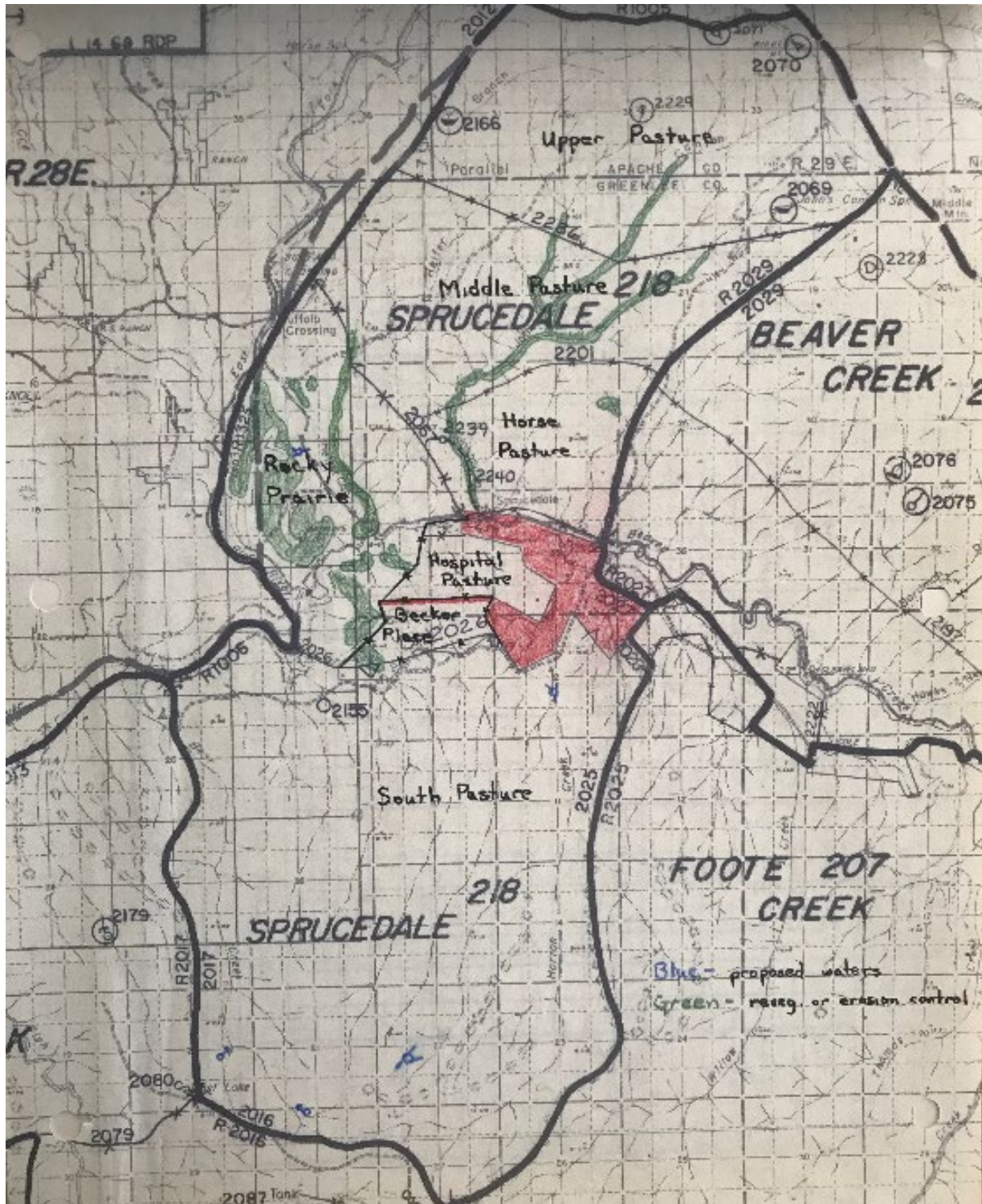


Figure 2 Sprucedale-Reno Allotments, Apache-Sitgreaves National Forests. Sprucedale-Reno is immediately adjacent to West Fork. Both border the Fort Apache Indian Reservation. USFS map.



## II. Historical Context

### Grazing History and Unauthorized Horses on the Sprucedale-Reno and West Fork Allotments, Alpine Ranger District, Apache-Sitgreaves National Forests Introduction: Regulating Grazing on the National Forests

The Apache-Sitgreaves National Forests lie in eastern Arizona and encompass a significant portion of the White Mountains and the Mogollon Rim country. These combined national forests have a long history of resource use, particularly including logging and grazing. The Apache and Sitgreaves National Forests were both established in 1908 when the Forest Service dissolved the Black Mesa National Forest and divided its components into other units. The two forests were administratively joined in 1974.<sup>1</sup> These forests were established on lands that were long occupied by Native peoples including today's White Mountain Apache Tribe and, more recently, by Euro-American cattle and sheep ranchers and settlers who began entering the area in the 1860s. Thus, administering and regulating grazing were prime components of Forest Service management. The Forest Service inherited the Department of the Interior Bureau of Forestry's relationship with stock growers and acted in the first decades of the twentieth century to develop a program of regulation. Until the Taylor Grazing Act of 1934, the Forest Service was the primary federal agency tasked with regulating grazing. The grazing allotment system dates to 1900. Fees were introduced by the newly created Forest Service in 1906. While local socioeconomic concerns were often factors in grazing regulation, the ultimate driver behind the Forest Service's ever-increasing program of range regulations was the condition of the land. The most critical pieces of legislation to impact Forest Service grazing in the last century were the National Environmental Policy Act of 1969 and the National Forest Management Act of 1976, which provided for much tighter protection of natural resources than had previously been the case. Another major component of Southwestern grazing management was the reduction of livestock on Indian reservations in the 1930s, particularly the Navajo Nation.<sup>2</sup> Periodic bouts of pushback such as the controversy surrounding the Granger-Thye Act of 1950 and the Sagebrush Rebellion of the late 1970s have beset grazing regulation, but the basic pattern of increasing regulation with the aim of protecting the land while providing for economic opportunities on the forests has remained constant.<sup>3</sup>

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<sup>1</sup> Richard C. Davis, *Encyclopedia of American Forest and Conservation History* (New York: MacMillan for the Forest History Society, 1983), Appendix I, The National Forests of the United States, 743-788.

<sup>2</sup> Klaus Frantz, *Indian Reservations in the United States: Territory, Sovereignty, and Economic Change* (Chicago: University of Chicago Press, 1999), 255-260.

<sup>3</sup> Gerald W. Williams, *The Forest Service: Fighting for Public Lands* (Westport, CT: Greenwood Press, 2007), 125-127.

## Issues in Documentation

The development of grazing regulation has meant that documentation of forest uses is not always consistent. While ample sources describe the broad patterns of range and forest history, few documents exist to provide a clear picture of early range management on the Sprucedale-Reno and West Fork Allotments. Records from before the 1940s are almost nonexistent. Grazing has been a valid, accepted use of public lands since before the establishment of forest reserves in the 1890s, and the Forest Service has managed grazing since its inception. However, the Granger-Thye Act of 1950 was the first piece of legislation to expressly formalize the administration of grazing on National Forest lands. The Granger-Thye Act, the implementation of the Parker Three-Step Method for assessing range condition, and Region 3's own program of range management planning, initiated in 1945, may have provided the legislative and bureaucratic impetus for better documentation.<sup>4</sup> Following the passage of the 1960 Multiple Use-Sustained Yield Act and the 1969 National Environmental Policy Act, documentation grew ever more complex. By the early 1990s, documentation reflected the increasing complexity of forest and range management, as concerns such as the welfare of elk, spotted owl, and fish habitat drove ever more detailed analysis.

## Trespass Chronology for the Sprucedale-Reno and West Fork Allotments, 1940-2016

### Summary of Grazing History of Sprucedale-Reno and West Fork Allotments

Grazing on the West Fork and Sprucedale-Reno Allotments charted the following basic trajectory over the latter half of the twentieth century. Small horse and cattle operations existed on a series of allotments that were ultimately consolidated into the Sprucedale-Reno and West Fork Allotments. Various members of the Wiltbank family held the permit for the Sprucedale-Reno Allotment, and ran a mix of horses and cattle, often year-round. Likewise, multiple members of the Patterson family acted as permittees for the West Fork Allotment, running almost entirely cattle. These permittees appear to have had long-running difficulties maintaining their fences between each other's allotments and, in turn, between their allotments and the adjacent Fort Apache Indian Reservation. They also had a good deal of trouble abiding by the Forest Service's dicta, resulting in the production of such documents as the undated List of Violations by Rancho Allegre Cattle Co.<sup>5</sup> The Pattersons appear to have had little trouble keeping their stock on the allotment. The Wiltbanks, by contrast, endlessly struggled with reports of their stock—or stock assumed to be theirs—leaving the allotment and either trespassing on the West Fork Allotment or

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<sup>4</sup> Robert D. Baker, Robert S. Maxwell, Victor H. Treat, and Henry C. Dethloff, *Timeless Heritage: A History of the Forest Service in the Southwest* (Washington, D.C.: USDA Forest Service, 1988), 148.

<sup>5</sup> List of Violations by Rancho Allegre Cattle Co. Folder: 2210 Range Management Planning, 2210 West Fork Allotments, Folder 2 of 3, 1990 & Earlier. Records of the Apache-Sitgreaves National Forests [hereafter RASN].

simply winding up in the road. According to the documents, until at least the mid-1990s, no other grazing concerns troubled the West Fork and Sprucedale-Reno Allotments. But beginning in the mid-1990s unauthorized livestock from the Fort Apache Indian Reservation increasingly began appearing in reports and correspondence.

## Trespass Grazing: The Early Years, 1940s-1960s

Perhaps due to the above-mentioned issues in documentation, the documents provide little insight into range management on the Sprucedale-Reno and West Fork Allotments before the 1960s. “The first livestock grazing on the allotment may have occurred before 1900, but no records are available. Historical grazing records before the early 1940’s are generally lacking,” observed the authors of one report.<sup>6</sup> A forty-year grazing history merely noted that prior to the 1930s, “large herds of wild horses roamed the area but these were thinned down through the efforts of the Forest Service and a man named Martin Sulzberger.”<sup>7</sup> The winter of 1931 was extremely hard and eliminated many of these horses.” This brief mention is one of the only discussions of any kind of early horse activity in the area. It is perhaps best understood not so much in the context of specifically removing horses from the range, but rather in the context of the Forest Service working in the first decades of the twentieth century to reduce overall grazing pressures and to rationalize range management, a significant goal of federal range managers since before the agency’s founding in 1905.<sup>8</sup> The use of “wild” horses was the only time in the record prior to the Wild Horse & Burro Act that the term “wild” was used. I believe the term “wild” was used in the context of ungentled horses as there was no further mention of wild horses.

The impression given is that few, if any, unauthorized horses remained on the range after 1931. And that impression is most likely accurate. As the authors of a history of Region 3 note, “By the 1920s, range surveys were a regular part of the work on the national forests; they led to developing long-term range management plans.”<sup>9</sup> District Ranger Lawrence Hamilton’s observation of “None seen, local reports indicate possibility of trespass horses in area,” in fall 1944, is the oldest document in the records of the Sprucedale/Reno and West Fork Allotments that refers to unauthorized horses.<sup>10</sup> No mention of animal trespass at all appears until the late 1950s, when the range inspection report simply recorded “drift from

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<sup>6</sup> Alvin L. Medina, James E. Steed, Daniel G. Neary, and John N. Rinne, *West Fork Allotment Riparian Monitoring Study 1993-1999, Final Project Report Volume I* (Flagstaff, AZ: USDA Forest Service Rocky Mountain Research Station, 2002, 18A.

<sup>7</sup> The Bureau of Indian Affairs’ attempts to reduce livestock on reservations coincided chronologically with, or occurred only a few years after, this herd thinning. On the Fort Apache Indian Reservation these efforts largely focused on removing Euro-American ranchers’ livestock from reservation lands. Frantz, *Indian Reservations in the United States: Territory, Sovereignty, and Economic Change*, 255-260; *Grazing History Big Lake (1944-1998)*, n.d., 3. Folder: Sprucedale C&H Allotment, Range Environmental Analysis, 1971, RASNF.

<sup>8</sup> Baker et al, *Timeless Heritage*, 141. Baker et al show a marked decrease in livestock permits between 1909 and 1958.

<sup>9</sup> Baker et al, *Timeless Heritage*, 142.

<sup>10</sup> Johns Canyon Allotment Range Inspection Report, Fall 1944. Folder: Sprucedale/Reno Allotment Folder 2 of 4 Backup, OLD, #2, RASNF.

surrounding allotments.” A likely temporary trespass was recorded circa 1958, when three head of horses and six cattle were reported near the division fence on Bear Creek Road. No further record indicates these animals’ provenance or disposition.<sup>11</sup> Five years later in 1963 a brief note mentioned “2 cattle, one horse,” and mentioned the intent to “establish brands & contact rightful owner.”<sup>12</sup>

The only mention of any sizeable or long-lasting trespass came in 1965. Range Conservationist Frank Leonard reported seeing horses of unknown provenance in January 1965, on what was then known as the Johns Canyon Allotment, now part of the Sprucedale-Reno Allotment. “I saw 4 horses on the ridge just east of Johns Canyon. Indications are that these horses have been running in this country for some time due to the amount of old tracks in the snow. Also by the amount of tracks there are possibly more than these few in the area. The horses seen were a mare & colt and two others. I did not get close enough to further describe them or read any brands,” he wrote. And yet, the range inspection reports for July and August 1965 made no mention of unauthorized livestock.<sup>13</sup> The following year a photo caption simply stated, “Trespass Horses Westfork Allot. 9-27-1966. Not sure of brand. Running A without the bar (a Running N photo filed 5330 trespass.”<sup>14</sup> That same year West Fork Allotment permittee Rob Roy Patterson complained to Alpine District Ranger R. P. Julander that “the old P.S. Allotment and the Apache Indian Reservation has been of some concern to my company since the Indians abandoned any efforts to help maintain it several years ago.”<sup>15</sup> The last mention of unauthorized horse trespass or presence before the 1990s came in 1969. Apache National Forest employee Jon Shumate made a memo to the files in January 1969 that two horses had been seen “between Dead Horse Canyon and the point where W. Wiltbanks private land crosses the Beaver Creek Road.” However, it seems likely that these horses belonged to the Wiltbank family, the longtime Sprucedale/Reno permittee.<sup>16</sup>

Public Law 92-195 of December 15, 1971, commonly referred to as the Wild Free-Roaming Horses and Burros Act of 1971, requires that “wild, free-roaming horses and burros” extant on federal lands at the time the Act was passed be protected and managed.

The Wild Free-Roaming Horses and Burros Protection Act of 1971, as amended, establishes wild free-roaming horses and burros as a part of the natural system where they occur on public lands administered

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<sup>11</sup> Johns Canyon Allotment Range Inspection Report, 1957; Note and hand drawn map, Willow Creek. n.d., ca. 1958. Folder: Sprucedale/Reno Allotment Folder 2 of 4 Backup, OLD, #2, RASNF.

<sup>12</sup> Johns Canyon Allotment Range Inspection Report, August and October 1963. Folder: Sprucedale/Reno Allotment Folder 2 of 4 Backup, OLD, #2, RASNF.

<sup>13</sup> Johns Canyon Surveys and Plans, 2210 Inspection, January 14, 1965. Folder: Sprucedale/Reno Allotment Folder 2 of 4 Backup, OLD, #2, RASNF.

<sup>14</sup> Photo, 2210 Westfork Allot. Folder: 2210 Range Management Planning, 2210 West Fork Allotments, Folder 2 of 3, 1990 & Earlier, RASNF.

<sup>15</sup> Rob Roy Patterson to District Ranger R. P. Julander, November 9, 1966. Folder: 2230 Grazing & Livestock Permits, Rancho Alegre, 01-228, #2, RASNF.

<sup>16</sup> Larry S. Allen, District Ranger [really Jon B. Shumate], to Files, January 29, 1969. Folder: Closed 2230 Permittee File Incorporated to 2210 Allotment File. PERMANENT. DO NOT DESTROY. Sprucedale Corporation Permit #01-893, 01-01-86, 01, Annual Validations/Bills for Collection, RASNF.

by the Bureau of Land Management and National Forest System lands administered by the Forest Service. The act requires management, protection, and control of these animals within designated herd areas (synonymous with territories). Per the Act, the Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation. Range is defined as the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands. Forest Service regulations define wild free-roaming horses and burros as “all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat, but does not include any horse or burro introduced onto the National Forest System on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Unbranded, claimed horses and burros for which the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above.” (36 CFR 222.60(b)(13))

The only territory for the Apache or Sitgreaves NFs declared was the Heber Wild Horse Territory, in 1974, when the Heber Wild Horse Territory was designated on the Sitgreaves NF. It was purported that there was a population of six mares and one stallion occupying the territory at the time of declaration in 1974. The HWHT is located on the western edge of the Black Mesa Ranger District along the Mogollon Rim and is 19,700 acres in size. There was no territory established on the Apache NF as records indicate there were no unclaimed horses on the Apache National Forest at the time the Act was passed.

Indeed, between 1966 and 1991 the only records of unauthorized horses on the West Fork or Sprucedale/Reno Allotments attributed those horses’ ownership to the Wiltbank family. And the Forest Service was keeping close track of activities on the allotments. Grazing permits, range inspection reports, personal correspondence, and numerous other items demonstrate that the Forest Service and the permittees on both Sprucedale/Reno and West Fork Allotments were in frequent contact. In 1973, while on the Beaver Creek Allotment, District Ranger William H. Moehn encountered two horses he was sure belonged to Walter Wiltbank: “it was impossible to read the brands because they were quite wild and still had their winter hair. However, I am quite certain that these are your horses,” he wrote. No further mention exists of these horses, yet numerous documents indicate the Wiltbanks’ difficulty keeping their horses contained.<sup>17</sup> Moreover, the Forest Service issued repeated notices of violation or warning to both permittees, often for issues related to stock being in the wrong pasture or in a pasture before or after the

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<sup>17</sup> William H. Moehn, District Ranger, to Walter L. Wiltbank, April 18, 1973. Folder: Closed 2230 Permittee File Incorporated to 2210 Allotment File. PERMANENT. DO NOT DESTROY. Sprucedale Corporation Permit #01-893, 01-01-86, 01, Annual Validations/Bills for Collection, RASNF.

agreed upon grazing period.<sup>18</sup> Fencing and possible trespass issues were a concern, as the following note indicates from December 1983: “Res. Fence—will check on responsibility. Indians supposed to rebuild from Bear Wallow to Black River?”<sup>19</sup> The following year a similar note commented, “Fence between Emer and Indians needs to be rebuilt—around Gobbler Point.”<sup>20</sup> Still, these notes merely indicate a possible fence problem, without mentioning any actual unauthorized horse entry. Additionally, a Finding of No Significant Impact for the Reservation Creek Fence in April 1986 reported that horses drifted from the Sprucedale/Reno Allotment, where horses were permitted year-round, onto the West Fork Allotment during the winter, taking advantage of 2.5 miles of unfenced boundary.<sup>21</sup>

## Trespass Accelerates: The 1990s

Horse and cattle trespass issues took a marked upswing in the 1990s, with repeated incidents. However, it is important to note that more than one of these incidents almost certainly related to inter-allotment fence issues rather than any trespass from outside the forest. In 1991, a range inspection of the West Fork Allotment made a rather nebulous reference to possible unauthorized reservation stock, via the knocked down Fence #1491. This fence, and the general issue of Sprucedale/Reno horses drifting onto the West Fork Allotment, was a long-running bone of contention between Rob Roy Patterson, the West Fork Allotment permittee, and Forest staff.<sup>22</sup> “Checked fence #1491 from intersection with FR 25 to corner above road. A burnt tree had fallen over the fence and the elk and horses have worn a trail through the down fence,” ran a note. However, these horses may have been Emer Wiltbank’s, and the report made no mention of the Fort Apache Reservation.<sup>23</sup> Two years later, in March 1993, Dana Patterson, a lawyer and member of the family that ran permitted cattle on the West Fork Allotment, told Range Staff Gary Davis and District Ranger Dean Berkey that his foreman had mentioned seeing “some of the neighboring

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<sup>18</sup> List of Violations by Rancho Alegre Cattle Co. Folder: 2210 Range Management Planning, 2210 West Fork Allotments, Folder 2 of 3, 1990 & Earlier, RASNF.

<sup>19</sup> Permittee Meetings, 1984, December 29, 1983, Sprucedale—Ellis & Emer Wiltbank & Frank Bunnel. Folder: 2210—Allotments, Sprucedale Reno 00218, #1, RASNF.

<sup>20</sup> Permittee Meeting, Emer & Ellis Wiltbank, 1984, December 19, 1984. Folder: 2210—Allotments, Sprucedale Reno 00218, #1, RASNF.

<sup>21</sup> Decision Notice and Finding of No Significant Impact Reservation Creek Fence Apache County, Arizona T4N R27E, Sections 22, 23, 26. April 22, 1986. Folder: Sprucedale/Reno Allotment Folder 2 of 4 Backup, OLD, #2, RASNF.

<sup>22</sup> See, for example, Memo to Files, 2210/2230, West Fork Allotment, Rancho Alegre, April 24, 1991. Folder: Permit & Modifications & Amendments Supporting Data Cooperative Agreements/Bills for Collection, RASNF: “Rob felt like he should not have to maintain the fence to keep horses off his allotment in the winter and that he had been telling the Forest Service for years that it shouldn’t be his responsibility. Forest Service built the fence and assured him that the Black River would not be grazed. I told Rob that I was trying to keep the horses off his permit so as not to invalidate the elk study. Rob asked how far we expected him to maintain the fence.”

<sup>23</sup> Range Inspection of West Fork Allotment, April 24, 1991. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.



Permittees [sic] horses in the South Pasture.” These were almost certainly the Wiltbank family’s horses, straying from the Sprucedale-Reno Allotment.<sup>24</sup>

While forest personnel were vigilant, it was not always clear whose stock were whose. In spring of 1995 several head of Emer Wiltbank’s stock came through the fence onto the West Fork Allotment and prompted a lengthy exchange. Forest staff initially thought a blue roan horse might be an unknown and possible Fort Apache Reservation trespass animal but it was subsequently discovered to have one of the Sprucedale-Reno brands. The following year seven head of horses were found near McKibbons Pond. It was unclear from the documents whether the horses were Sprucedale-Reno stock or Reservation trespass. Probably not coincidentally, a telephone conversation documentation form mentioned that Billy Wiltbank would be looking for his loose stock in the Black River area.<sup>25</sup> Likewise, a telephone conversation documentation form from April 1997 reads, “Wildcat Pt. fence Emer rode it & it is up. Improvement #1491 (Patterson’s [sic] are responsible). All but 2 of the wild horses are back on Sprucedale-Reno. He wanted it known so no one will complain to him later. If it is down again it is due to elk.” It is unclear whether these “wild horses” were unauthorized horses from the Fort Apache Indian Reservation, or merely some of the Wiltbank family’s stock. The telephone conversation documentation form strongly indicates that the Wiltbanks owned the horses.<sup>26</sup>

In January 1995, notes from a meeting between Forest personnel and Emer Wiltbank, Sprucedale/Reno Allotment permittee, mentioned reservation horse trespass in passing: “1995 set a date to check on water gap a gaging [sic] station on Black river upstream from bridge. Also ride to SW ¼ sect. 18, T3 ½, R 28E [sic] in order to determine feasibility of a drift fence and horse trap next to reservation line to gain control of Emer’s horses and to aid in problems associated with horses coming from the reservation. Emer is concerned with the fence (#1491) between his winter country and the WF allotment which is Rancho Allegre responsibility.”<sup>27</sup> The very first conclusively Fort Apache Indian Reservation-related incidence of livestock trespass that the documents record occurred in December 1995, and was merely the first of a flurry of incidents. Forest employee Cliff Claridge reported “6 cows, 1 yrlg, 1 calf horned on Boggy Creek

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<sup>24</sup> Dana Patterson to Gary [Davis] and Dean [Berkey], March 22, 1993. Folder: Permit & Modifications & Amendments Supporting Data Cooperative Agreements/Bills for Collection, RASNF.

<sup>25</sup> See, Telephone Conversation Documentation Form, April 18-19, 1996, Subject: unauthorized horses on West Fork Allotment. Folder: 2210 Range Management Planning, 2210 West Fork Allotments, Folder 2 of 3, 1990 & Earlier, Records of the Apache National Forest; Telephone Conversation Documentation Form. Reply to: 2210 & 2230. Date: 5/11/95. Time: 5:30. Subject: horses in wrong area. Folder: 2210—Allotments, Sprucedale Reno 00218, #1, RASNF; Telephone Conversation Documentation Form. Date: 5/29/96. Subject: Billy Wiltbank entering by permit. Caller: Esther Wiltbank. Folder: 2210 Range Management Planning, 2210 West Fork Allotments, Folder 2 of 3, 1990 & Earlier, RASNF.

<sup>26</sup> Telephone Conversation Documentation Form. Reply to: 2230. Date: 4/1/97. Time: 1610. Subject: Fence Maintenance. Caller: Emer Wiltbank. Organization: Sprucedale-Reno Permittee. Folder: Closed 9/18/01, 2230 Permits, Wiltbank, Emer Permit #01-007 (Sprucedale/Reno) 11/01/90, 01, RASNF.

<sup>27</sup> Subject: 1995 Annual Permittee Meeting. To: Emer Wiltbank. Steve D. Herndon. January 31, 1995. Folder: 2210—Allotments, Sprucedale Reno 00218, RASNF.

middle pasture unauthorize [sic] IDF livestock. Called Dave Leveille left message.”<sup>28</sup> IDF was the White Mountain Apache Tribe’s brand. The following month saw a report of a single loose mule, probably the property of one Dr. Kanaoka, a client of Emer Wiltbank’s dude ranch.<sup>29</sup> Only two months later, in March 1996, Forest range employee Gary Slaughter reported capturing five cows and five yearlings and placing them in the Wildcat Creek enclosure, but mentioned “1 cow and 1 yearling that I didn’t get in.” He reported contacting Joe Harvey of the Bureau of Indian Affairs regarding the animals.<sup>30</sup> That same month, Emer Wiltbank, the Sprucedale-Reno Allotment permittee, reported seeing “two Ep (tribal herd) [sic] cattle” in the Conklin Pasture. Rangeland Management Specialist Steve Herndon further noted, “The reservation fence #1048 North of FR 82 to the Springerville RD boundary is down in three places. Fence #1048 South of the FR 82 to FR 25F has been damaged by elk and needs attention, although it should hold livestock. Based on the lack of forage and water on the West Fork Allotment I assume that the livestock previously occupying this area have dropped off into the Black River area. This area needs to be inspected along with the Sprucedale-Reno country in order to give an accurate count on trespass stock.”<sup>31</sup> The following month, Forest employee Mitchel White reported that seven head of unauthorized horses (one stallion, four mares, and two newborn colts, bays and greys) had been sighted near McKibbons Pond on the West Fork Allotment. He notified Dave Leveille and Vernell Gatewood, and later wrote that if Mr. Gatewood, a White Mountain Apache Tribe contact, did not reply, he would contact the BIA’s Joe Harvey.<sup>32</sup> March 1996 was a busy month for trespass issues. On March 13, Supervisory Law Enforcement Officer Robert Gardom contacted Nathaniel Wycliffe of the White Mountain Apache Tribe and warned him that he needed to come pick up a horse Joe Harvey of the White Mountain Apache Tribe asserted belonged to Mr. Wycliffe or his family.<sup>33</sup>

Two more incidents followed, in November 1996. Forest range employee Steve Herndon noted the presence of seven head of unauthorized horses on the West Fork Allotment in the Middle Pasture, a quarter mile from the Reservation boundary. It seems from subsequent communications, however, that

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<sup>28</sup> Range Inspection Documentation Form. Reply to: 2230 Rancho Allegre, 2210 West Fork. Date: 12/1/95. Time: 0800. Inspected by: Cliff Claridge. Allotment/Pasture: West Fork Middle. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>29</sup> Telephone Conversation Documentation Form. Reply to: 5330-4. Date: 1/23/96. Time: 1800. Subject: Mule. Folder: Closed 9/18/01, 2230 Permits, Wiltbank, Emer Permit #01-007 (Sprucedale/Reno) 11/01/90, 01, RASNF.

<sup>30</sup> Telephone Conversation Documentation Form. Reply to: 2230 Rancho Allegre. Date: 3/25/96. Subject: Reservation Cattle. Caller: Gary Slaughter. Folder: Closed 9/18/01, 2230 Permits, Wiltbank, Emer Permit #01-007 (Sprucedale/Reno) 11/01/90, 01, RASNF.

<sup>31</sup> Steve D. Herndon to Dave Leveille, May 23, 1996. Folder: Closed 9/18/01, 2230 Permits, Wiltbank, Emer Permit #01-007 (Sprucedale/Reno) 11/01/90, 01; Charles W. Denton, District Ranger, to Emer Wiltbank, April 29, 1996. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>32</sup> Telephone Conversation Documentation Form. Date: April 18-19, 1996. Subject: Unauthorized Horses on West Fork Allotment. Folder: 2210 Range Management Planning, 2210 West Fork Allotments, Folder 2 of 3, 1990 & Earlier. RASNF.

<sup>33</sup> Robert Gardom, Supervisory Law Enforcement Officer, to Nathaniel Wycliffe (Apache), March 13, 1996. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

Joe Harvey of the Bureau of Indian Affairs secured the animals within days.<sup>34</sup> A further report noted that six head of unauthorized stock bearing the tribal IDF brand had been seen on the West Fork Middle Pasture, ten head had been seen in the South Pasture, and a “Horse & Colt Blaze-faced Mare stocking foot colt” had also been sighted in the Middle Pasture.<sup>35</sup>

1997 saw the first incidences of extensive livestock trespass from off the forest. In March, Forest employee Gary Slaughter reported six unbranded horses—a stud, four mares, and a yearling—on the West Fork Middle Pasture at String Prairie. “I think they are wild horses from the reservation,” he noted. No further communication indicates the fate of these horses.<sup>36</sup> That same month, two more were reported, but these belonged to Emer Wiltbank.<sup>37</sup> In August 1997, Mitchel White reported extensive livestock trespass. He noted that he had spoken with Vernell Gatewood of the White Mountain Apache Tribe, who had already removed 28 cows and one bull from the West Fork on August 10<sup>th</sup>. At that time, Apache-Sitgreaves National Forests (ASNF) staff also held 35 head in the Wildcat cattle enclosure. “I told him about the 18 head in the common pasture between Boggy and Wildcat, and the 4 horses in the lower portion of Wildcat. He said he didn’t see any horses while they were there,” White recorded. “He said he would be out again this week to find and gather more. I told him I would have someone out tomorrow looking for animals and checking fences. I told him I would call him with any information. He said he would call me and let me know what they found.”<sup>38</sup> The next month Gary Slaughter reported 11 head of cattle and “some calves” with a reservation brand. Mitchel White noted that he had contacted Joe Harvey with the White Mountain Apache Tribe. The same note recorded 22 other head “spotted near the 25 Rd and 82 Road.”<sup>39</sup>

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<sup>34</sup> Conversation Documentation Form, Telephone. File: 2210 West Fork. Date: 11/13/96. Time: 0910. Caller/Visitor: Steve Herndon. Organization: 01 USFS. Subject: 7 Head of horses on West Fork. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>35</sup> Range Inspection Documentation Form. Reply to: 2230 Marks, 2210 West Fork. Date: 10/17/96. Time: 1215. Inspected by: SD Herndon. Allotment/Pasture: West Fork: Middle. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>36</sup> Range Inspection Documentation Form. Reply To: 2210 West Fork, Date: 1/24/97. Inspected by: Gary Slaughter. Allotment Pasture: West Fork/Middle. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>37</sup> Range Inspection Documentation Form. Reply to: 2210 West Fork, Sprucedale Reno. Date: 3/6/97. Time: 1200. Inspected by: Gary Slaughter. Allotment/Pasture: West Fork/South Pasture. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>38</sup> Conversation Documentation Form, Telephone. File: West Fork 2210/2240-3/5340-1. Date: 8/12/96. Time: 12:00. Caller/Visitor: Vernell Gatewood. Organization: White Mtn Tribe. Subject: Tribal Livestock. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, Records of the White Mountain National Forest.

<sup>39</sup> Telephone Conversation Documentation Form. Reply to: 2210/2270/5300. Date: 9/4/96. Subject: Trespass Cows. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

## 2000 and Beyond: From Trespass to Sustained Presence

No further unauthorized horses were recorded until 2005. However, in August 2000, three adult cows were reported on the West Fork Allotment.<sup>40</sup> Then in June 2005, Range/Watershed Technician Mike Hill informed the District Ranger that he had seen ten head of feral horses, with no brands or marks, including two colts, in the South and Middle Pastures of the West Fork Allotment. A map with a list of problem waypoints noted the poor condition of the fence between the reservation and the Apache-Sitgreaves National Forests. The problem had evidently become extensive enough that Mr. Hill wrote, "Purpose of the inspection was to determine the number of feral horses on the allotment on this day."<sup>41</sup> The following year, in May of 2006, 16 horses were identified on Horton Creek, just north of FR26. At least one of these horses bore a JD brand, and it is possible that the entire group belonged to the Wiltbanks.<sup>42</sup> Cattle were again sighted in October 2009. "I visited with Paul Ramsey this morning. He removed the cattle from the campground and the cattle at Wildcat are reservation cattle. He seemed upset that they are not allowed to use the creeks for water but the reservation horses and cattle can use it, same conversation you and I have had in the past," wrote Range Technician Mike Hill.<sup>43</sup> Nearly a decade later, in July 2016, District Ranger Ed Holloway Jr. wrote in a letter regarding the Wildcat and Boggy Creeks Riparian Protection Project and impacts on exclosures erected to protect Apache Trout, "While these areas do not currently have any permitted livestock use, they are impacted by feral horses, at times unauthorized livestock, and wild ungulates."<sup>44</sup> By 2018, the problem was rampant. A University of Arizona study conducted in cooperation with the Forest Service confirmed the presence of 124 horses and extrapolated a population of 260 within the study area.<sup>45</sup>

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<sup>40</sup> Two separate sightings suggested that while the animals were branded and/or bore ear tags, the brands were not those of the Marks, Patterson or Wiltbank permittees. No further information was available on these cows or their actual ownership/origin. Permit Compliance Documentation Form. Field Date: August 22, 2000. Allotment: West Fork 127. District: Alpine. By Whom: Richard Fajardo. Pasture: Middle. Location (legal) & Description (i.e. key area): T4N, R28, Sec. 9. Big meadow north of FR25G and due west of PS Knoll. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>41</sup> Mike Hill, Range/Watershed Technician, to Jeff Rivera, District Ranger, June 7, 2005. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>42</sup> 2210 Sprucedale-Reno Allotment—Allotment Observations, Friday 06/23/2006 @1835, J. Copeland, L. White-Trifaro (photos attached). Folder: 2210—Allotments, Sprucedale Reno 00218, #1, Records of the Apache-Sitgreaves National Forest.

<sup>43</sup> Mike Hill, Range Technician, to Mark L. Willis, October 21, 2009. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>44</sup> Ed Holloway Jr. (District Ranger) to David Lawrence, PhD, Director, Aquatic Conservation for National Fish and Wildlife Foundation, July 22, 2016. Folder: 2210 Range Allotments, Current 2210 from 2002, West Fork – 00127, RASNF.

<sup>45</sup> Blum et al, "Examination of the Ecological Interactions of Free-Roaming Horses on Montane Riparian Systems on the Apache-Sitgreaves National Forest, Arizona, USA," 11.

## VI. Findings

The range documents of the Sprucedale-Reno and West Fork Allotments report only occasional unauthorized livestock issues between the 1940s and the mid-1990s, when incidents began to increase markedly. This modest incidence of unauthorized livestock encounters should be treated with caution, since the absence of documented encounters does not necessarily indicate the absence of unauthorized livestock. Rather, the absence of documented encounters could indicate either indifference or a reticence to report the issue. But the forest records are sufficiently detailed in other matters that it seems highly improbable that unauthorized horse or other livestock encounters would simply be ignored or overlooked. It is true that early accounts of grazing on the allotments are scanty. The West Fork Allotment Riparian Monitoring Study 1993-1999 noted that “the first livestock grazing on the allotment may have occurred before 1900, but no records are available. Historical grazing records before the early 1940’s are generally lacking.”<sup>46</sup> Still, perhaps significantly, the 1995 Final Environmental Assessment for the Sprucedale-Reno Allotment Grazing Permits makes no mention of unauthorized animals at all.<sup>47</sup> Moreover, numerous reports of unauthorized horses were attributed to the stock Emer Wiltbank and his family ran on the Sprucedale-Reno Allotment. For much of its existence the Sprucedale-Reno Allotment was permitted for horses year-round, not merely summer use, and more than one incident demonstrated that the Wiltbanks, the permittees for Sprucedale-Reno, were not always able to keep track of their stock. And as numerous documents attest, neither the West Fork nor the Sprucedale-Reno Allotments has had a good track record of fence maintenance over the decades. While these documents are mostly not referred to by name in this report, the author scanned a number to demonstrate the ongoing fence issues. A 1986 FONSI may have summed up most horse sightings before the 2000s when it observed, “Currently, approximately 2.5 miles of unfenced boundary exists between the West Fork and Sprucedale-Reno Allotments. Historically, wintering horses from the Sprucedale-Reno Allotment have drifted into the West Fork Allotment each spring. This is a management concern as well as a concern to both permittees.”<sup>48</sup> Based on document review, no unauthorized horses or other livestock were present for any length of time prior to the mid-1990s.

In conclusion, based on the historical reports and research, this report finds no evidence of wild, free-roaming horses and burros as defined by the Act, on the West Fork Allotment or Sprucedale-Reno Allotment of the Alpine Ranger District of the Apache-Sitgreaves National Forests.

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<sup>46</sup> West Fork Allotment Riparian Monitoring Study 1993-1999, Final Project Report Volume I—February 15, 2002, 18, RASNF.

<sup>47</sup> Final Environmental Assessment for the Sprucedale-Reno Allotment Grazing Permits, E. Wiltbank, Permittee, W. Wiltbank, Permittee, Alpine Ranger District, 1995, RASNF.

<sup>48</sup> Decision Notice and Finding of No Significant Impact Reservation Creek Fence Apache County, Arizona T4N R27E, Sections 22, 23, 26. 4/22/86, RASNF.

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