



File Code: 1950/2720

Date: November 17, 2008

Dear Interested Party,

The Salt Lake Ranger District (SLRD) is providing an opportunity to comment on a request from Wasatch Powderbird Guides (WPG) to reissue a special use authorization for outfitted and guided heli-skiing on National Forest System (NFS) lands. If approved, this authorization would be very similar to WPG's previous authorizations, but would include a term of 10 years and limited administrative changes to some of the mitigation requirements contained in previous authorizations. This notice invites comments from the public and other agencies on environmental issues and concerns that could affect the scope of our environmental review of this proposed action that will be conducted under the National Environmental Policy Act of 1969 (NEPA).

Background and Purpose

WPG has provided heli-skiing opportunities on the Uinta-Wasatch-Cache National Forest under sequential special use permits continuously since 1973. WPG is currently authorized to use an 85,000-acre area for their operations, including the Tri-Canyon Area (Big Cottonwood, Little Cottonwood, and Mill Creek canyons), as shown on the attached map. Based at Snowbird, their season runs from December 15 through April 15, and their permit allocates 1,600 skier days in the entire permit area, with specific limitations on use in the Tri-Canyon Area.

The operational aspects and environmental effects of heli-skiing have been well studied and documented. Comprehensive environmental reviews were documented in the 1999 and 2004 Environmental Impact Statements (EIS). The agency decisions based on these EISs provided for issuance of the last two permits in 2000 and 2005. No significant impacts as defined in NEPA regulations were identified in any of the previous environmental analyses.

The 2004 decision was appealed, upheld by the Forest Service, and subsequently litigated. In 2006, a Federal District Court affirmed the agency's decision. That decision was appealed, and in January 2008 the U.S. Court of Appeal's 10th Circuit reaffirmed that the environmental analysis provided a sufficient basis to support the decision to authorize the 2005 permit. This permit will expire on at the end of its 5-year term on September 1, 2010.

The Forest Service regulates occupancy and use of NFS lands by outfitters and guides through issuance of special use permits. Outfitters and guides (O&G) provide unique recreational opportunities to people without the knowledge, skills and equipment to participate on their own. They also provide information and education about NFS resources to their clientele. As a result, O&G operations fulfill an important role in meeting the Forest Service's recreational and educational mandates. The 2003 Revised Forest Plan for the Wasatch-Cache National Forest identified its Desired Future Condition for guided helicopter skiing as "Helicopter skiing will continue to operate as a component of the recreational picture in the Central Wasatch" (p. 4-162). The March 19, 2003, Record Of Decision for the Forest Plan stated: "... helicopter skiing is an appropriate use and should be part of the recreation opportunities provided on the Forest" (p. 26).

Until April 2005, O&G permits were authorized for terms of up to 5 years. At that time, Forest Service regulations were revised to extend the maximum term for these authorizations to 10 years (see Final

Directive, Federal Register Vol. 70, No. 71, April 14, 2005). The directive documenting this revision cited three reasons:

- To Streamline Special Use Administration – The longer term decreases Forest Service administrative costs by reducing the analysis and processing required in issuing special use authorizations.
- To Support Small Business – The longer term provides greater business continuity for planning and investing, reducing an identified constraint to small business sustainability.
- To Be Consistent with Other Agencies – The longer term is consistent with the permitting policies of the Bureau of Land Management and the National Park Service, which is important because many O&G operations include lands administered by more than one of these agencies.

Following publications in the Federal Register, directives were carried forward into revisions of Forest Service policy for both special uses and NEPA. Specifically, the agency was directed as follows: “For new applicants, authorize use for up to 1 year. For holders assigned priority use, use may be authorized for up to 10 years” (FSH 2709.11; Sec. 41.53j). In addition, Forest Service policy governing environmental reviews for proposals to extend the term of existing O&G permits was also revised. Among the revisions was the stipulation that, if certain conditions are met, issuance of a special use permit for a new term falls within a category of actions that do not require preparation of an environmental assessment or environmental impact statement. The conditions governing use of this categorical exclusion include the following:

“Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are no changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization” (FSH 1909.15; Sec. 31.2(15)).

Mitigation Revisions

In regard to revision of mitigation requirements, the changes outlined below are within the administrative realm in that they do not change or increase the scope or intensity of authorized activities. They are not part of the proposed action but rather are administrative considerations included here to provide the full context for the proposed issuance of a 10-year permit under the categorical exclusion described above.

These revisions center on measures intended to protect golden eagle nesting in the permit area. This was a key issue in the 1999 and 2004 EISs. Some who commented on those EISs expressed the view that a comprehensive study of heli-skiing effects on eagle nesting was needed. The 2004 Record of Decision (ROD) addressed these comments by agreeing that such a study would be desirable but was not feasible at that time. The ROD explained that the analysis and decision focused on conservative mitigation to protect nesting rather than on a more research-oriented program to gather more information on potential heli-skiing effects. However, the document went on to express the agency’s intention to look into funding sources to conduct such a study in the future.

In 2007, a report titled *Investigating Potential Effects of Heli-Skiing on Golden Eagles in the Central Wasatch; Utah* (http://www.fs.fed.us/r4/uwc/publications/resource/golden_eagles-helicopters.pdf) was prepared by the Forest Service, U. S. Army Corps of Engineers, and Clemson University. It documented a comprehensive, 2-year study completed in the Tri-Canyon and surrounding areas that studied the potential effects of heli-skiing on golden eagles. This study responded to the comments of those concerned about golden eagle impacts and provided the basis to revise the mitigation requirements contained in the 2004 decision. The proposed administrative changes to WPG's annual operating plan would involve the following:

- Integrate the following recommendations from the 2007 report *Investigating Potential Effects of Heli-Skiing on Golden Eagles in the Central Wasatch, Utah* (Grubb, Delany, and Bowerman) with the U.S. Fish and Wildlife Service (FWS) raptor protection guidelines (Romin and Muck 1999) to minimize potential impacts on golden eagles nesting in the WPG permit area.
 - Reduce the “no-fly” buffer around known golden eagle nest sites from 0.5 miles to 0.25 miles, though the report recommends dropping the buffers entirely.
 - Change the implementation date of the buffers from February 1 to March 15. This more accurately reflects the timing of sensitive nesting activities according to the report. Based on the delay in implementing the buffers, there would no longer be a need to confirm and retain/remove nest site buffers. Buffers for all nest sites would be in effect through the end of WPG’s season.
 - Implement the existing provision to grant a variance to the buffer for Peak 10,400 in American Fork Canyon. The report recommends granting a variance based on recognition that mountain ridgelines and other similar terrain features in this area would effectively block the potential for disturbance to nesting golden eagles.
- Discontinue Forest Service aerial surveys to determine nest occupancy and number of young produced. Aerial surveys subject Forest Service employees to a high degree of risk. Confirming reproductive success has proven exceedingly difficult in these remote locations. It is difficult to determine the causes of nesting success/failure based on the inability of these aerial flights to obtain any conclusive data combined with the high levels of other recreation activity in the vicinity and natural factors.

The other revision of mitigation requirements involves explosives use and reflects a clerical error in preparation of the 2004 ROD. Specifically, the mitigation measure limiting WPG’s use of explosive charges for snow stability testing to an annual average of 300 would be applied only to the Tri-Canyon Area, not the entire permit area.

Proposed Action

In accordance with the direction outlined above, the Forest Service will consider WPG’s request to reissue a new permit for a 10-year term. Other than changing the term from 5 years to 10 years, the new permit would include the same terms and conditions as their current permit, as noted below. Their current permit was issued on August 16, 2005, and would expire on September 1, 2010. WPG’s current operation is in compliance with the terms of the current permit. On the basis of these considerations, we anticipate authorizing the new permit under the categorical exclusion noted above. An environmental review will be conducted, in accordance with NEPA, to identify any potential extraordinary circumstances or significant impacts that would preclude application of this categorical exclusion. The current permit’s terms and conditions are as follows:

Season of Use: Authorize a December 15 to April 15 operating season. Additionally, a seasonal limit of five operating days outside the December 15 to April 15 season will be authorized. Days used prior to December 15 must be for non-commercial purposes only.

Tri-Canyon Area Use (weekends): Continue the closure of the Tri-Canyon Area to heli-skiing on Sundays and Mondays season-long. Within this framework, exceptions are allowed for home runs as defined below and a season limit of three Monday operating days. WPG may “earn” these Monday exceptions in advance by choosing not to operate in the Tri-Canyon Area on an equal number of Saturdays.

Home Runs: Authorize home runs in Little Cottonwood Canyon when the Tri-Canyon Area is otherwise closed, i.e., on Sundays and Mondays. In particular, the permittee will be authorized a seasonal limit of three

“closed” weekend days for use as home runs in the Patsy Marly area. In addition, they may use White Pine Canyon for home runs when the Tri-Canyon Area is otherwise closed without any seasonal limitations. All home runs will count towards Tri-Canyon Area skier-day limits, or “caps.”

Tri-Canyon Area Use by Two Helicopters: Tri-Canyon use by two helicopters at the same time is authorized on five days per season with prior Forest Service notification.

Alpine Tours: Alpine Tours will continue to be authorized only in the Lone Peak Wilderness.

Skier-Days: Heli-skiing will be authorized with the following seasonal limits on skier-days:

- Permit area: 1,600 skier-days.
- Tri-Canyon Area: 800 of the 1,600 skier-days in the permit area.
- Northern Powder Circuit: 650 of the 800 skier-days in the Tri-Canyon Area.

Scoping Process

With this scoping document, the Forest Service is soliciting public input on the proposal to help identify any specific environmental issues and concerns that should be considered in our environmental review under NEPA. If approved in the manner indicated above, a project file documenting the environmental analysis and Decision Memo would be prepared and the new permit issued. Consistent with Forest Service regulations, this decision would not be subject to administrative appeal (36 CFR 215.12(f)).

Comments on this proposal must be received by December 19, 2008. Written comments are being accepted by Acting District Ranger Melissa Hearst, on behalf of the Responsible Official, Forest Supervisor Brian Ferebee. Electronic comments must be submitted in a format such as an email message, rich text format (.rtf) or Word (.doc) to comments-intermtn-wasatch-cache-saltlake@fs.fed.us, or submit comments to:

Salt Lake Ranger District
Wasatch-Cache National Forest
6944 South 3000 East
Salt Lake City, Utah 84121
(Fax number 801-733-2684)

Business office hours for hand-delivered comments are 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. For more information, please contact Steve Scheid, Environmental Coordinator, at the Salt Lake Ranger District, 801-733-2689 or sscheid@fs.fed.us. Thank you for your interest in the management of National Forest System lands.

Sincerely,

/S/ Melissa Hearst

MELISSA HEARST
ACTING DISTRICT RANGER

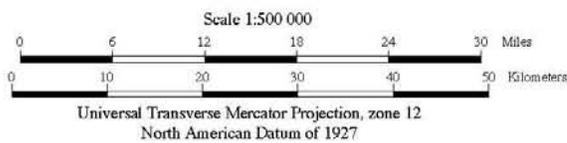
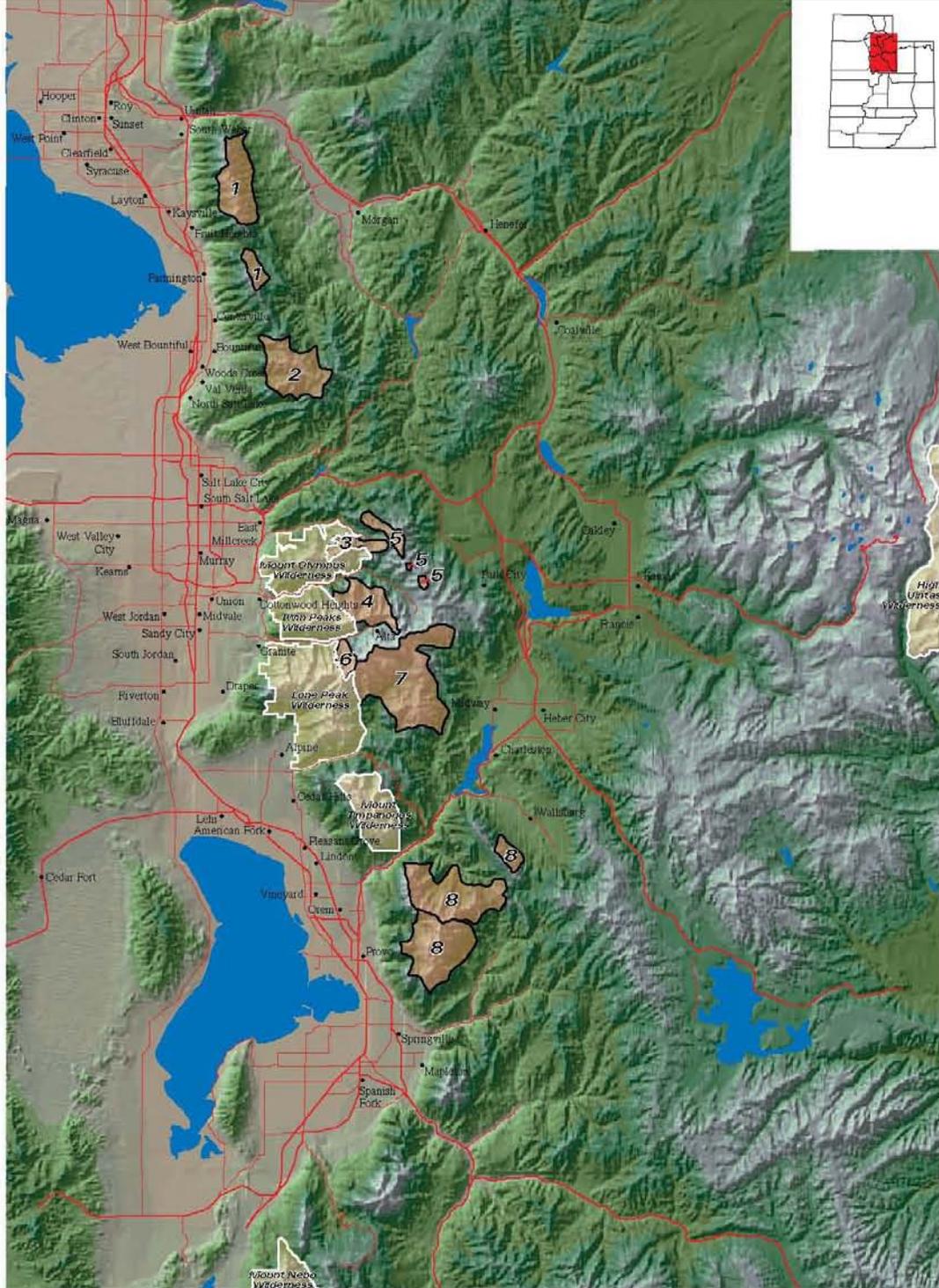


United States
Department of
Agriculture

Forest
Service

Uinta-Wasatch-Cache
National
Forest

Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, Utah 84121
(801) 733-2660



- Wilderness
- Permitted Area
- Water
- Primary Routes
- Secondary Routes

- 1 Francis Peak
- 2 Bountiful Sessions
- 3 Mill Creek
- 4 Northern Powder Circuit
- 5 Park City and Lamb's Canyon
- 6 White Pine Canyon
- 7 American Fork and Snake Creek
- 8 Cascade Mountain and Cascade Ridge



Caring for the Land and Serving People

Printed on Recycled Paper

