



United States
Department of
Agriculture

Forest
Service

Region 1

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File Code: 1570 (215)

Date: December 6, 2000

Route To:

Subject: Maverick Ski Company Expansion DN, Beaverhead-Deerlodge NF,
Appeal #01-01-00-0002

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Lauren Buckley (signed by Jeff Juel) on behalf of The Ecology Center, Inc. protesting the Maverick Ski Company Expansion Decision Notice (DN) signed by the Dillon District Ranger, Beaverhead-Deerlodge National Forest.

The District Ranger's decision adopts a combination of actions that were analyzed under Alternatives B and C in the Environmental Assessment (EA). The selected action will allow Maverick Ski Company to develop three ski trails on the north side of Maverick Mountain and build two maintenance roads totaling 1 mile. These roads would access new ski trails and would facilitate removal of merchantable trees when building the ski runs. The selected action would also allow renovation and expansion of the base lodge; construction of a new building on the northeast end of the parking lot; removal of two existing buildings; moving the location of the Mighty Mite tow; installation of a snow making system; expansion of existing parking areas and construction of new parking areas; conversion of an existing parking lot to allow for RV overnight parking; construction of an RV sewage dump facility; and construction or placement of a building to house ski area personnel (DN, pp. 1-2).

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the appellants' objections and recommended changes, has been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The appellants allege violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Administrative Procedures Act (APA), the Endangered Species Act (ESA) and the Beaverhead Forest Plan. The appellants request a remand of the DN. Additional information was provided to the appellants and an informal meeting was offered, but no resolution of the issues was reached.

ISSUE REVIEW

Issue I. The Maverick Ski Company EA still fails to justify why existing ski runs are not adequate, fails to disclose why the upgrades and improvements at the base area alone will not adequately make the company's activities more profitable, and fails to disclose why expansion into a roadless area is necessary.

Response: Appropriate information regarding why the upgrades and improvement at the Maverick Ski



Area are provided in numerous places throughout the EA, DN, and Project File. These include the Purpose and Need and Skier Market Projections (EA, pp. 3-4, 3-6 and 3-7), the rationale and factors considered in making the decision (DN, pp. 3-9), and the Market Analysis within the Master Plan for Maverick Ski Area (Vol. C, pp. 65-78).

Issue II: The EA fails to consider impacts to water quality, in violation of NEPA.

Response: This is the first time the appellants have raised this specific concern as related to this particular project (Vol. A, pp. 26-28). However, impacts to soil and water quality were addressed in the Landscape Analysis (Vol. C, Landscape Analysis, Chapter 1, p. 1039), in the EA (pp. 1-4 and 1-5; F2-4), and in the Soils Report (pp. 154-156). Specific mitigation measures are identified in the EA (pp. C-5 and C-6), and Response to Comments also addressed questions regarding water quality (DN, App. M, pp. 10 and 16).

Issue III: A DN mitigation relating to seasonal restrictions is a direct contradiction of a mitigation included in the EA.

Response: The appellants' point is well taken that the applicable mitigation measures can be confusing. The mitigation measure "Construction activities would take place during the summer months when precipitation and runoff would be at a minimum" is to be applied to parking lot construction activities in order to mitigate for soil and water quality. The mitigation measure "Trees cut down to clear the ski runs within the roadless area may be cut, piled and burned or mechanically removed over snow and frozen ground or by helicopter" was designed to comply with emerging direction for roadless areas.

Issue IV: The EA fails to adequately analyze cumulative effects as required by NEPA.

Response: Past, present, and reasonably foreseeable actions were considered in the analysis of this proposal as described in the reports for individual resources. Statements that no further actions are planned in the analysis area for the next 5 years are included in the DN (p. 8) and within the Response to Comments (DN, App. M, pp. 16, 21 and 23). Future expansion of the ski area during Phase II is also addressed in the DN and EA. It is clearly stated that if Maverick Ski Company desires to proceed with Phase II in the future, another NEPA analysis will be required (DN, p. 3).

Issue V: The EA fails to adequately represent the ecological value of and threats to the West Pioneer Roadless Area.

The NEPA Handbook (FSH 1509.19, Part 20.6) prescribes preparation of an Environmental Impact Statement for proposals that would substantially alter the undeveloped character of an inventoried roadless area of 5,000 acres or more. This decision affects 38 acres of a 10,702-acre roadless area (.3 percent) and these acres are contiguous to the existing ski area. The EA (pp. 1/4-5, 2/3-5, 3/8-9, and 4/4-5) and DN (pp. 2-3 and 5) discuss the effects on the West Pioneer Roadless Area, and document that the project is not a major federal action with significant effect on the quality of the human environment (DN, pp. 10-11).

Issue VI: The EA fails to adequately analyze the project effects on sensitive species and fails to disclose information regarding (sic) sensitive species in violation of NEPA.

Response: The wildlife analysis for sensitive species was repeatedly updated to address changing conditions over the past 4-5 years. In addition to the wildlife discussions on the affected environment (pp. 3/12-16) and effects analysis (pp. 4/6-12) in the EA, the final analysis and conclusions are disclosed (Vol. A, pp. 99-108). There is a 1996 wildlife report (Vol. A, pp. 165-177) and the 1998 wildlife report (pp. 122-145) that were referred to in preparing the final analysis in addition to incorporating the information gathered through the preparation of the 1998 Pioneer Landscape Analysis (Vol. C, pp. 1/69-105).

Issue VII: The EA fails to adequately analyze the project effects on the northern goshawk and fails to disclose information regarding (sic) the northern goshawk in violation of NEPA.

Response: Disclosure of the wildlife analysis relative to northern goshawk is located on pages 4-11 and G-15 of the EA, and on pages 106a-107 of the Addendum to the Wildlife Report and BE. The report concluded that “(t)he action alternatives ‘*may impact individuals or habitat, but will not likely contribute toward federal listing or cause loss of viability to the population or species*’ and are consistent with Forest Service policy for sensitive species.” (Vol. A, p. 107).

Issue VIII: The EA fails to adequately analyze the project effects on fisher and fails to disclose information regarding (sic) the fisher in violation of NEPA.

Response: Analysis for fisher is located in the Addendum to the Wildlife Report and BE (Vol. A, pp. 105-107) and concludes, “this expansion proposal may affect fisher habitat (or potential habitat) but should not preclude occupancy and use...”

Issue IX: The EA fails to adequately analyze the project effects on grizzly bears in violation of NEPA and the ESA.

Response: The Addendum to the Wildlife Report and BE concludes that this project would have “no effect” on grizzly bears (Vol. A, pp. 103-104) and is so documented in the FONSI determinations regarding wildlife and threatened and endangered species (DN, pp. 10-11).

Issue X: The analysis for the threatened lynx is not adequate to assure compliance with the Endangered Species Act.

Response: The lynx analysis documentation can be found in the Wildlife Report and BE and the January 24, 2000, Addendum to the Wildlife Report and BE (EA, App. G; Vol. A, pp. 102-108). This includes a batch BE submitted for ski area operations, which included the proposed expansion for Maverick Mountain. Summary of Maverick Mountain Lynx Effects concludes, “(t)he proposed 65 acres expansion represents a 0.3% (three tenths of one percent) conversion of forest to nonforest. This increment of change would not impede connectivity or lynx movements and cumulatively is compatible with the 15% maximum unsuitable allowed by the LCAS” (Vol. A, pp. 101a-b). Finally, a concurrence letter was received from the USFWS on July 28, 2000 (Vol. A, p. 99).

Issue XI: The EA fails to adequately analyze the project effects on biological corridors in violation of NEPA.

Response: Travel corridors are discussed on pages G-3 and G-11 of the Wildlife Report. The effects discussion discloses that “(t)he project area lies on the eastern edge of an important wildlife corridor. This corridor links the continental divide with the Pioneer Mountains. Map K-5 shows generally where this corridor lies in relation to the project area. Over 50% of this corridor is comprised of Inventoried Roadless area, within the analysis area. Wildlife using this corridor likely already avoid the area around the Maverick Mountain Ski Hill, particularly in the winter months...”

Issue XII: The EA fails to adequately analyze the effects of increased human use of the project area on wildlife species populations and habitat.

Response: Character of the setting and social conditions were described in the EA in Chapter 3 (pp. 3-9), and effects were disclosed in Chapter 4 (pp. 2-5). Throughout each resource write-up, the demand for recreation activities because of the Scenic Byway was acknowledged and considered in the effects analysis. The Wildlife Report specifically addresses the increased human use of the project area on wildlife species populations and habitat (pp. 132-139).

RECOMMENDATION

I recommend the District Ranger’s decision be affirmed and the appellants' requested relief be denied.

/s/ Galen B. Hall

GALEN B. HALL
Reviewing Officer
Regional Budget Officer