

# White Mountain National Forest



United States  
Department  
of  
Agriculture

Forest  
Service

Eastern  
Region



## Bear Notch Ski Touring Center Special Use Permit Renewal

Town of Bartlett  
Carroll County, NH

## Decision Memo

Prepared by:  
Eastern Region Winter Sports Team  
May, 2009

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## 1 Summary

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After careful consideration of public input, the recommendations of appropriate resource specialists, and the requirements of applicable laws and regulations, I have decided to authorize the Bear Notch Special Use Permit Renewal on the Saco Ranger District.

## 2 Background

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### 2.1 Project Area

Bear Notch has applied for a renewal of their Special Use Permit to operate and maintain an existing cross country ski trail system. The project is located on the Bartlett Experimental Forest, Town of Bartlett, Carroll County, New Hampshire on the Saco Ranger District. A map is attached.

### 2.2 Purpose and Need

Doug and John Garland, Partners, Bear Notch Ski Touring Center, have operated under a Special Use Permit continuously since 1995. Currently 85% of the cross country ski trail system is located on private lands, 15% or 6 miles are on National Forest System lands. The authorization is scheduled to expire on May 31, 2009. This analysis addresses the need to renew the existing authorization:

- The authorization is in compliance with all Forest-wide and Management Area Standards and Guidelines as described in the White Mountain National Forest Land and Resource Management Plan (Forest Plan)
- The authorization is scheduled to terminate on May 31, 2009
- The holder provides important Nordic Skiing opportunities to the public; termination of this permit would preclude these recreation opportunities at this location.

## 3 Decision to Be Implemented

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My decision is to issue a Special Use Permit to the Bear Notch Ski Touring Center, Doug and John Garland, Partners, for up to ten years for the use of existing facilities that have been previously used for the purpose under the terms and conditions of the existing permit. An operating plan will be reviewed and approved as required by the permit. The permit and its associated operating plan are avail-

able in the Project File.

These activities will “Provide a range of quality recreation activities and opportunities” (Forest Plan Goal p. 1-10). The issuance of a Special Use Permit will “provide recreation opportunities (areas, facilities, services, and events) that the Forest Service alone is not able to offer...” (Forest Plan Goal, p. 1-15). And “The Forest Service and partner organizations will collaborate to provide recreational opportunities...” (Forest Plan Objective, p. 1-13) The need is to make progress toward the Forest Plan goals and objectives.

This decision is based on my review of the project record, including input from appropriate resource specialists. The record shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty, and risk. My decision is also based on my past experiences with permit administration of this and similar activities on the White Mountain National Forest.

## 4 Rationale for Categorically Excluding the Decision

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Based on information in the project record and experience with similar activities on the WMNF, I have concluded that this decision can be categorically excluded from documentation in an environmental impact statement or environmental assessment.

Decisions may be categorically excluded from documentation in an environmental impact statement or an environmental assessment when they are within one of the categories found at 36 CFR 220.6(d) and (e), and there are no extraordinary circumstances related to the decision.

### 4.1 Category of Exclusion

I have determined that the selected action is a routine activity within the following category of exclusion found at 36 CFR 220.6(e)(15): 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 not 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 permit.

## 4.2 Finding that No Extraordinary Circumstances Exist

Based on information presented in this document and the entirety of the project record, I have evaluated the resource conditions listed in 36 CFR 220.6(b)(1) and determined there are no extraordinary circumstances related to this project. As indicated in 36 CFR 220.6(b)(2), the mere presence of one or more of the listed resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effects of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. As long as the potential effects on these resources are minor or non-existent, there are no extraordinary circumstances (Forest Service Handbook 1909.15, Chapter 30.4). A summary of the project's potential effects on each resource condition follows.

*Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.*

The Endangered Species Act requires that federal activities not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. As required by this Act, potential effects of this decision on listed species have been analyzed and documented in a Biological Evaluation (project record).

No T&E species present

As detailed in the Biological Evaluation, this decision will have 'no effect' on listed species or designated critical habitats because no listed species or critical habitats have the potential to occur in the area that would be affected by this project.

No Sensitive species present

Potential effects of this decision on Regional Forester sensitive species (sensitive species) also have been analyzed and documented in a Biological Evaluation (project record).

As detailed in the Biological Evaluation, this decision will have "no impact" on any sensitive species because no sensitive species have the potential to occur in the area that would be affected by this project.

***Floodplains, Wetlands, or Municipal Watersheds***

Executive Orders 11988 and 11990 direct federal agencies to avoid adverse impacts to floodplains or wetlands, which are defined in the executive orders.

Based on map and site review, the project is not located in or near floodplains or wetlands (project record). Therefore, effects from this decision on floodplains and wetlands will be non-existent.

***Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas***

The closest Wilderness, the Presidential Range-Dry River Wilderness Area, is one mile from the project. The project record indicates that impacts from this project would be limited to the immediate area of activity (project record ). Therefore this decision will not affect any Wilderness Area.

***Inventoried roadless area or potential wilderness area***

There are no inventoried roadless areas from the Roadless Area Conservation Rule or WMNF Forest Plan inventories in the area that would be affected by this decision. Therefore this decision will not affect inventoried roadless areas.

***Research Natural Areas***

Depict location of any potentially affected Existing or Candidate Research Natural Areas on a map, and refer to it.

There are no Research Natural Areas in the project area. The closest Research Natural Area, the Nancy Brook Research Natural Area, is about 10 miles northwest of the project. This decision, with impacts limited to the immediate area of activity, will not affect Research Natural Areas.

***American Indian and Alaska Native religious or cultural sites; and archaeological sites, and historic properties or areas***

This decision complies with the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas that might be affected by this decision at the time of the analysis for the initial authorization. It was determined that no cultural or historic site would be impacted. Consultation

occurred with the State Historic Preservation Office and they concurred with our findings at the time of the original authorization.

## 5 Public Involvement

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This proposal is purely administrative in nature. Internal Scoping and consultation with the current permit holder occurred. There were no additional mailings, public meetings or media notices as I did feel that they were necessary given the context and intensity of the permit reauthorization.

## 6 Findings Required By and/or Related to Other Laws and Regulations

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My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below.

### *National Environmental Policy Act*

This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

### *Forest Plan Consistency (National Forest Management Act)*

The National Forest Management Act (NFMA) requires that all site-specific project activities be consistent with direction in the applicable Land and Resource Management Plan (Forest Plan). This project implements the WMNF Forest Plan. As required by NFMA Section 1604(i), I find this project to be consistent with the WMNF Forest Plan including goals, objectives, desired future conditions, and Forest-wide and Management Area standards and guidelines.

### *Federal Land Policy and Management Act*

This Act allows the granting of easements across National Forest System Lands. The regulations at 36 CFR 251 guide the issuance of permits, leases, and easements under this Act. Permits, leases, and easements are granted across National Forest System lands when the need for such is consistent with planned uses and Forest Service policy and regulations. This decision is consistent with this Act.

***Endangered Species Act***

See 4.2, Federally Listed Species, in this document.

***Clean Water Act***

The intent of the Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of best management practices. This decision incorporates best management practices where applicable to ensure protection of soil and water resources.

***Wetlands (Executive Order 11990) and Floodplains (Executive Order 11988)***

See 4.2, Floodplains, Wetlands, or Municipal Watersheds, in this document.

***Clean Air Act***

Under this Act areas of the country were designated as Class I, II, or III airsheds for Prevention of Significant Deterioration purposes. Impacts to air quality have been considered for this decision. Class I provides the most protection to pristine lands by severely limiting the amount of additional human-caused air pollution that can be added to these areas. The Great Gulf and the Presidential-Dry River Wilderness areas, the closest of which is one mile from this project, are the only Class I airsheds on the WMNF. This Decision is administrative in nature. As was determined when this SUP was initially authorized, this use, with impacts limited to the immediate area of activity, will not affect any Class I airsheds.

***National Historic Preservation Act, Archaeological Resources Protection Act, Native American Graves Protection and Repatriation Act***

See 4.2, Native American Cultural Sites, and Archaeologic / Historic Sites, in this document.

***Wild and Scenic Rivers Act***

See 4.2, Congressionally Designated Areas, this document.

***Federal Noxious Weed Act of 1974 and Executive Order 11312 (Non-Native Invasive Species)***

The Federal Noxious Weed Act requires cooperation with State, local, and other federal agencies in the management and control of non-native invasive species (NNIS); Executive Order (EO) 11312 requires all pertinent federal agencies (sub-

ject to budgetary appropriations) to prevent the introduction of NNIS. This project's decision meets the intent of this law and EO by incorporating all pertinent Forest Plan Standards and Guidelines to ensure the management and control of NNIS.

### *Migratory Bird Treaty Act*

This decision is consistent with this Act, Executive Order 13186, and the Memorandum of Understanding between the Forest Service and U.S. Fish & Wildlife Service to promote the conservation of migratory birds. The Biological Evaluation evaluates the likely effects to migratory birds of management concern that are known to nest and breed on the White Mountain National Forest and finds there would be no adverse effects to any of these species.

### *Environmental Justice (Executive Order 12898)*

This order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this order. Public involvement occurred for this project, the results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

## 7 Administrative Review or Appeal

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This type of activity is not covered by the 2005 Earth Island Institute v. Ruthenbeck court ruling. Therefore this decision is not subject to appeal in accordance with 36 CFR 215.

Decisions related to occupancy and use of NFS lands have separate appeal regulations (36 CFR 251). Under 36 CFR 251.86, only the following may appeal the decision:

- (a) An applicant who, in response to a prospectus or written solicitation or other notice by the Forest Service, files a formal written request for a written authorization to occupy and use National Forest System land covered under §251.82 of this subpart and
  - (1) Was denied the authorization, or
  - (2) Was offered an authorization subject to terms and conditions that the applicant finds unreasonable or impracticable.

Neither of these conditions exists in relation to this authorization or this decision to re-issue the authorization; therefore, this decision is not subject to appeal.

## 8 Implementation Date and Contact

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Implementation of this decision may begin immediately.

For additional information concerning this decision, contact: Susan Mathison at email: [smathison@fs.fed.us](mailto:smathison@fs.fed.us), or by phone at (603-536-1315, extension 4014), or by FAX (603-536-5147).

Additional information about this decision also can be found on the White Mountain National Forest web page at:

[www.fs.fed.us/r9/forests/white\\_mountain](http://www.fs.fed.us/r9/forests/white_mountain).

*/s/ Joseph Gill*

May 28, 2009

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JOSEPH GILL

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Date

Acting Team Leader

Eastern Region Winter Sports Team