



United States
Department of
Agriculture

Forest
Service

Region One

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File Code: 1570-1

Date: July 23, 2001

Route To: (1570 - 215)

Subject: ARO Letter, Discovery Ski Area Expansion ROD, Appeal #01-01-00-0048,
Beaverhead-Deerlodge NF

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Deborah L. Kmon on behalf of American Wildlands; Alliance for the Wild Rockies; and The Ecology Center, Inc. protesting the Discovery Ski Area Expansion Record of Decision (ROD) signed by the Beaverhead-Deerlodge National Forest Supervisor, Pintler Ranger District.

The Forest Supervisor's decision will allow development of Phase III of the Discovery Basin Master Plan. The current ski area permit boundary will be increased by 377 acres, including 130 acres of new runs and lifts; 0.45 mile of new road; 2 acres of additional parking; improved snowmaking equipment, and 12,000 feet of new lifts. Skier capacity will increase from 1,600 to 2,000 skiers per day. Approximately 1,600 vertical feet of skiing will be added on the north side of Rumsey Mountain.

The decision includes a site-specific amendment to the 1987 Deerlodge National Forest Plan. This site-specific amendment changes the visual quality objective for the area within the Discovery Ski Area permit boundary from partial retention to modification.

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 Endangered Species Act (ESA), the Administrative Procedures Act (APA) and the Roadless Area Conservation Rule. The appellants request a withdrawal of the ROD. A conference call informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue I. The Discovery Ski Area Expansion violates the Roadless Rule and results in an irreversible and irretrievable loss of roadless acreage.

Response: In the analysis for the Discovery Ski Area, the Forest did not specifically address the Roadless Area Conservation Rule because it had not gone into effect at the time of their decision.



A Federal Register Notice dated February 5, 2001, delayed the effective date of the Rule from March 13, 2001, to May 12, 2001. The Discovery ROD was signed May 8, 2001 (ROD, p. 15).

The Forest did, however, consider the effects the expansion would have on the Fred Burr Roadless Area in their analysis. The FEIS identified the effects to the roadless characteristics and wilderness features, including natural integrity, apparent naturalness, remoteness, solitude, special features, manageability, and boundaries (FEIS, pp. 4-49 to 4-53). There will be no road construction and no timber sales within the inventoried roadless area.

Chief Bosworth's 1230/1920 letter regarding the Interim Protection of Roadless Areas was dated and effective June 7, 2001, a month after the Discovery ROD was signed on May 8, 2001. Chief Bosworth's direction was not in effect at the time the Discovery decision was signed. Effective July 27, 2001, Chief Bosworth issued an Interim Directive (No. 4200-2001-3), which implements the June 7, 2001, letter. This directive applies to all decisions to approve or disapprove harvest in inventoried roadless areas made on or after the effective date of the Interim Directive. Again, because the Discovery Ski Area ROD was signed on May 8, 2001, the new Interim Directive does not apply.

An alternative that excluded development from within the roadless area was considered but eliminated from detailed study (FEIS, p. 2-1). Terrain analysis near the existing ski area indicated that if the roadless area is omitted from consideration, then advanced intermediate ski terrain is not sufficient to warrant expansion.

Expanding existing roadless areas is outside the scope of this project. Existing inventoried roadless areas and unroaded areas will be examined during Forest Plan revision.

The Forest Service does not consider the proposed expansion to constitute an irreversible and irretrievable commitment of resources (FEIS, p. 5-7). Numerous ski areas have closed in the past and revegetated to their previous vegetative types.

Issue II. The Purpose and Need of the Discovery Ski Area project is not adequately supported.

Response: Documentation supporting the purpose and need of the Discovery Ski Area is well documented in the FEIS and Project File (FEIS, pp. 1-5, 1-6 to 8, 4-63 and Project File, Doc. I-67 and I-69).

Issue III. Discovery FEIS violated NEPA by failing to adequately consider reasonably foreseeable, connected, and cumulative effects.

Response: The FEIS considered the outgrowth of homes, condos, and other developments that may result from the ski area expansion in the socio-economic and land use analysis (FEIS, pp. 4-42 to 4-49 and 5-8 to 5-9). Ongoing subdivision and development pressures in the vicinity of Discovery and Georgetown Lake may be affected to a certain extent by the expansion.

Noxious weeds are addressed in the FEIS on pages 3-19 and 4-20 to 4-23.

Issue IV. An inadequate range of alternatives was analyzed. The EIS failed to analyze an alternative that would have expanded into non-inventoried roadless acreage.

Response: An alternative that excluded development from the roadless area was considered (FEIS, pp. 2-1 to 2-3). Terrain analysis near the existing ski area indicated that if the roadless area is omitted from consideration, skiable advanced intermediate terrain is not sufficient to warrant expansion. An adequate range of alternatives was analyzed.

Issue V. The FEIS failed to adequately analyze impacts to lynx, which violates the Forest Plan as amended by the lynx conservation agreement and strategy, NFMA, NEPA, and the ESA.

Response: Lynx habitat and effects are addressed in the FEIS (pp. 3-22 and 4-25 to 26), Response to Comments (p. 5-4 to 5-5), and in the Wildlife Biological Assessment and Evaluation (FEIS, pp. E-17 to E-42). A concurrence letter from the USFWS, with determination for Canada Lynx, was received on April 3, 2001 (Project File, Doc. I-55). The USFWS concurred with the wildlife biologist's determination that the proposed expansion may affect, but is not likely to adversely affect, the lynx.

Both of the lynx LAU's are in compliance with the project planning standard contained in the LCAS that recommends "management actions shall not change more than 15% of lynx habitat within a LAU to an unsuitable condition within a 10-year period" (FEIS, p. E-34).

RECOMMENDATION

I recommend the Forest Supervisor's decision be affirmed and the appellants' requested relief be denied.

/s/ Paul E. Nesselroad
PAUL E. NESSELROAD
Director of Public and Governmental Relations