

**File Code:** 2720  
**Date:** June 9, 2020

John Boerschig  
Wolverine Property Management, LLC  
5005 S. Mason Rd, Suite 250  
Katy, TX 77450

Re: Priority Use Days Removal Appeal  
JPB Rental Homes, LLC  
Diamond D Ranch  
22250 Buffalo Valley Road  
Moran, Wyoming

Dear Mr. Boerschig;

In accordance with 36 Code of Federal Regulations (CFR) 214.18, this letter provides my decision as the Appeal Reviewing Officer to your appeal dated March 11, 2020 regarding Blackrock District Ranger Stile's January 21, 2020 amendment to your outfitter-guide special use permit BUF223701, held by JPB Rental Homes, LLC. The amended special use permit was the result of a priority use review conducted by the Blackrock Ranger District from 2014 through 2019, based on actual use reports submitted by JPB Rental Homes, LLC.

### **Background**

In my April 9, 2020 letter, I provided to you District Ranger Stiles' March 18, 2020 responsive statement to your March 11, 2020 appeal, as well as the exhibits referenced therein, and I informed you of the opportunity to file a reply to the responsive statement, file an extension, or request an oral presentation as provided for under 36 CFR 214.12 and 214.16. You did not reply to my April 9, 2020 letter, or indicate a need to file an extension or make a presentation.

In your March 11, 2020 appeal, you requested that the full priority service days in your special use permit be reinstated through 2020 to allow for an additional (7<sup>th</sup>) year to demonstrate use of your permitted service days. You described several extraordinary circumstances that prevented the full use of the special use permit from 2014 through 2019, including the necessary renovation of multiple buildings on the base property, short building season, and high cost associated with renovation to meet the needs of your outfitter clients and Teton County regulations. The tack shed, restrooms and corrals were the most recent renovations completed in 2018. You also described the flooding of your Houston main offices in 2017 as a result of Hurricane Harvey and the difficulty of drawing elk hunt tags in Wyoming.

I have reviewed the March 18, 2020 responsive statement prepared by District Ranger Stiles in response to your March 11, 2020 appeal. District Ranger Stiles outlined that you were first notified in January of 2019 regarding results of a five-year priority use review conducted for your outfitter operations from 2014-2018, as required by Forest Service Special Uses Handbook (FSH) 2709.11 and terms of your outfitter-guide special use permit. At that time, you were informed that, as a result of this review, all



summer progressive travel and day-use horseback riding priority use service days would be removed from the JPB Rental Homes, LLC permit, and day-use fall hunting would be reduced to 10 priority use service days for the next five-year period of your outfitter-guide special use permit.

The Blackrock Ranger District subsequently received a letter dated March 27, 2019 from you requesting a one-year extension to the five-year priority use review to allow your outfitter business to show additional use in 2019. The extraordinary circumstances you described in 2019 were the same or similar circumstances you expressed in your March 11, 2020 appeal letter. A site visit of Diamond D Ranch was conducted by District Ranger Stiles and his staff on May 29, 2019 and, as a result, District Ranger Stiles extended the five-year review period to include an additional year of use in 2019, to allow you to demonstrate full use of the service days authorized in the special use permit. On January 16, 2020 JPB Rental Homes, LLC submitted their 2019 actual use report, and the Blackrock Ranger District completed a priority use review from 2014 through 2019. On January 21, 2020 a letter with two enclosures was sent to you describing the results of the priority use review for the period of 2014-2019, and amendments to the special use permit as a result of this review. The special use permit was amended by reducing the priority use service days for day-use horseback rides outside the Teton Wilderness from 300 service days to 46 service days, reducing day-use fall hunting from 40 service days to 10 service days, and removing all 335 priority use service days previously authorized for summer progressive travel within the Teton Wilderness. The summer progressive travel category in the Teton Wilderness was removed from the amended permit because JPB Rental Homes, LLC showed no use in that permitted category in the entire six-year period (2014-2019).

### **Decision**

I have decided to deny your request that the full service days originally authorized in 2014 for special use permit BUF223701 be reinstated for another year, and to uphold Blackrock District Ranger Stiles' decision to amend the special use permit by decreasing the priority use days for day-use horseback rides and fall hunting, and removing the Teton Wilderness progressive travel category from the special use permit as a result of six years of priority service day use review from 2014 through 2019.

I have determined that District Ranger Stiles sufficiently discussed the five-year priority use review process with JPB Rental Homes, LLC representatives, and granted a one-year extension allowing JPB Rental Homes, LLC an additional year in 2019 to demonstrate use of its authorized priority service days. District Ranger Stiles and his staff conducted a site visit of the Diamond D Ranch on May 29, 2019 to verify facility renovations and to discuss how JPB Rental Homes, LLC planned to operate during the 2019 summer and fall use seasons, if granted a one-year extension, as well as consequences to the special use permit if use of authorized days was not demonstrated in 2019. He explained the importance of showing use in all authorized priority use activities in 2019 prior to the priority use review, which would be conducted upon receipt of JPB Rental Homes, LLC's 2019 actual use report.

District Ranger Stiles and his staff adhered to Forest Service Handbook policy direction and special use permit terms and conditions regarding failure to exercise authorized privileges when conducting the priority use review for the 2014-2019 operating seasons, including the one-year extension in 2019. As a result, the Teton Wilderness progressive travel category was permanently removed from the special use permit because there was no reported use in that service day category during the six-year review period. I also determined that the reduction in priority use service days for day-use horseback rides outside wilderness and day-use fall hunting were appropriately adjusted based on Actual Use reported by JPB Rental Homes, LLC over the 6-year period from 2014 through 2019.

Additionally, the amended special use permit acknowledges that JPB Rental Homes, LLC is eligible to request pool days for additional day-use hunting and day-use horseback riding on an annual basis to increase the number of service days available each year, and that priority service days in these categories can be reinstated through the next five-year priority-use review.

Therefore, I conclude that the January 21, 2020 amendment to the outfitter-guide special use permit BUF223701 held by JPB Rental Homes, LLC was completed in accordance with Forest Service special use policy and direction, as well as terms and conditions set forth in the special use permit.

If you have any questions regarding my decision or the appeal process, please contact Cindy Stein, Forest Recreation Program Manager, at [cindy.stein@usda.gov](mailto:cindy.stein@usda.gov), 307-360-8175 or Anita DeLong, Environmental Coordinator, at [anita.delong@usda.gov](mailto:anita.delong@usda.gov), 307-413-9650.

Sincerely,

PATRICIA M O'CONNOR  
Forest Supervisor

cc: Frank Beum, Acting Regional Forester;  
Pete Gomben, Regional Administrative Review Coordinator  
Adam Shaw, Regional Environmental Coordinator  
Todd Stiles, Blackrock District Ranger  
Cindy Stein, Forest Recreation Program Manager  
Anita DeLong, Forest Environmental Coordinator  
Paige Eshelman, Accounting/Wyoming Area Manager, Wolverine Property Management  
LLC