



United States  
Department of  
Agriculture

Forest  
Service

White Mountain National Forest  
Saco Ranger District

33 Kancamagus Highway  
Conway, NH 03818  
Comm: (603) 447-5448  
TTY: (603) 447-3121

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File Code: 1950

Date: June 29, 2006

Dear Interested Citizen,

I would like to thank you for commenting on the Diana's Baths Site Improvement Project. Numerous comments were received and considered during the comment period. I have reviewed the comments and the analysis documents and an effort has been made to address all questions and concerns. I am satisfied that this project is beneficial, and can safely proceed with no significant adverse environmental effects to the National Forest.

My decision is to implement Alternative 2. The selected alternative includes three major components;

1. Installation of a vault toilet adjacent to the parking area.
2. Reshaping (reduction in size) of the center island, to expand the parking area.
3. Installation of a solar compacting trash receptacle.

The enclosed Decision Notice/Finding of No Significant Impact provides detail about my decision. The Environmental Assessment for this project is available for public review at the Saco Ranger District, 33 Kancamagus Highway, Conway, NH 03818. In addition, the DN FONSI and the EA will be posted on the White Mountain National Forest web site: [www.fs.fed.us/r9/forests/white\\_mountain/projects/projects/](http://www.fs.fed.us/r9/forests/white_mountain/projects/projects/).

Our planning staff has appreciated the public involvement on this project. The goal of public involvement efforts in our programs and projects are to improve decisions. We look forward to your continued involvement in projects on the Saco Ranger District. Again, thank you for your interest in the management of the White Mountain National Forest.

Sincerely,

/S/TERRY MILLER

TERRY MILLER  
District Ranger

Enclosures (1)





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National Forest

Saco Ranger District

June 2006

**Diana's Baths Site Improvement  
Project  
Decision Notice  
FONSI  
Saco Ranger District**



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## **1.0 Decision**

### **1.1 Project Area and Background**

Diana's Baths is a high use recreation site, located off of West Side Road in the Town of Conway Carroll County, New Hampshire (please see Appendix C). The recreation uses in the project area are diverse. This site offers a ½ mile ADA accessible trail (Moat Mountain), which allows visitors to access Diana's Baths. Within the Baths, swimming, wading, hiking and sitting on the rocks are all popular recreation activities.

In addition the Moat Mountain Trail System provides access beyond the Baths to the Red Ridge, Attitash, and Moat Mountain Trail. The first ½ mile of the Moat Mountain trail is the most highly used portion of this trail system. In combination with the Baths, it is one of the most frequently visited day use recreation area in the summer months. The Moat Mountain Trail system also receives significant use throughout the fall from hikers and mountain bikers. Winter use is generally limited to snowshoe and cross-country ski traffic.

At present, a 40 car parking lot services this recreation site. In the late 1990s, following the construction of the parking lot, existing trailhead, and ADA accessible trail, the Saco Ranger District agreed to monitor the site to address specific concerns brought forward during the original planning process. Beginning in 2000, the Forest Service conducted formal and informal site monitoring, to address concerns regarding the adequacy of the parking lot size and need for a toilet facility.

Diana's Baths is one of the most visited recreation fee sites on the WMNF. Despite a general decline in recreation fee revenues on the WMNF, recreation fee collections at Diana's Baths have increased annually since 2003. It is the second most heavily visited day use site on the Forest. It is estimated that 1,000 additional visitors purchased a recreation pass at this site in 2004 and in 2005. Approximately 95% of the recreation fee revenues collected remain on the WMNF to fund recreation site improvements and maintenance.

### **1.2 Purpose and Need**

The proposed project is compatible with the goals for developed recreation identified in the 2005 Land and Resource Management Plan.

One of the recreation goals in the 2005 White Mountain National Forest Land and Resource Management Plan states: "Developed recreation will provide a variety of quality campground, day use, and other roadside recreation opportunities where the natural forest setting is an important part of the visitor's experience, while ensuring the balanced protection of social and natural resources."

Diana's Baths lies in Management Area 2.1 (General Forest Area). This project is compatible with the standards and objectives for developed recreation within MA 2.1 and the Recreation Opportunity Spectrum class of roaded natural. This project specifically meets MA 2.1 because it strives to manage a high-use recreation area to meet acceptable social and ecological standards. (USDA-Forest Service, 2005 pg. 3.3)

The purpose of the proposed project is to respond to the level of use, length of stay, and health and safety concerns at this high use recreation site to sustain acceptable social and ecological standards. This project also responds to new requirements for recreation fee sites. The need for the individual project components is described below.

### ***Human Waste Management***

Formal site monitoring was completed in 1999, 2000, 2001 and 2005. Throughout these four years levels of human waste and trash were recorded. In 2002, 2003, and 2004 general observations were made as to the levels of human waste and trash.

Nearly every monitoring report indicates the evidence of human waste near the parking area and the Baths. The continued presence of human waste is a concern for several reasons. Primarily, the presence of untreated human waste can be a human health hazard. In addition, human waste could also negatively impact water quality, particularly of concern near Lucy Brook. Lastly, obvious presence of human waste and toilet paper litter can negatively impact visitor experience.

The more extended the length of stay in a concentrated area, the more important it is to provide a facility to properly dispose of human waste. During the peak use seasons visitors often swim in the Baths area, which increases the length of stay at the site. At other similar, high use recreation sites on the Saco Ranger District, a vault toilet is present to address these health, safety, visitor experience, and water quality issues.

### ***Parking Lot Capacity***

The use of the trails and Diana's Baths has increased continually over the years as the Mount Washington Valley Chamber of Commerce and local tourist industry have advertised this area. These types of recreation opportunities are in high demand by National Forest visitors.

In 2005, approximately 50% of the site visits found the parking area over capacity, with approximately 10-20 vehicles parked along the West Side road. In 2002, 2003, and 2004 casual patrollers often noted that the site overflow generally ranged from 15-20 overflow vehicles to upwards of 30 vehicles on peak summer weekends.

Parking overflow has created significant safety hazards. During peak times parking occurs along both sides of West Side Road. Often vehicles are not parked completely off the pavement and obstruct the lanes causing drivers passing to cross the center line. This is especially hazardous for larger trucks and recreational vehicles traveling this road. This results in serious safety concerns, especially during peak weekends, when pedestrians inevitably end up sharing the road corridor with traffic. In addition, when vehicles are parked along the road, the site distance for vehicles pulling in and out of traffic is limited.

### ***Trash Receptacle and the Recreation Fee Program***

On December 8, 2004, the Federal Lands Recreation Enhancement Act (FLREA) was enacted. FLREA authorized the USDA Forest Service, as well as other federal land management agencies, to retain recreation fee revenues to repair, improve, operate, and maintain recreations sites and areas to specific quality standards. FLREA replaces the previous Recreation Fee Demonstration Project that authorized the USDA Forest Service to collect fees at recreation sites. FLREA also set new requirements for amenities that need to be provided at recreation fee sites including a trash receptacle.

Litter is commonly picked up by Forest Service personnel and volunteers at Diana's Baths. Although the "Pack it in, Pack it out" education message has been successful at reducing the amount of litter clean up, high use recreation sites often require frequent trash pick up. This holds true at Diana's Baths. In order for Diana's Baths to continue to be managed as a recreation fee site under the Recreation Enhancement Act of 2004, trash receptacles are required to be provided.

### **1.3 Reasons for Decision**

After careful consideration of public input, the recommendations of an interdisciplinary team of resource specialists, and the requirements of the National Environmental Policy Act, I have decided to proceed

with the action activities to address humans waste, litter, and parking problems for the Diana's Baths project area. These activities are in compliance with Forest Plan direction. Specific standards and guidelines are found in the 2005 Forest Plan, Chapter 2, pgs. 2.16-2.17.

This decision includes three major components;

1. Installation of a vault toilet adjacent to the parking lot.
2. Reshaping (reduction in size) of the center island, to expand the parking area. This will provide at most 20 additional parking spaces.
3. Installation of a solar compacting trash receptacle.

### ***Vault Toilet***

I believe that the installation of the vault toilet will help meet the objectives of providing balanced protection of social and natural resources. The toilet facility will reduce the amount and frequency of human waste and toilet paper being found adjacent to the Moat Mountain Trail, parking area and the Baths. The toilet will also reduce concerns associated with social issues, such as human health hazards associated with human waste and environmental concerns, such as water quality. In addition, the toilet will reduce negative visitor experiences associated with litter, including toilet paper and human waste.

The vault toilet will be similar to those found at other developed recreation sites across the White



Mountain National Forest (please refer to the photo on the left). The structure will have two restroom stalls housed by a building approximately 12 feet wide by 12 feet long. It will be placed near the parking area along the initial portion of the Moat Mountain Trail, with the exact location to be determined. Based on analysis and scoping comments the toilet will be placed to avoid high visibility from West Side Road.

I gave strong consideration to locating the toilet facility closer to or at the Baths (also see Section 1.4.2). This location would likely reduce human waste to the greatest degree. However, access to the facility would be challenging and a composting toilet would need to be very large in order to accommodate the amount of use at Diana's Baths. This Alternative would disperse development between the Diana's Baths, Moat Mountain Trail and the Trailhead area. The natural, forested setting at the Baths would be manipulated to create a toilet clearing, construction of the facility and access routes for construction and subsequent maintenance. By locating the toilet near the parking area, the development remains concentrated in that location. Consequently, the area around the Baths will continue to be a more natural, undeveloped recreation area.

Installation will entail the removal of some trees to allow for construction access and to increase percent sunlight that will reach the building, which is crucial in the proper functioning of these types of toilets. An area of approximately 35 foot by 35 foot will be cleared. In addition, the access along the first 100 feet of the trail will be improved by removing 3 to 4 trees to allow for the vaults beneath the building to be pumped as needed.

### ***Parking Lot***

The redesign of the existing parking area is needed to meet objectives of protecting resources. Increased parking will meet existing public demand and most importantly providing a safe environment for visitors and local residents, by reducing parking on West Side Road.

The parking lot is currently designed for 40 cars, although when it was originally proposed in 1998 the proposal was for a 60 car lot. The original decision stated that the capacity of the parking lot was reduced to 40 spaces to address concerns of adjacent landowners. This reduction in the parking area size from 60

to 40 spaces was a contentious issue with some members of the public, because it was felt that the 40 car lot would not adequately address safety concerns. The original decision established that the WMNF would monitor parking levels, and in the future would reexamine parking area capacity. Currently, an island in the center of the lot prevents use of this area for vehicle parking. This project will reduce the size of this island to allow up to 20 additional parking spaces, by eliminating the center island. These additional parking spaces would eliminate or at least significantly reduce overflow parking along West Side Road on most peak use season days given the level of use observed over the past several years. I have been working with the Town of Conway to post West Side Road for no parking, rather than no parking on pavement, as it currently is. With the increase in the number of parking spaces and signing West Side Road, the current level of use will be accommodated, while minimizing opportunities for increased use.

It is anticipated that on most days, the 60 parking spaces will be more than adequate to meet demand. On busy holiday weekends, demand may exceed available parking places. The intent of this portion of the project is to:

1. Reconfigure the parking at the Diana's Bath/Moat Mountain trailhead to accommodate as many cars as is feasible within the site limitations, but not to expand beyond current, average demand;
2. Protect site resources and visitors to the Forest; and
3. Meet the need to get unsafely parked cars off West Side Road.

If use continues to increase, the Saco Ranger District will determine if carrying capacity of the site has been reached and initiate efforts to manage the number of visitors in order to protect the natural resources of the site as well as visitor experience.

I anticipate that no additional area would need to be disturbed beyond the existing confines of the parking lot. The number of vehicles parked along West Side Road is expected to decline, improving safety for visitor and those traveling the road.

### ***Trash Receptacle***

I have decided to install a trash receptacle near the parking area to meet the requirements of FLREA and to protect environmental and social resources associated with litter. This receptacle incorporates green technology with a small solar panel that serves as the power source for the compactor. It is similar in size to a large trash can, but is able to accommodate significantly more (increases capacity by 4 times) refuse through compaction. The compacting feature will reduce the amount of maintenance required and will also reduce the risk of overflow that would invite wildlife concerns.

By installing a trash receptacle, the intent is to reduce the amount of litter at Diana's Baths and also meet the requirements of FLREA. The revenues from fee collections at this site greatly help with maintenance of this and other recreation facilities across the Forest. Reduction of trash will further improve the visitor experience, degraded by waste and litter. The "pack it in, pack it out" message will continue to be an important component of the District's education message during visitor contacts and on information kiosks. The effectiveness of the compacting trash can will be monitored closely. The provisional nature of this type of improvement is possible because of the lack of ground disturbance and the ability to easily remove the trash can if it proves to be ineffective.

## **1.4 Alternatives Considered but Not Selected**

### **1.4.1 No action**

The no action alternative would allow the current issues associated with human health, water quality and safety to continue. Under the no action alternative the purpose and need would not be met. The proposed action was developed in to response to the level of use, length of stay, and health and safety concerns at this high use recreation site. This project is needed to sustain acceptable social and ecological standards.

Under the no action alternative the level of parking along West Side Road would continue at current levels. Safety would continue to be compromised by reduced visibility, shared roadways, and human/vehicle interaction.

Human waste would not be addressed under this Alternative, and it would continue to be found at high frequencies over the site. Accordingly the associated risks to water quality, and human health would remain present under the No action alternative.

In addition under the no action alternative this site would be removed as a recreation fee site. This would eliminate the requirement for trash service, but would also result in Diana's Baths ceasing to be a self sustaining site. Services at this and other recreation sites would be reduced or potentially removed. The proposed project also responds to new requirements for recreation fee sites. If problems are not addressed, the condition of the site would continue to decline under current visitor use levels.

### **1.4.2 Composting toilet at Baths**

In regard to the trash receptacle and parking lot expansion Alternative 3 proposes the same actions as Alternative 2. Alternative 3 was developed to address specific concerns regarding the location of the toilet at the Bath's to reduce the amount of waste in that specific location. Multiple toilet locations were considered throughout the planning process. The need for a toilet facility is obvious and has been continuously noted during both formal and informal monitoring. Human waste has the potential to create human health problems, wildlife issues, and may impair water quality.

A toilet located at the Baths would potentially have the greatest impact on the reduction of human waste and associated trash. Placing a composting toilet at the Baths was considered as a viable solution to deal with the waste problem. However, a remotely-located, high-volume composting toilet would be difficult to maintain, and it would also include a very large composting bin to accommodate the use, which would increase the level of development at the Baths.

On average one composting toilet is 90 inches tall by 118 inches long by 70.5 inches wide, and accommodates approximately 60 uses per day. This site would require two of these toilets to accommodate the existing level of use. Over burdening one toilet would eliminate its functionality and the composting process may fail. Two toilets of this size would be combined to one building that would be approximately 90 inches tall by 250 inches long by 250 inches wide.

This Alternative would disperse development between the Diana's Baths, Moat Mountain Trail and the Trailhead area. The natural, forested setting at the Baths would be manipulated to create a toilet clearing, construction of the facility and access routes for construction and subsequent maintenance.

In addition the installation would require the improvement of the Moat Mountain Trail to greater clearance standards for hauling in equipment and materials necessary for the installation and periodic maintenance, including cleaning, structure repair, winterization, adding bulking agent, and intermittent emptying of the compost chamber. Regular maintenance would be especially critical for this facility due to its proximity to Lucy Brook and a smaller, unnamed brook nearby. Due to the volume of material expected, to the toilet would also include two very large composting bins which would individually be approximately 67 inches by 118 inches by 50 inches. These bins would require 134 inches by 236 inches by 50 inches of underground excavation. This type of toilet would also require a minimal clearing of 75 feet by 75 feet which is approximately 0.13 acres.

This would change development levels at the trailhead, along the Moat Mountain Trail and at the Baths specifically. Cumulatively the development levels of the entire area would be manipulated, and result in a

higher level of development. The greatest change of development would be at the Baths, where the construction of the toilet facility will significantly change the forested surroundings.

The changes in development level, maintenance complications, combined with the additional costs associated with construction made this alternative less advantageous, and a vault toilet near the main parking area became a more reasonable alternative with the least effect on manipulating the type of experience offered at Diana's Baths.

## **1.5 Alternatives Considered but Eliminated From Detailed Study**

### **1.5.1 No Trash Receptacle and Discontinue as a Recreation Fee Site**

This Alternative would have similar effects as the "No Action" Alternative. The Federal Lands Recreation Enhancement Act of 2004 required that all Recreation Fee Sites meet specific criteria in order to remain a recreation fee site. Recreation fee sites that did not meet the specified criteria were analyzed to see if they should remain as recreation fee areas or should be removed from the Recreation Fee Site program. Diana's Baths was lacking two required components for continued inclusion in the recreation fee program. These are a toilet facility and a trash receptacle. Human waste and associated garbage were a continued problem and had implications for both water quality and public health. The need for a toilet facility to reduce waste at Diana's Baths was obvious and would be proposed regardless of the areas' designation as a Recreation Fee Site.

The development of this Alternative specifically addresses the trash receptacle. The trash receptacle need was originally less obvious. In general, we have not been adding additional garbage receptacles, and have instead been using educational messages such as "Pack it in. Pack it out." However, after monitoring continually displaying garbage problems the need for trash receptacle is present.

Removing this area from the recreation fee system was dismissed because it would result in Diana's Baths ceasing to be a self sustaining site. Maintenance at this and other recreation sites would be reduced or potentially removed, as revenues are eliminated.

### **1.5.2 Vault Toilet at the Baths**

This option would require construction of a service road, or improvement of the existing trail to meet road standards, in order to pump a vault toilet at the Bath site. This would take away from the natural, forested setting currently found on the trail into Diana's Baths. Concentrating development near the parking lot would better serve the retention of a natural, forested setting at the Baths. The down side is that by locating the toilet near the parking lot all of the human waste will not be confined to this facility. However, a significant reduction is expected and many visitors will wait knowing that a toilet is located a short walk away.

One commenter suggested we helicopter waste out, but a haul road would still be required and the cost of maintenance by helicopter would be exorbitant. In addition given the Baths' proximity to residential development, there would be significant safety concerns associated with helicopter use.

## **2.0 Finding of No Significant Impact**

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

### **2.1 Both Beneficial and Adverse Impacts have been considered.**

Both beneficial and adverse impacts of implementing Alternative 2 have been considered in the Diana's Baths Site Improvements, Environmental Analysis (EA) (Chapter 3). My finding of No Significant

Impact is not biased by the beneficial effects of the action. Though the effects from Alternative 2 may be both beneficial and adverse to certain resources, the EA demonstrates that these effects are relatively minor and the impacts generated are not directly, indirectly or cumulatively significant.

## **2.2 Effects on Public Health and Safety**

There will be no significant effects to public health and safety because project design features will improve public safety, reduce human waste, minimize resource impacts, and will provide safe public access and use of the project area. Similar activities have been implemented in the past and have proven effective in improving public health and safety, in High Impact Recreation Areas.

## **2.3 Unique Physical and Biological Characteristics**

The project will not result in an adverse effect to any extraordinary circumstance, floodplains, wetlands, or any municipal water supply. New Hampshire Natural Heritage Inventory (NHNHI) surveyed the project area in May 1998. No exemplary or wetland communities were identified.

## **2.4 Controversial**

Based on public comments received during the 30-day comment period, and the involvement of these other State and Federal Agencies, and the analysis by Forest Service resource specialists documented in Chapter 3 of the EA, I have concluded that the effects on the human environment from the proposed action are not highly controversial. All actions proposed in Alternative 2 are within the standards and guidelines of the Forest Plan.

## **2.5 Highly Uncertain, Unique or Unknown Risks**

We have considerable experience with the types of activities to be implemented. The analysis shows the effects are not uncertain, and do not involve unique or unknown risk (Chapter 3).

## **2.6 Precedent for Future Actions**

This action does not establish a precedent for future actions with significant effects.

## **2.7 Cumulative Impacts related to Other Actions**

The proposed action does not individually or cumulatively reach a level of significance. The Environmental Consequences section of the EA (Chapter 3) describes the anticipated direct, indirect and cumulative effects on:

Development Level, Public Safety, Soil, Water, Vegetation, Wildlife, Recreation, and Cultural Resources.

There are no undisclosed or related actions that would produce cumulative significant effects on the physical or human environment. Based on my review of the Environmental Assessment and the project record, I am convinced that none of the direct, indirect or cumulative effects of the alternatives are significant.

## **2.8 Effects to Significant Scientific, Cultural or Historical Resources**

The WMNF Cultural Resources Atlas shows no known cultural sites in the project areas. A site specific survey was completed and an Archaeological Resource Report was prepared for review during the original Environmental Assessment process. The site specific, Cultural Resource Reconnaissance Report #98-5-3, was prepared and reviewed by Forest Archaeologist in July 1998. The original report states; "There would be no substantial cumulative effects on cultural resources in the project area because all action alternatives are designed to accommodate current use."

Concurrence was received from New Hampshire State Historic Preservation Office (SHPO) on the cultural resource report and approval to implement the project on January 1, 1999, during the original 1998 Environmental Assessment.

## **2.9 Threatened, Endangered Species and Their Habitats per the Endangered Species Act.**

A complete, Biological Evaluation (Starke, 2006) was prepared and is located in the project file. To date, no Federally Listed Threatened or Endangered Species or Designated Critical Habitat, Species Proposed for Federal Listing or Proposed Critical Habitat, or Forest Service Sensitive Species have been observed or are known to be present.

## **2.10 The Threat or Violation of Federal, State or Local Laws or Regulations that Protect the Environment.**

The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws were incorporated into the Forest Plan Standards and Guidelines, and the Proposed Action complies with the Forest Plan.

## **3.0 Public Involvement**

Public involvement for the project included a legal notice on Friday, March 3, 2006 in the New Hampshire Union Leader. This project was listed in the White Mountain National Forest Quarterly Newsletter (Schedule of Proposed Actions); posted on the White Mountain National Forest Website and direct mailings were sent on February 28, 2006 to approximately 36 interested parties (households) (Planning Record, mailing list). Comments received from these scoping efforts were used to refine the project to explore the possibility of extraordinary circumstances and potential effects of proposed activities on resources.

Seven comment letters, E-mails, and phone comments were received for this project on or before the close of the comment period. Two additional comment letters were received after the close of the comment period but were also addressed in Appendix B, Figure 2 Response to scoping.

Of the seven comments, three were in support of all aspects of the project, three were in support of portions of the project but had additional concerns, and one was opposed to all further development at the site, but offered recommendations to mitigate some of their concerns. Of the four commenters with additional concerns, three opposed the trash can, four provided alternative locations for toilet placement (two preferred at the Baths, one in the parking lot, one on the north side of the trail), and one approved the parking lot expansion, one opposed the lot expansion and two were neutral on the parking lot expansion.

Of the two additional comments received after the close of the comment period, one was vehemently opposed to all improvements at the Diana's Bath area, and the second requested removal of Diana's Bath from the recreation fee system, and removal of all existing improvements.

All comments were used in the refinement of this project, to consider alternatives to the project, and to consider environmental effects of the project. See Appendix B, Figure 2 Response to Scoping for the Forest Service response to specific comments received during Scoping.

## **4.0 Findings Required by Other Laws and Regulations**

My decision will comply with all applicable laws and regulations.

### ***Forest Plan Consistency***

This decision is consistent with the standards and guidelines contained in the Forest Plan (USDA-Forest Service, 2005, pg. 2.16-2.17, 3.3). The Forest Plan has been reviewed in consideration of this project. This decision is responsive to guiding direction contained in the Plan, as summarized in Section 1 of this document.

**NFMA (National Forest Management Act)**

This project complies with guidelines that insure vegetation management provides a sustained yield of forest products, promotes diverse plant and animal communities, and occurs in suitable locations.

**NEPA (National Environmental Policy Act)**

This act requires public involvement and consideration of potential environmental effects for proposed actions. The public involvement process for this proposed action and the EA comply with NEPA regulations authorized under new planning regulations (36CFR 215 dated June 4, 2003). Comments received for this project were used to improve project design.

**National Historic Preservation Act**

The White Mountain National Forest consults with the New Hampshire State Historic Preservation Office (SHPO) prior to reaching a decision on the project. We received concurrence from SHPO on the cultural resource report and approval to implement the project on January 1, 1999, during the original Environmental Assessment.

**MBTA (Migratory Bird Treaty Act)**

This project complies with the Migratory Bird Treaty Act and will not cause measurable negative effects on Neo-tropical migratory bird populations.

**Endangered Species Act**

The White Mountain National Forest completed a site-specific Biological Evaluation (BE) of the potential effects to Threatened, Endangered, Proposed and Sensitive Species (TEPS). It was determined that there are not likely to be adverse effects to these species.

**5.0 Implementation Date**

If no appeal is received, implementation of this decision may occur on, but not before, 5 business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

**6.0 Administrative Review or Appeal Opportunities**

This decision is subject to appeal in accordance with 36 CFR 215.7. A person has standing to file an appeal only if they submitted a comment or expressed interest during the 30-day Comment Period in accordance with 36CFR 215.11(a)(2002). A Notice of Appeal must be in writing and clearly state that it is a Notice of Appeal being filed pursuant to 36 CFR 215.7. Appeals must be filed within 45 days of the date of legal notice of this decision in the Manchester Union Leader, Manchester, New Hampshire to:

USDA Forest Service, Eastern Region  
ATTN: Appeals Deciding Officer, Diana's Bath Site Improvement Project  
626 East Wisconsin Avenue  
Milwaukee, WI 53202

The office hours for those submitting hand-delivered appeals are: 8:00am-4:30pm (Central Time), Monday through Friday, excluding holidays. The Notice of Appeal may be faxed to 414-944-3963, Attn: Appeals Deciding Officer, Tom Wagner, USDA Forest Service, Eastern Regional Office; or it may be electronically mailed to [www.appeals-eastern-regionaloffice@fs.fed.us](mailto:www.appeals-eastern-regionaloffice@fs.fed.us). Electronic appeals must be submitted in plain text (.txt), rich text (.rtf), or Word (.doc) format.

It is the responsibility of appellants to ensure that their appeal is received in a timely manner.

The 45-day time period is computed using calendar days, including Saturdays, Sundays, and Federal holidays. When the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next federal working day. The day after the publication of the legal notice of the decision in the Manchester Union Leader is the first day of the appeal-filing period. The publication date of the legal notice of the decision in the newspaper of record is the exclusive means for calculating the time to file an appeal. Appellants should not rely on dates or timeframe information provided by any other source. If you do not have access to the Union Leader, please call the Saco Ranger Station at 603-447-5448, ext. 103 (TTY 603-447-3121) for the published date. There will be no time extensions for appeals.

When there is a question about timely filing of an appeal, timeliness shall be determined by:

1. The date of the postmark, e-mail, fax, or other means of filing (for example, express delivery service) an appeal and any attachment;
2. The time and date imprint at the correct Appeal Deciding Officer's office on a hand delivered appeal and any attachments; or
3. When an appeal is electronically mailed, the appellant should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the appellant does not receive an automated acknowledgment of the receipt of the appeal, it is the appellant's responsibility to ensure timely receipt by other means.

Appeals must meet the content requirements of 36 CFR 215.14. At a minimum, an appeal must include the following:

1. Appellant's name and address, with a telephone number, if available;
2. Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
3. When multiple names are listed on an appeal, identification of the lead appellant (§215.2) and verification of the identity of the lead appellant upon request;
4. The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
5. The regulation under which the appeal is being filed, when there is an option to appeal under either this part or part 251, subpart C (§215.11(d));
6. Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
7. Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
8. Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and
9. How the appellant believes the decision specifically violates law, regulation, or policy.

The Environmental Assessment for this project is available for public review at the Saco Ranger District, 33 Kancamagus Highway, Conway, NH 03818. In addition, the EA will be posted on the White Mountain NF web page ([www.fs.fed.us/r9/forests/white\\_mountain](http://www.fs.fed.us/r9/forests/white_mountain)). Questions regarding the EA should be directed to Lauren Oswald, Recreation Planner, at 33 Kancamagus Highway, Conway, NH 03818 (phone: 603-447-5448, x 109, TTY: 603-447-3121).

**7.0 Responsible Official and Contacts**

The Responsible Official for the Diana’s Bath Site Improvement Project is Terry Miller, District Ranger for the Saco Ranger District, White Mountain National Forest. His office is located at 33 Kancamagus Highway, Conway, NH 03818 (phone: 603-447-5448, Ext. 102).

For additional information concerning this decision or the Forest Service appeal process, contact: Lauren Oswald at the same address, or by phone (603-447-5448, x109), or by FAX (603-447-8405).

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TERRY MILLER  
District Ranger

Date

*The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) Should contact USDA's target center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-w, Whitten Building, 1400 Independence Ave. SW, Washington, DC 20250-9410 or call 202-720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.*

## **Appendix A - Design Features**

In addition to the standards and guidelines in the Land and Resource Management Plan (USDA 2005a), the following site specific design features will be used in implementing this project. Design features identify how particular standards and guidelines are applied to the project proposal. They also may be features that are not directly associated with standards and guidelines, but will be implemented on the ground to address site-specific safety or resource needs. Design features for the Diana's Bath Improvement Project include:

1. If heritage resources are found, project activities will be halted until the Forest archeologist or district paraprofessionals can evaluate the findings and make recommendations on how to proceed.
2. If rare plants are identified in the project area, the district biologist will evaluate the area and make recommendation on how to proceed.

## Appendix B: Scoping

**Figure 1: List of People/Organizations that Responded to Scoping**

Commenter Number	Contact	Location	Date Received
#1	Jim Sconyers	Dover, NH	3/13/2006
#2	Helen W. Goss	Conway, NH	3/24/2006
#3	Pierce Biej	Holderness, NH	3/23/2006
#4	Richard M Chrenko	Glen, NH	3/21/2006
#5	Thomas A. Linell	Hanover, NH	3/18/2006
#6	Frank Wolfe	Conway, NH	3/31/2006
#7	Chet and Lydia Lucy	Conway, NH	3/28/2006
<b>Comments Received after Comment Period Closed:</b>			
#8	Town of Bartlett Office of Selectmen	Intervale, NH	4/17/2006
#9	H. Dana Rotman	Milford, CT	4/17/2006

**Figure 2: Public Comments and Forest Service Responses**

All 9 comments received are noted and available in the project file.

<i>Comment</i>	<i>Forest Service Response</i>
I agree that a toilet will alleviate the problems caused by the lack of one there ( <i>Comment 1-5</i> ).	Thank you for commenting ( <i>Response 1-5</i> ).
I support increasing the capacity of the lot without expanding its actual footprint. Accommodation of visitors and safety are important ( <i>Comment 1-3</i> ).	This project proposes to expand the lot capacity by approximately 20 spaces without expanding the foot print ( <i>Response 1-3</i> ).
The need is obvious and the action is consistent with the plan. This project can serve as a demonstration of how a high capacity can be provided by good management ( <i>Comment 3-1</i> ).	Thank you for commenting ( <i>Response 3-1</i> ).
I think the bathrooms and the trash receptacle are both excellent ideas ( <i>Comment 2-1</i> )!	Thank you for commenting ( <i>Response 2-1</i> ).
I agree 100% with the proposed projects ( <i>Comment 6-1</i> ).	Thank you for commenting ( <i>Response 6-1</i> ).
I agree with installation of toilets, a trash receptacle and increasing the size of the parking lot to conform to law but I personally feel that ...will eventually degrade the public's enjoyment of these facilities ( <i>Comment 6-5</i> ).	Thank you for commenting. The project will be designed to avoid degradation of the public's enjoyment of the facilities. The reduction of trash and other waste along the trail and at the Baths should improve the public experience, which is degraded by garbage.  It is a difficult balance to manage use while not increasing the level of development or changing the recreation experience currently provided at a high use site. By concentrating the development near the parking lot, the trail and Baths area will remain a natural, forested environment. By providing these new facilities, it is hoped that degradation of the

	forest resources and negative effects to the public's enjoyment will be mitigated. ( <i>Response 6-5</i> ).
<i>Accessibility</i>	
The bathrooms – as well- should be handicap accessible ( <i>Comment 2-2</i> ).	The bathrooms will be ADA accessible ( <i>Response 2-2</i> ).
Accessibility deserves special attention ( <i>Comment 3-2</i> ).	The bathrooms will be ADA accessible ( <i>Comment 3-2</i> ).
<i>Location of Toilet</i>	
Generally opposed to further development of the Diana's Bath Site, to include toilets, trash and additional parking ( <i>Comment 7-1</i> ).	Thank you for commenting. This project is needed to meet objectives in the 2005 Forest Plan. The management plan states: "Developed recreation will provide a variety of quality campground, day use, and other roadside recreation opportunities where the natural forest setting is an important part of the visitor's experience, while ensuring the balanced protection of social and natural resources." This project is needed to protect social and natural resources of the area. <i>(Response 7-1)</i> .
I feel that you have chosen an <i>inappropriate location</i> . First, it is placed so that all visitors must pass right by it in close proximity – <i>not a desirable or pleasant arrangement</i> . <i>Locating the toilet out in the parking lot area would be better on both counts</i> – less visitor impact, less forest destruction ( <i>Comment 1-1</i> ).	The approximate area cleared will be a 35 foot by 35 foot area, and would be located slightly off of the trail. Locating the toilet in the parking lot was considered, but it would create a situation where a toilet visible from West Side Road would attract travelers to stop here just to use a public toilet. This could create additional maintenance, trash and security problems. It is not the FS's role to provide public toilets for travelers on West Side Road, rather to provide facilities for NF visitors. If the toilet was located in the parking lot we would need to install a much larger and more expensive toilet to accommodate the use associated with West Side Road travelers ( <i>Response 1-1</i> ).
Put the toilet at Diana's Bath and not at the parking area ( <i>Comment 4-1, Comment 7-3</i> ).	Locating the toilet closer to the Baths was considered, however it was determined to be infeasible for a number of reasons.  <ol style="list-style-type: none"> <li>1. The cost of construction, maintenance and pumping would increase significantly.</li> <li>2. The original road that was used was closed in the late 1990s, and the trailhead and trail were relocated to eliminate travel across a private in holding. Access to toilets for construction, maintenance, and pumping would require a haul road to the Baths and could not be accomplished without crossing private land or improving the trail to meet road standards.</li> </ol>

	<p>3. The size of the composting unit needed to handle the normal and peak summer use would be prohibitively large.</p> <p>4. Additional comments were received that to place the toilet at the Baths could be accomplished by using a different type of toilet, and consider using a helicopter to haul waste. The associated cost and clearance area would increase significantly with the use of a helicopter for maintenance (<i>Response 4-1, Response 7-3</i>).</p>
<i>Trash receptacle</i>	
Oppose the trash receptacle...Rather defy convention, and simply not add trash service at Diana's Bath...If you must add trash service, it should be out of sight from the parking area ( <i>Comment 7-2</i> ).	Refer to Response 6-6, for REA requirements. The trashcan will be situated in a location where the receptacle would not be visible from West Side Road, to avoid travelers stopping here to drop trash. Road visibility could create additional maintenance, trash and security problems that properly placing the trash receptacle will not ( <i>Response 7-2</i> ).
The scoping letter does not include the relative heights of the trash shed and the toilets ( <i>Comment 5-1</i> ).	On page 3 of the scoping package, "The structure would have two restroom stalls housed by a building approximately 12 feet wide by 12 feet long." Height of the toilet is 12 feet. "The (trash) receptacle is similar in size to a large trash can, but is able to accommodate significantly more refuse through compaction." The specific dimensions are roughly 4 feet tall by 2 feet wide ( <i>Response 5-1</i> ).
I believe installing a trash device is unnecessary and inappropriate.( <i>Comment 1-2</i> )	Since 1999, monitoring has shown that on every occasion trash was present on the site. Despite "pack it in... pack it out" messages, trash continues to be a problem at this site. Diana's Bath is a very high use site and trash devices at these locations are appropriate and within the direction of the plan. ( <i>Response 1-2</i> )
The Forest Service has successfully inculcated the "Pack it in, pack it out" ethic throughout the forest. There are no trash cans at other WMNF facilities ( <i>Comment 1-4</i> ).	See Response 1-2. There are trash cans at other WMNF facilities. It is likely the commenter will see trash cans at introduced at some facilities and eliminated at other facilities as we implement the REA ( <i>Response 1-4</i> ).
Trash receptacles of any size will not help the trash situation ( <i>Comment 4-4</i> ).	Since 1999, monitoring has shown that on every occasion trash was present on the site. Despite "pack it in... pack it out" messages, trash continues to be a problem at this site. Diana's Bath is a very high use site and trash devices at these locations are appropriate and within the direction of the plan.

	The trash compaction system is designed for locations where trash collection is a challenge; It should reduce or eliminate some problems associated with average trash cans, and has 4 times the capacity of an average trashcan which will reduce potential for overflowing trashcans between collection trips. Of course there is no way to eliminate all litter and clean up will still be required by volunteers and FS personnel ( <i>Response 4-4</i> ).
Comment there should be some sort of drain beneath the compactor, because the garbage can will leak the contents. To avoid attracting wildlife, this liquid will have to be diluted or somehow absorbed ( <i>Comment 5-5</i> ).	The compactor is designed to eliminate leakage problems, and reduce odors associated with a normal trash can. It is made of galvanized steel, with lined bins. In addition the system is enclosed, so odors are contained inside, reducing the potential to attract wildlife ( <i>Response 5-5</i> ).
An option to avoiding trash cans is to eliminate Diana's Baths as a fee site ( <i>Comment 4-5</i> ).	Refer to Alternative considered but eliminated from detailed study, Section 1.4( <i>Response 4-5</i> ).
Hang bigger and more signs, rather than a trash receptacle ( <i>Comment 4-7</i> ).	See response 1-2 & 1-4 ( <i>Response 4-7</i> ).
There should be a trash receptacle at the baths as well ( <i>Comment 4-6</i> ).	Placing a trash receptacle at the Baths would face similar challenges to placing the toilet at the Baths. By placing the trash receptacle at the parking lot, it will continue to instill the "Pack it in. Pack it out." educational message. See response 4-1( <i>Response 4-6</i> ).
<i>Parking Lot</i>	
The parking lot does not need to be expanded. Where is the data to show levels of use, which is creating the need to expand parking area? Your data provides no hard data showing the increase in usage of this facility since the parking lot has been built and the trail improved ( <i>Comment 4-2, Comment 6-2</i> ).	Hard data was collected in 1999, 2000, 2001, and 2005. Data collected in 2005 shows that approximately 50% of the time the parking area is at capacity or overflowing onto West Side Road. In 2002, 2003 and 2004, anecdotal reports showed that during peak times upwards of 10-20 cars are parked along West Side road.  In addition, despite a general decline in recreation fee revenues on the WMNF, fee collections at Diana's Baths have increased annually since 2003. It is the second most heavily visited day use site on the Forest. Approximately 1,000 additional visitors purchased a recreation pass at this site in 2004 and in 2005. ( <i>Response 4-2, Comment 6-2</i> ).
People will continue to park on the road to avoid paying fees ( <i>Comment 4-3</i> ).	The majority of the parking along the road occurs when the parking lot is at full capacity. In general the public uses the facilities (parking lot) rather than parking on the road to avoid fees. The West Side Road is under the Town of Conway jurisdiction. We are in dialogue with the town, the

	state, and the Sheriff's department as to the posting and enforcement of the No Parking Zone. <i>(Response 4-3).</i>
If vehicles park on the West Side Road at overflow times or in order to avoid the Fee Pass, then they should be ticketed <i>(Comment 6-4).</i>	The West Side Road is not Forest Service jurisdiction; rather it is enforced by the Town of Conway <i>(Response 6-4).</i>
I do not feel that beyond this round of improvements there should be further expansion of this facility. Expansion here and at Lower Falls cannot go on forever <i>(Comment 6-3).</i>	Further expansion of this facility is not planned. Expansion of the parking lot has an associated action that includes ongoing discussions with the Town of Conway's in regard to designating this portion of West Side Road a no parking zone. The capacity should be managed through the capacity of the parking lot, and will do so more efficiently if the unlimited overflow capacity is eliminated along West Side Road <i>(Response 6-3).</i>
I support increasing the capacity of the parking lot without expanding its actual footprint <i>(Comment 1-2).</i>	The intent is to expand parking by reducing the center island. Expansion to the footprint is not proposed <i>(Response 1-2).</i>
Miscellaneous	
An alternative would be to place all solar panels on the toilet building (North of the trail) with a power line in a subsurface conduit under the trail to the trash compactor <i>(Comment 5-2).</i>	The proposed trash receptacle has a solar powered, automatic compactor. It does not require a power line, cords or trenching <i>(Response 5-2).</i>
The scoping letter makes no mention of bicycle racks in the Moat Trail parking area. Use of bicycles can reduce the pressures to expand the FS parking area, and reduce or eliminate the practice of parking on the shoulders of West Side Road <i>(Comment 5-3).</i>	At this time the Forest Service is not proposing to place bike racks at the Moat Mountain trail parking. Bikes, rather than cars, may reduce the number of cars at the parking lot. However, it is unlikely that the reduction of number of cars in favor of biking would be large enough to prevent overflow onto West Side Road or significantly reduce pressure on the Diana's Bath area <i>(Response 5-3).</i>
Include the power requirements of the toilets and trash compactor <i>(Comment 5-4).</i>	The trash compactor system runs on a 12-Volt battery, which is kept charged by the solar panel. The battery reserve lasts for a couple weeks without any sunlight. Even in winter, with short days and cold temperatures, the units require minimal sunlight. There is no power requirement for the toilet. <i>(Response 5-4).</i>
This site is not in compliance with the Federal Lands Recreation Enhancement Act (FLREA). I walked the Diana's Bath site and find that the site lacks a toilet, trash receptacle and a picnic table. I also saw no security services <i>(Comment 6-6).</i>	We are working towards compliance with FLREA. The site requires 6 items a trash receptacle and a toilet to be in compliance with FLREA. These include: <ol style="list-style-type: none"> <li>1. Designated developed parking*</li> <li>2. Permanent toilet facility*</li> </ol>

	<p>3. Permanent trash receptacle*</p> <p>4. Interpretive sign, exhibit, or kiosk*</p> <p>5. Picnic tables and</p> <p>6. Security services*</p> <p>This proposal addresses requirements 2 and 3.</p> <p>The picnic table stored at Diana’s Bath was stored for the winter and will be returned to the area for the high use season.</p> <p>The definition for security services as defined in the REA interim Implementation guides, 2005: Services provided by qualified agency personnel or officers (cooperative law enforcement personnel, hosts, volunteers, etc.) that occur on a frequent and routine basis at the site or area. The level of security services is commensurate with the use levels and changes with each season and through a Cooperative Law Enforcement agreement with Carroll County Sheriff’s Department (<i>Response 6-6</i>).</p>
<p>***Comments Received After the 30 Day Comment Period</p>	
<p>“We are very much against this project....Why do you need to keep paving and installing toilets, trash receptacles, etc. to attract more people. The carrying capacity of this site has already been reached and if you complete the project, it will soon be over capacity and you will once again try another expansion(Comment 8.1***).”</p>	<p>The Forest Service has no intention of expanding this site further. This proposal does not include paving; it includes the expansion of the parking lot by removing a portion of the center island.</p> <p>The purpose of this proposal is not to attract additional visitors, but rather to manage the number of visitors currently using the site, and to prevent further environmental and social impacts to the site.</p> <p>If the parking lot is expanded, and the road is made a no parking zone, numbers of visitors would be more limited than they are currently with the ability to use overflow parking (<i>Response 8.1***</i>).</p>
<p>The extra money collected will in no way begin to cover the extra costs of maintenance and certainly will not compensate for the extra damage to the environment done by all the extra people (Comment 8.2***).</p>	<p>The proposed toilet will prevent further environmental degradation associated with human waste and trash, and their potential impacts on water quality and wildlife.</p> <p>The proposed trash receptacle is designed to require less maintenance than an average trash can.</p> <p>This project is not designed to attract additional visitors, but rather will help foster a situation where limited parking will limit numbers of visitors (<i>Response 8.2***</i>).</p>

<p>“All these picturesque areas are now so popularized it is no longer a retreat type of situation. If you end up doing as proposed this site will have many more visitors... but the past few months have seen this area included in Yankee Magazine about “Water Falls in New England” and this is going to do a number on the falls along Glen Ellis River....(Comment 9.1***)</p>	<p>The Forest Service has no control in what is published in regard to private magazines. The purpose of this proposal is not to attract additional visitors, but rather to manage the number of visitors currently using the site, and to prevent further environmental and social impacts to the site. If the parking lot is expanded, and the Town of Conway designates the road a no parking zone, numbers of visitors would be more limited than they are currently with the ability to use the road as overflow parking.</p> <p>The toilet and trash receptacle will manage visitor waste, and will be designed to avoid attracting additional attention from West Side Road travelers that would not have traditionally visited this site (Response 9.1***).</p>
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