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Subject: 215 - ARO Letter - Bridger Bowl Master Development Plan Approval ROD -
Gallatin NF - Appeal #05-01-00-0019 - Native Forest Network, et al

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Phil Knight on behalf of Native Forest Network, Clain Jones, Mary McFadzen, and Richard Meis protesting the Bridger Bowl Master Development Plan Approval Record of Decision on the Gallatin National Forest.

The Forest Supervisor's decision adopts Alternative 2, which includes the following key elements:

- ◆ Approving the 2002 Bridger Bowl Master Development Plan as proposed by Bridger Bowl, Inc.
- ◆ Approving lifts, trails, service roads, and utilities that will increase the Comfortable Carrying Capacity (CCC) of the ski area to 6,000 skiers.
- ◆ The Bridger Bowl Special Use Permit (SUP) boundary will be expanded to the north by 274 acres to include the Bradley Meadows area above the south fork of Brackett Creek.
- ◆ The SUP boundary will also be expanded to the south into the Slushman drainage area for an additional increase of 337 acres.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision complies 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 Endangered Species Act (ESA), and the Administrative Procedures Act (APA). The appellants request a reversal of the ROD. An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. The Bridger Bowl Environmental Impact Statement violates NEPA and the standards for government decision-making established in the APA. It fails to take a "hard look" at the underlying purpose and need of the action.

Response: A special use permit allowing the operation of the Bridger Bowl Ski Area on the Gallatin National Forest was authorized in 1954 (EIS, p. 1-1). The permitted area of Bridger Bowl lies within Forest Plan Management Area (MA) 2, which is allocated to developed skiing, including the potential for further development. The EIS states that these areas consist of those portions of Bridger Bowl and Big Sky ski areas under the special use permit. They include ski



runs, lift facilities, and lodges. These areas have potential for development or expansion of facilities to meet increasing demand for downhill skiing (EIS, p. C- 2). The EIS also states, “that the proposed amendments would increase the amount of area allocated for developed recreation (MA 2)” (p. C-6). This is consistent with Forest-wide Standard 2, giving priority to expansion at Bridger Bowl and other existing ski areas before allocating new areas for downhill skiing. The amendments proposed would not result in a significant change to the Gallatin National Forest Plan. The EIS, Need 2, states that the Slushman Drainage has already been allocated for winter sports (ski area) by the Forest Plan (p. 1-7). The Bridger Bowl Master Development Plan (MDP) of 2002 (PF, Bound References Doc. #4) serves as the needs assessment and development plan, discussing ski industry trends, Montana skiing trends, and skier demand at Bridger Bowl (pp. 5-8).

The Bridger Bowl MDP of February 2002 (PF, Bound References, Doc #4), identifies expansion into the Bradley Meadows and Slushman areas as consistent with Bridger Bowl’s goals and objectives (p. 25). This serves as a starting point for determining the suitability and feasibility of expanding into those areas as part of the EIS. The Slushman area is already allocated in the Forest Plan to Management Area (MA) 2, which is allocated to developed skiing, including the potential for future development. The EIS for the Forest Plan presented the environmental consideration of including the area in the SUP. Bradley Meadows is a combination of no allocation and a different allocation, but as an extension of the existing MA associated with the SUP.

The Forest developed its purpose and need statements using the Mission Statement contained in the MDP, which was accepted by the Forest Service (EIS, p.1-1). This is consistent with the R1 Manual Supplement (FSM 2343.1, R1 Supplement 2300-94-2 - Winter Recreation Uses) for both the current permitted area and potential expansion areas.

The Forest is following law, regulation and policy regarding authorizing Special Use Permits to a ski area and considering its expansion. They started with an existing area occupying land allocated in the Forest Plan to Winter Sports Development. The MDP accepted by the Forest included the potential expansion into Slushman and Bradley Meadow areas, which was then subsequently analyzed in the EIS. This is consistent with the FSM, R1 Manual Supplement 2300-94-2.

Issue 1a. The EIS fails to provide any objective measure of “crowded conditions,” does not explain why “local attitudes” necessitate that skier densities remain less than half the industry standard, and fails to justify the expansion based on current or future demand.

Response: The EIS does contain this analysis in Chapter 4, pages 64-74. The Forest displayed, by alternative, the amount of trail acres available by skill level and slope density in skiers per acre by lift system, including the proposed expansion area lifts. The 2002 Master Plan states that Bridger Bowl recalculated Skiers At One Time (SAOT) based on models published in Ski Area Magazine (a professional ski area journal) (p. 27). The purpose of this was to re-verify SAOT and skier density using a different methodology. The charts show the current mountain capacity calculations and projected mountain capacity calculations with full development. The Master

Plan states that the chart showing the current mountain capacity demonstrates the need to expand both lift capacity and ski terrain to maintain the present skier density and quality skiing.

Issue 1b. The selection of the Preferred Alternative is not based on a “hard look” at the need for an increased variety of terrain, and because what little information the EIS does present contradicts its supporting rationale.

Response: The EIS describes how Bridger Bowl used focus group surveys (p. 1- 6) to indicate that a high quality recreation experience includes uncrowded slopes, a variety of slopes and terrain, low prices, and access to ridge skiing. The EIS describes the utilization pattern of the ski area (Id.). The EIS describes on-slope congestion as being partially controlled by lift capacity, which under peak conditions, the length of time and number of people in the lift line expands to unacceptable levels (Id.). Increasing lift capacity, without terrain expansion, would increase skier density above current levels. The EIS “quantifies” crowded and uncrowded conditions by numerically illustrating in Table 3.10-1, the distribution of existing ski terrain by skier ability level (p. 3-63). The market demand for some terrain is not met by the current distribution of lift capacity, and Table 3.10-1 compares that data. Table 3.10-2 in the EIS (p. 3- 64) displays the existing and desired density, numerically. A narrative analysis of the data, included below Table 3.10-2, acknowledges that the skier densities indicate that the slopes are less crowded than typical large destination resorts, but states that at Bridger Bowl, this reflects the local attitude toward “crowded” conditions, as concluded from a mail survey in 1999 and continued Bridger Bowl focus groups (Id.).

Issue 1c. The EIS contains no analysis of Bridger Bowl’s economic viability, or how that viability will be enhanced by the expansion.

Response: The EIS discloses in Table 3.10-4 that Bridger Bowl has experienced utilization levels significantly above industry averages over the years, which is indicative of an active skier market and high local demand (p. 3-69). It discloses that Bridger Bowl’s utilization rate (numerically) is higher than the national average and 9 percent higher than the Rocky Mountain Region’s average. Further numerical analysis can be found in the project file in the Master Plan 2002 document. The MDP illustrates the average growth in skier visitation since 1991 (p. 7) and displays the Peak Skier Days at Bridger Bowl; the average peak day during this 10-year period has been 3,506 skiers with an average of the top 5 skier days at 4,371 skiers per day (p. 8).

The Project File contains further analysis provided by the National Ski Area Association’s Economic Analysis completed in 2001-2002 (Bound References, Doc #53). This document states that while on a national basis the average peak day visits were nearly perfectly aligned with the average capacity, Regional differences exist. Higher ratios of peak day visits to skier capacity reveal more crowded slope densities, longer lift lines, and generally more crowded conditions at the resort.

The MDP (p. 8) uses the growth in the population of Gallatin County and the city of Bozeman as a statistic, compared with the increased visits to Bridger Bowl on a weighted 5-year average to state that this growth demands an improvement in capacity and terrain in order to prevent overcrowding of slopes and facilities.

Issue 1d. The EIS has not taken a “hard look” at the alternatives, and the conclusion that Alternative 2 is justified because of its beneficial effects on lift lines is arbitrary and capricious.

Response: The EIS at Table 3.10-1 (p. 3- 63) and Table 2.5-1 (p. 2- 24) actually do not contradict each other. Table 3.10-1 displays Bridger Bowl’s skier ability level compared to the terrain distribution by ability. It shows a shortfall in the beginner and novice category, and a greater percentage of terrain in the intermediate and expert categories. However, Table 2.5-1 illustrates in the comparison of alternatives that the selection of Alternative 2 provides the greatest increase in lift capacity, the greatest number of new lifts, and the most new trails. It portrays that the distribution by ability level by alternative appears to be a function of terrain, in that no alternative increases the acreage for beginner abilities. Alternative 4 does not increase intermediate acreage; Alternative 3 increases the intermediate acreage the same as Alternative 2. Alternative 2 provides the largest increase in expert acres.

Issue 1e. The EIS does not provide evidence of “a lack of increase in the number of peak visitation days,” or any evidence that the reason for that change is that “the ski area is at or over capacity.”

Response: Market Share and Competition are discussed in the EIS in Chapter 3 (p. 67). The EIS discloses that market analysis was undertaken as part of the Bridger Bowl MDP. The EIS ties capturing market share to quality improvements completed at ski areas. It notes that three Montana ski areas have closed, mirroring national trends, and ties Bridger Bowl’s Mission Statement to avoiding this stagnation factor. The EIS states that Bridger Bowl has maintained a growth in annual skier visits while competition has developed and expanded, displaying those visits in Table 3.10-3 (p. 3-67). The EIS discusses Montana ski area trends and identifies Bridger Bowl’s primary competitors (pp. 3-67 to 3-68). It states that these areas account for more than 68 percent of all skier visits in Montana, and has remained relatively constant over the last decade (p. 3-68). The EIS acknowledges that Big Sky generates 30-40,000 skier visits from the Bozeman area and that this has been at the expense of other regional ski areas (Id.). In addition, the MDP contains a market analysis (pp. 5-8).

Issue 1f. Without such an analysis, the EIS has not taken a “hard look” at the alternatives, and the conclusion that Alternative 2 is justified because of its beneficial effects on lift lines is arbitrary and capricious.

Response: The EIS does display the lift wait time on a day at the CCC of the ski area (Table 3.10-2, p. 3-64). The EIS states that individual lift lines can approach 30 minutes when certain lifts are closed due to avalanche conditions, and that 78 percent of the respondents to the 1999 survey wanted changes to the lifts (p. 3-64). Each existing and proposed lift situation is discussed more thoroughly in the MDP (pp. 23-27). This discussion integrates several issues with lift replacement and modification or construction; including skier capacity, skier traffic flow, load area crowding, accommodating race day events, grooming needs, etc. Under alternatives not considered (EIS, p. 2-2), several options relating to lifts and acreage expansion are discussed, and reasons listed for why they were considered from elimination. The MDP

states that the proposed plan was prepared to improve many of the terrain and facility location deficiencies. It strives to achieve maximum skier dispersion with a minimum number of lifts, while maintaining relatively low skier densities, both on the existing ski mountain and in two major expansion areas to the north and south. Lengths of lifts are designed to maximize skier abilities, usage, and terrain.

Issue 1g. Without any such information, this part of the rationale for the decision is similarly arbitrary and capricious. (Evidence that the reason for that change is that “the ski area is at or over capacity.”)

Response: The MDP (p. 8) displays in Chart 1, the top 10 visitation days at Bridger Bowl from the 1991/1992 season through the 2000/2001 season. This chart shows that the last 5 years analyzed fell below the average peak day skier visits. Three of the four years prior to and including 1995/1996 fell above the average.

Issue 2. The EIS violates NEPA because it does not analyze a reasonable range of alternatives that will satisfy the stated purpose and need.

Response: The primary purpose of the projects presented in the MDP Update 2002 and considered in the EIS process is to allow for an improved recreation experience for existing users and to address the anticipated growth in users over the 40-year life of the current SUP (ROD, p. 15). [See additional discussion regarding Purpose and Need in Response to Issue 1, above]. Chapter 2 of the EIS identifies and discloses the process used to develop alternatives, alternatives considered but eliminated, modifications to the Proposed Action, and all alternatives considered in detail (EIS, p. 2-1). Chapter 2 of the EIS describes how comments received in public scoping were used to identify key issues and develop alternatives. It gives detailed information about four alternatives (a No Action Alternative and three Action Alternatives, including the Proposed Action) and compares the alternatives. Eleven alternatives were initially considered, of which four were studied in detail within the EIS (ROD, p. 16). The reasons these alternatives were not analyzed in detail is adequately described (EIS, pp. 2-2 to 2-3). The alternatives in the EIS respond to the purpose and need, respond to the issues raised during public scoping, and are reasonable for this project. I find this to be an adequate range of alternatives.

Issue 3. The EIS fails to adequately analyze the effects of the Preferred Alternative on backcountry skiers who will be displaced from the Slushman drainage and Bradley meadows when the SUP boundary is extended to include those areas.

Response: The EIS, Chapter 3, describes the existing environment related to recreation, specifically dispersed winter recreation, and backcountry skiing (pp. 3-69 to 3-71). The EIS acknowledges that backcountry skiers would be displaced from both the Slushman drainage and Bradley Meadows, depending on alternative. Mitigation under Alternative 2 includes lands currently open to motorized use north of the SUP (Bradley Meadows area) boundary to the middle fork of Brackett Creek to be restricted to motorized use except for seasonal use of the south fork Brackett Creek Road (EIS, Mitigation W-4; pp. 2-28, 4-69, and 5-42 to 5-47). Under Alternative 3, Bradley Meadows would be included in the SUP boundary and some backcountry skiers would be displaced (EIS, p. 4-72). Mitigation for this proposal includes lands currently

open to motorized use north of the SUP boundary to the middle fork of Brackett Creek to be restricted to motorized use except for seasonal use of the south fork Brackett Creek Road (Id.). Dispersed backcountry skiers under Alternative 4 would continue to use the Bradley Meadows area, but would be displaced from the Slushman drainage within the expanded boundary to the south (EIS, p. 4-75). The Forest adequately responded to many comments related to backcountry skiing in the EIS (Chapter 5, pp. 5-42 to 5-47). I found fair and honest discussions throughout the EIS and project file regarding the effects to backcountry skiers. The Forest adequately analyzed the effects of the preferred alternative to backcountry skiers.

Issue 4. The decision violates NEPA's requirement to consider cumulative impacts to the wolverine.

Response: The wolverine is a Forest sensitive species, known to occur within the study area (EIS, pp. 3-30 and 3-39 to 3-40). Direct and indirect effects to the wolverine from human-caused winter recreation activities are discussed, by alternative, in the EIS (pp. 4-29, 4-37, 4-45, and 4-49). The biologist explains potential effects due to snow compaction produced by grooming equipment and skier traffic. Under Alternative 2, as stated in the EIS (p. 4-37),

Indirect effects of this alternative would be associated with mitigation measures proposed to compensate for adverse impacts that cannot be avoided with implementation of full expansion. Mitigation measures are described in Chapter 2, Table 2.6.1, page 27, but basically amount to changing management area direction and imposing travel restrictions elsewhere in the wolverine analysis area, in order to compensate for the breach of existing security/denning habitat that would occur with ski area expansion.

Wolverine analysis area discussion is reasoned, modeled using criteria from USFS Northern Region wildlife habitat modeling protocols, and is of sufficient size to contain the average home range of a female wolverine with young, and contains all activities associated with the proposed action (EIS, p. 3-40). The Forest adequately responded to a comment to the draft regarding analysis area size stating,

The EIS analysis area for wolverines was based on studies of this species in Montana (Chapter 3, Section 3.5.3). Although wolverine home range size is relatively large, these animals will utilize habitat that is impacted by human uses. The point at which human presence and activity precludes wolverine use is not known. While the proposed action may influence wolverine population demographics in the Bridger Mountains by reducing opportunities for reproductive females to find secure denning habitat, it is not a foregone conclusion that approving ski area expansion would completely eliminate all wolverine use of habitat within the Bridger Range (EIS, pp. 3-69 to 3-70).

Cumulative effects to wolverine under Alternative 2 are discussed in the EIS (p. 4-116). The biologist discusses the impacts of Alternative on wolverine habitat, explaining that denning habitat would be affected in both expansion areas, and that a large block of security habitat would be permanently altered with this proposal (EIS, p. 4-117). The Forest Supervisor acknowledges impacts to wolverine, “expansion into this area will have some negative effects to lynx and wolverine habitat...” and “in addition, approximately 276 acres of suitable undisturbed

denning habitat for wolverine will remain within the Analysis Area” (ROD, p. 13). Thus, taking into account direct, indirect and cumulative effects, and the fact that the wolverine of the Bridger Range are part of a larger population considered healthy and viable by MDFWP personnel (EIS, pp. 5-70 to 5-71), the biologist determined that Alternative 2 “*may impact individuals or habitat, but would not lead to a trend toward federal listing*” of the wolverine (EIS, p. 4-117; PF, Vol. 4, Doc. 89, pp. 37 to 39). Mitigation measures adopted by the Forest Supervisor (ROD, pp. 8 to 10, mitigation #'s W-2 to W-4; EIS, p. 5-87) will compensate for the loss of existing security/denning habitat that would occur with ski area expansion (PF, Vol. 4, Doc. 62). With regard to the wolverine, the Forest is in compliance with NEPA’s requirement to consider cumulative impacts.

Issue 5. The Forest Service’s decision to approve the maximum Bridger Bowl expansion also violates the Gallatin National Forest’s Land and Resource Management Plan (“LRMP”) and regulations implementing the National Forest Management Act (“NFMA”).

Response: The Forest Supervisor acknowledges that wildlife issues were among the most frequently mentioned in the comments and recognizes that additional ski area development will result in a reduction of habitat for some wildlife species (ROD, p. 13). As part of her decision, the Forest Supervisor states,

In deciding to allow the ski area to expand, I balanced the impacts to wildlife and their habitat with the need to accommodate increasing demand for skiing and maintaining quality, uncrowded skier experiences. This area is currently one of the most fragmented areas on the Forest due to past public and private timber harvest, road building, and residential development. I anticipate that private development will continue to occur in the future. I have concluded because of this that the direct impact to wildlife habitat from ski area expansion is far more acceptable here than they may be on other parts of the Forest.

Impacts to goshawk and marten are discussed in the EIS (Chapters 3 and 4, pp. 3-29 to 3-32, 3-42, 3-44, 4-29 to 4-31, and 4-37 to 4-49 for the various alternatives considered). Cumulative effects to goshawk and marten are discussed in the EIS (pp. 4-118 and 4-120). Removal of mature to old growth forest would reduce overall potential goshawk nesting habitat. Other related activities could also impact foraging habitat. Biologist also makes note that some of the proposed activities (selected timber harvest, prescribed burning, etc.) could improve goshawk foraging habitat (EIS, p. 4-118). Goshawk surveys were completed in 1996 and 2000 – no goshawks were detected (EIS, p. 4-37; PF, Vol. 4, Doc. 73). Existing plant communities within the Bridger Bowl analysis area are presented in the EIS (pp. 3-17 to 3-20). A thorough discussion of fragmentation and old growth is also presented in the EIS that explains the rationale for the analysis area, models used for quantifying landscape structure, and how this project fits into the big picture (pp. 3-23 to 3-24). Cumulative effects to old growth from proposed activities under Alternative 2 are discussed in the EIS, page 4-109.

To respond to public comments to the DEIS related to wildlife, the Forest committed to additional analysis and fieldwork, such as the goshawk surveys of 2000 and increased analysis

on biodiversity, fragmentation and old growth habitat in relation to wildlife (EIS, p. 1-3; PF, Vol. 2, Doc. 216).

The Forest Supervisor's decision to approve Alternative 2 included four site-specific amendments (ROD, pp. 10 to 12), two of which related to wildlife (MA12) and old growth. The Forest Supervisor explains her rationale for each of the non-significant amendments (ROD, p. 19) and consistency with the Gallatin Forest Plan.

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellants. I recommend the Forest Supervisor's decision be affirmed and the appellants' requested relief be denied.

/s/ Gary L. Benes
GARY L. BENES
Appeal Reviewing Officer