



United States
Department of
Agriculture

Forest
Service

White Mountain
National Forest

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File Code: 1950/5430

Date: November 14, 2008

Dear Planning Participant,

I would like to thank you for your participation in and/or comments on the planning and analysis for the Mittersill-Sentinel Mountain Land Exchange.

There has been active and substantive public participation throughout the project analysis. More than 30 letters were submitted during the comment period in response to the Environmental Assessment (EA). I have reviewed the comments, the analysis documents, and its associated project record. I have decided to implement the land exchange as described and analyzed as Alternative 1 in the EA. I am satisfied that this project can proceed with no significant environmental effects.

The enclosed Decision Memo and Finding of No Significant Impact provides details about my decision and my rationale and findings. These documents are also posted on our White Mountain National Forest web site: www.fs.fed.us/r9/forests/white_mountain/projects/projects/.

Thank you again for your interest in this project. We look forward to your continued interest and involvement in the management of the White Mountain National Forest.

Sincerely,

/s/ Keith Lannom (for)
THOMAS G. WAGNER
Forest Supervisor



White Mountain National Forest



United States
Department of
Agriculture

Forest
Service

Eastern
Region



Mittersill- Sentinel Mountain Land Exchange Decision Notice and Finding of No Significant Impact

Towns of Franconia & Piermont
Grafton County, NH

November 2008



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Introduction

This Decision Notice and Finding of No Significant Impact documents my decision and describes my rationale to select Alternative 1 for the Mittersill-Sentinel Mountain Land Exchange. It also documents my finding that this project will not have a significant impact on the quality of the human environment.

In accordance with Forest Service regulations and delegations of authority, as Forest Supervisor, I am the responsible official for this decision (R9R0 5400-2007-3, Section 5404.23(15)). During my career with the Forest Service, including my tenure on the White Mountain National Forest, I have made many decisions that include the balance of concerns and opportunities similar to those related to this project. I drew on this experience as I reviewed the Proposed Action and referred to the direction provided in the Forest Plan. In addition, in order to reach my decision, I have read and considered the Mittersill-Sentinel Mountain Land Exchange Environmental Assessment (EA) which documents the project analysis, its associated project record, and the extensive public participation process and public responses. The analysis, and my decision, relies heavily on the expertise of Forest Service staff who individually and collaboratively provided analysis, based on the best available science of the environmental, social, and economic effects of the project.

The Exchange and this Analysis

In 2007, the State of New Hampshire (State) Department of Resources and Economic Development (DRED) proposed to exchange approximately 100 acres of land known as “Mittersill” for all or a portion of Sentinel Mountain State Forest (Sentinel). Mittersill lies on federal land and is administered by the White Mountain National Forest (WMNF). Mittersill encompasses the upper portion of a now-dormant ski area and lies adjacent to Franconia State Park/Cannon Mountain Ski Area.

This exchange was considered under the authorities of the Forest Service Omnibus Act (Forest Service Omnibus Act of October 23, 1962 (76 Stat.1157;16 U.S.C. 555a)) and the National Trails System Act (National Trails System Act of October 2, 1968 (82 Stat. 922;16 U.S.C. 1246) and the Federal Land Policy and Management Act of October 21, 1976 (FLPMA) (90Stat. 2755 as amended; 43 U.S.C. 1701, 1715, 1716, 1717).

The purpose of the National Environmental Policy Act (NEPA) process is to help public officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (40 CFR 1500.1(c)).

The EA discloses the potential environmental effects of implementing this land exchange. It also provides supporting information for the preparation of this Finding of No Significant Impact (FONSI). The EA fulfills the requirements of NEPA and other relevant Federal and State laws, regulations and policies.

This Decision Notice tiers to the EA which was released for public comment on September 11, 2008. The exchange, as proposed by DRED, is described, in detail, as Alternative 1 in the EA. The EA also provides more detailed information regarding public comments on the exchange, as well as how the exchange relates to and complies with the White Mountain National Forest Land and Resources Management Plan (Forest Plan).

Description of the Exchange

The exchange, as proposed and as analyzed as Alternative 1, is described in the EA, Chapter 2, Alternatives Studied in Detail (p. 20).

The exchange involves two parcels of land, as described below.

National Forest System lands (Mittersill)

The federal parcel to be exchanged includes approximately 100 acres of National Forest System (NFS) land on a portion of the former Mittersill Ski Area located in the Town of Franconia, Grafton County, New Hampshire.

The portion of Mittersill that lies on National Forest System land includes elevations from 2,100 to 3,600 feet. Vegetation transitions from mid-elevation birch to high elevation spruce/fir/birch stands across steep, rugged terrain. The vegetation at the upper elevations is increasingly stunted and dense. At the upper-most sections of Mittersill and along the ridgeline to Cannon Mountain, vegetation is sparse and largely wind-swept, typical of a mountain top condition.

Mittersill includes a network of dormant trails that were cleared in the 1930's. Most of these remain in an open condition, with grasses and small shrubs and seedlings scattered across the trail openings.

The forested areas above 2,500 feet elevation are considered suitable northern range habitat for the Bicknell's thrush, a Region 9 Regional Forester Sensitive Species (Sensitive Species). As a part of the exchange proposal, DRED, NH Department of Fish and Game, NH Audubon, and the White Mountain National Forest have entered into a Memorandum of Understanding which describes and documents the parties' agreement for the maintenance of this habitat subsequent to the exchange (See EA, Attachments A and B).

Fieldwork indicates that mountain avens (*Geum peckii*), another Sensitive Species, occurs in the 2,500 elevation band across several ski trails. Mountain avens is a low-growing herbaceous plant in the rose family. It is a globally rare species that is nearly endemic to the White Mountains of New Hampshire. The WMNF contains over 90% of the world population of this species.

Mittersill borders Franconia State Park and the Cannon Mountain Ski Area (Cannon) which is owned and operated by the State. The 100-acre parcel includes existing ski trails that were cleared in the 1930's by the Civilian Conservation Corps and Franconia residents. The Taft Trail, between the top of Cannon Mountain and the top of Mittersill, is believed to be one of the first ski racing courses in the United States. The other trails encom-

passed in the proposed exchange were developed as the upper portion of the dormant Mittersill Ski Area; this portion of the former Mittersill ski area lies on National Forest System lands. The lower portion of the former Mittersill Ski Area trail network lies on State-owned land.

Mittersill was operated as a ski area beginning in the 1930's. By the late 1980's the Franconia Development Company (FDC) under permit and lease from the Forest Service and the State of New Hampshire, respectively, as well as on its privately held lands. FDC terminated the permit on National Forest System lands in 1989 and concurrently transferred ownership of the privately held, lower portions of Mittersill to the State of New Hampshire.

Remnant structures at Mittersill include seven lift towers, an off-loading ramp, lift shack and return wheel building and miscellaneous lumber. No other improvements are known to remain on site.

The uppermost section of the exchange lies approximately 200 feet southwest of and parallel to approximately 600 feet of the Taft Trail that traverses the ridgeline between the summits of Cannon Mountain and Mittersill. The proposed exchange includes an area approximately 200 feet wide and 600 feet long, or about three acres, of the uppermost section of the 11,158-acre Kinsman Inventoried Roadless Area (Forest Plan, p. C-101-108). The boundary configuration, which was proposed by the State, is designed to accommodate the existing network of serpentine ski trails while minimizing the number of boundary corners and maintaining a cost-effective property boundary.

The State plans to re-establish skiing on the existing network of historic trails within the Mittersill Ski Area (See EA, Map 1). The State's Master Development Plan for Cannon Ski Area includes plans to provide a remote, challenging backcountry skiing experience on the existing trails at Mittersill (Master Development Plan, Cannon Mountain Ski Area, as amended April 4, 2008).

State lands (Sentinel)

The exchange includes approximately 244 acres of State-owned land in the Sentinel Mountain State Forest in the Town of Piermont, New Hampshire (See EA, Map 2). Sentinel is located between two adjacent parcels of land currently administered by the US Forest Service in the Town of Piermont. Sentinel is characterized by moderately sloped terrain ranging from approximately 1,300 to 1,800 feet in elevation; vegetation is dominated by northern hardwood, mixedwood and softwoods stands.

A 0.25 mile section of the Appalachian National Scenic Trail (AT) crosses the southeast corner of Sentinel. This isolated section is one of the few sections of the AT in New Hampshire that is not currently administered by the US Forest Service. Sentinel is bisected by gravel-surfaced Cape Moonshine Road. It is bounded on the northeast and southwest by US lands and on the northwest and southeast by private lands.

Appraised Values

Concurrent with the environmental analysis, independent appraisals of the State and federal parcels have been finalized; the proposal intended to convey parcels of equal value. Mittersill was appraised at \$500,000 while the Sentinel Mountain State Forest was appraised at \$540,000. Both appraisals were completed to federal and state standards by certified appraisers and reviewed by certified review appraisers.

Project Purpose and Need

The Forest considered the exchange in response to the State's proposal and in consideration of the management direction established in the White Mountain National Forest Land and Resource Management Plan (Forest Plan). The Need for the Proposed Action, as identified by comparing the existing conditions with the desired conditions, is to:

- provide more efficient land ownership patterns and more cost-effective administration on NFS and State-owned lands,
- provide a broad range of available recreation opportunities, and
- acquire for federal ownership one of the remaining non-federal segments of AT, providing consistent ownership and management of a portion of the Trail.

Public Involvement

Scoping was conducted to inform the public of the proposed land exchange and to provide them an opportunity to raise any issues associated with the proposal. The Forest provided a 45-day scoping period. On January 25, 2008, a scoping notice was sent to approximately 1,077 people on the WMNF mailing list, landowners adjoining the subject parcels, and other potentially interested and/or affected individuals and groups. Concurrently, a legal notice, the Notice of Exchange Proposal, was published in the Newspaper of Record, *The New Hampshire Union Leader*, as well as the *Daily Courier*, and the *Valley News* once per week for four consecutive weeks. In addition, the proposal was published in the WMNF Schedule of Proposed Actions starting in January 2008 and posted at: <www.fs.fed.us/r9/forests/white_mountain/projects/projects>.

The scoping letter which was published on the Forest website and sent to all interested parties, including adjoining landowners at Mittersill and Sentinel, also provided the public ample opportunity to present comments about the project at its early stages of development.

Forest Service and State of New Hampshire Department of Resources and Economic Development (DRED) representatives have reviewed the Proposed Action with the Selectboards in the Towns of Piermont and Franconia. In response to an invitation from the Mittersill Chalet Owners Association, a presentation was made at the group's annual meeting on January 19, 2008. The proposal was also reviewed at a public hearing of the Cannon Mountain Advisory Commission on February 21, 2008 in

Franconia. The proposed land exchange was reviewed and discussed with National Park Service and Forest Service staff associated with coordination of management and administration of the Appalachian National Scenic Trail (See Project Record).

Concurrently, DRED, the State Department of Fish and Game, Cannon Mountain Ski Area management staff, the NH Audubon Society and WMNF representatives met to discuss the possibility of and details regarding an agreement for management of the suitable Bicknell's thrush habitat at Mittersill. These parties subsequently entered into a Memorandum of Understanding (MOU) for the protection of Bicknell's thrush habitat subsequent to an exchange. The fully executed MOU is included in the EA for public review (EA Attachments A and B).

The Forest Archaeologist has discussed the Proposed Action and this analysis with the staff of the NH Division of Historical Resources (DHR) which is the NH State Historic Preservation Office (SHPO). A Cultural Resource Reconnaissance Report (CRRR) #08-43 has been submitted in accordance with legal requirements under The National Historic Preservation Act (NHPA) and its Regulations.

Consultation also occurred with the US Fish and Wildlife Service on potential effects on federally listed threatened and endangered plants and animals.

News articles regarding the proposal's progress through the State's land exchange process appeared periodically over the last 18 months, keeping the project prominent in the public eye. A legal notice announcing the start of the 30 day comment period was published in the New Hampshire Union Leader on September 11, 2008. Electronic notices and copies of the EA were sent to everyone who responded to scoping as well as to other interested parties. The public submitted 28 letters, faxes, and phone calls during the comment period.

The public involvement actions described above meet the requirements for understanding public concerns, addressing these concerns through appropriate analysis and making a decision based on an environmental assessment. More importantly, the public involvement efforts and documentation assure me that the analysis process was open and provided ample opportunity to comment and to be heard.

Decision and Rationale

Based on my review of the EA, the project record, public comments, and my field reviews of both parcels, I have decided to select Alternative 1 for the Mittersill-Sentinel Mountain Land Exchange. My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

This alternative includes the State's proposal for exchange including mitigation to protect and monitor resources (Bicknell's thrush habitat) subsequent

to the exchange. Further, I have determined the assignment of Management Areas for the newly acquired federal lands; a corridor of 500 feet on either side of the AT, approximately 39 acres, will be designated as Appalachian National Scenic Trail, MA 8.3 and the balance of Sentinel, approximately 205 acres, will be designated as General Forest Management, MA 2.1 (See map, EA, p.15). (Descriptions of these MAs are found in the EA, p.14 and the Forest Plan, p. 3-45 through 3-53 and p. 3-3 through 3-8.)

Rationale

I referred to three levels of guidance in consideration of this proposal including agency-wide policy, Forest-level guidance, and site specific analysis as documented in the project EA.

Forest Service Policy and Direction

The exchange complies with the Forest Service direction which addresses land exchanges in support of efficient land management. "These exchanges adjust ownership patterns to support direction in forest land and resource management plans and to create efficient and effective ownership patterns (Forest Service Manual 5403.1)." FSH 5409.13_31.11.

Forest Plan

The WMNF Forest Plan further reflects agency policy and establishes guidance to acquire lands necessary to meet National Forest resource objectives and to dispose of National Forest lands that do not support Forest Service programs and do not contribute to efficient National Forest management, and to consolidate ownership and improve management efficiency Forest Plan (Forest Plan, p. 1-6) . Specifically, the Forest Plan establishes goals that include:

National Forest System lands will be consolidated through acquisition and exchange to facilitate restoration, protection, enhancement of public benefits, and improved management effectiveness. (Forest Plan, p. 1-6)

Forest Plan guidelines stipulate how a proposed exchange should be evaluated. Among the factors to consider:

- f) Acquisition, exchange, or interest in lands that will consolidate existing National Forest System lands, eliminate the need for right-of-way acquisition, provide access to existing NFS lands, or meet the goals and objectives of the management area surrounding the proposed acquisition or exchange (emphasis added).
- g) Land conveyances or exchange of lands no longer needed or suitable to meet the goals and objectives of a management area, and serve a greater public need in state, county, town or other federal agency ownerships (emphasis added). (Forest Plan, p. 2-9)

It is my judgment that agency guidance allows for improved efficiency through land exchanges and that the Forest Plan provides a firm foundation upon which to consider this exchange.

Environmental Assessment

The EA considers the project's relationship to the Forest Plan, site-specific direct, indirect and cumulative effects of the proposal and documents public participation and comments on the proposed project.

Mittersill

I considered the Forest Plan Management Areas (MAs) designation for Mittersill. The Forest Plan, recognizing the unique set of conditions at Mittersill, designated the area as Alpine Ski Area (MA 7.1) and Alpine Ski Area Expansion (MA 9.2). It is clear that the Forest Plan envisioned the expansion of alpine ski area activities onto Mittersill. While it did not specify how this expansion would be accomplished, the Plan's guidance regarding land exchanges provides the latitude to consider this exchange in order to implement this expansion and further supports my decision to select Alternative 1. Transferring ownership of Mittersill to the State will provide for expansion of safe and efficient operation of winter recreation opportunities along the trails of the former ski area.

In reviewing the EA, I paid particular attention to the Forest Plan's guidance regarding the maintenance of habitat for the Bicknell's thrush habitat. The MOU between DRED, NH State Fish and Game, NH Audubon, and the WMNF documents a unique cooperative mission between a federal agency, two state agencies, and a non-governmental organization. The MOU documents the State's intention to prioritize the maintenance of this important habitat and its willingness to fund its monitoring for extent and effectiveness. In addition, NH Audubon provides resource expertise and skills for independent evaluation of habitat and condition as well as the ability to provide public access to the results of Audubon's monitoring. I strongly support the MOU, its signing partners and its spirit and intent of cooperation for resource protection. The discussion, agreements, and collaboration for common objectives that are reflected in the MOU are an important consideration in my decision to implement Alternative 1.

Sentinel

Federal acquisition of Sentinel will consolidate ownership of the AT corridor, connecting segments of the trail on adjacent NFS lands. Based on the analysis provided in the EA, I have determined that there is a net public benefit to the acquisition of the Sentinel portion of the AT as well as federal management of the balance of the State Forest.

My decision to implement Alternative 1 also includes my decision to assign MA designations for the lands to be acquired as described in Alternative 1. I have determined that the designation of a corridor of 500 feet from the trail tread will provide adequate protection of the AT. This area will be designated as Appalachian Scenic Trail, MA 8.3. In this MA, the 500 foot corridor will take advantage of topography and vegetation; natural site conditions will preclude intrusions that would adversely affect the resource values or recreation experiences for which the AT was designated.

I have decided to assign the balance of Sentinel to General Forest Management, MA 2.1. This designation most accurately reflects the State's current

management objectives and continues an emphasis on multiple resource management including sustainable forestry. The economic effects of this federal acquisition, in both the short and long term, were part of my decision. Based on the analysis provided in the EA, I have determined that the economic effects of this exchange will result in a negligible change in revenue to the Town of Piermont or to local employment opportunities (EA, p. 39-42). These management area designations rely on the interdisciplinary analysis provided in the EA.

Based on the analysis in EA Section 3.3, Alternative 1 provides for efficient and effective ownership and administration of both federal and state lands. It is my determination that:

- the public will enjoy the benefits of increased efficiency through the State's demonstrated ability and capacity to implement the expansion of alpine ski activities at Mittersill,
- resource protection at Mittersill will be assured in part through the partnership documented in the MOU (EA, Attachment A and B),
- the AT will be more effectively managed under consolidated ownership in and around Sentinel and
- multiple use objectives, including sustainable forestry, in the balance of Sentinel will continue to positively affect social and economic concerns in the Town of Piermont.

Cash Equalization

Alternative 1 is a value for value land exchange. Approximately 100 acres of National Forest System lands at Mittersill, valued at \$500,000. will be exchanged for approximately 244 acres of State-owned lands, which are valued at \$540,000. The disparity of values will be equalized by a cash payment to the State of New Hampshire.

The discrepancy of the appraised values of the two parcels is within less than 10% of the value of the federal parcel. If the State parcel were reduced in size to precisely equal the value of the federal parcel, an impractically small portion of Sentinel would remain in State ownership. This portion, representing less than approximately 18 acres, could not be effectively managed for the multiple objectives that the State prescribes for its lands because of the remnant parcel's small size and isolation from other state lands.

As stated in the EA, (p. 17), the WMNF may equalize the exchange through a cash payment to the State and, in so doing, acquire the entire State Forest. I have decided to provide cash equalization for the small remainder of the State lands. The federal government will provide \$40,000 to the State for the balance of the acquisition; the entire Sentinel State Forest, including the 0.25 miles of the Appalachian National Scenic Trail (AT), will be exchanged for Mittersill.

Inventoried Roadless Areas

I also considered a public comment regarding the maintenance of wilderness characteristics in a 3-acre portion of the Kinsman roadless area. Based on the analysis provided in Chapter 3 of the EA, I have concluded that the implementation of Alternative 1 will transfer ownership of less than 0.001 percent of the Kinsman roadless area (EA, p. 23-24 and 74-75). The exchange will not significantly or adversely affect the wilderness characteristics of this section of windswept ridgetop, nor adversely affect the balance of the Kinsman roadless area. I have considered in my decision the location, configuration, size and context of the affected portion of the roadless area as well as the additional protection these three acres are afforded by the MOU.

Alternative Considered but not Selected

Alternative 2 - No Action

This alternative was developed to meet the National Environmental Policy Act requirement to consider the effects of taking no action. The No Action alternative serves as a baseline for evaluating effects of the action alternatives. Under this alternative, custodial resource protection such as law enforcement would be the only management occurring in the project area. Enhancement of winter recreation opportunities would not occur on Mittersill at this time. Unauthorized cutting of vegetation would continue to present challenges for law enforcement and, concurrently, the abandoned ski trails would eventually become fully revegetated, precluding skiing on Mittersill.

Under Alternative 2, Sentinel, and the included segment of the AT, would remain in State ownership and management would continue to meet State management objectives. Opportunities for more efficient management and administration of the AT would be foregone.

I did not select Alternative 2 because it does not meet any portion of the Purpose of or Need for Action for this project. This alternative fails to take advantage of opportunities for efficient or effective management of either Mittersill or the Sentinel portion of the AT and fails to provide a net public benefit from the perspective of efficient administration or resource management and protection. Finally, from another perspective, no serious natural resource concerns were identified in Alternative 1 that caused me to give any additional consideration to the No Action alternative.

Direct Purchase of Sentinel Mountain State Forest

The State did not offer or express interest in the direct sale of its State Forest. Sentinel is not available for direct purchase. The State has offered it in exchange only as part of an effort to accomplish its acquisition of Mittersill. Further, federal funds are not prioritized for the purchase of Sentinel; this alternative was not fully developed because it is not feasible for implementation immediately or in the foreseeable future.

For other alternatives considered but not analyzed in detail, see EA, p. 21 through 24.

Consideration of Public Comments

My decision also considers public input received during the scoping period as well as public comments received in response to the EA. Scoping comments reflected opportunities and concerns previously identified by the Project's Interdisciplinary Team. These concerns and opportunities were addressed and documented in the EA. No new issues were identified by the public (EA p 18-19 and Appendix A). The preponderance of comments received during the 30 Day Comment Period were supportive of my preference for Alternative 1. These comments reiterated the public's perspective of the benefits of the exchange. One letter of response was more general in nature, critical of a wide range of federal actions and policies, most unrelated to this project. One commenter reiterated concerns that had been fully addressed in the EA.

How Issues Were Identified

The EA provides a detailed description of the identification of issues (EA, p. 19). While the public submitted several concerns and support for the proposed action, neither the public nor the Interdisciplinary Team identified any issues that precipitated development and detailed analysis of any additional alternatives beyond those described in the EA.

This exchange is an administrative action and was carefully refined by the proponent prior to project initiation. As is common with highly refined land exchange proposals, all potential issues have been either resolved or addressed through mitigation included in the Proposed Action.

Concerns identified by the public and Forest Service specialists were used to assure that the analysis of effects contained in Chapter 3 of the EA fully addressed the resource areas that are important to people. Examples of topics of concern which refined the analysis include:

- Recreation opportunities and safety
- Efficient land management and administration
- Wildlife
- Vegetation
- Invasive plants
- Heritage resources
- Soils and wetlands
- Roadless areas
- Environmental justice

I have determined that Chapter 3 of the EA adequately describes the full range of effects expected to result from the proposed action and other alternative considered. I have also determined that standards and guidelines contained in Chapters 2 and 3 of the Forest Plan adequately address all the issues that have been identified.

Findings Required By Other Laws and Regulations

Numerous laws, regulations and agency directives require that my decision be consistent with their provisions. I have determined that my decision meets these requirements. The following summarizes findings that are required by major environmental laws:

National Forest Management Act Compliance

The National Forest Management Act and accompanying regulations require documentation of several specific findings at the project level. These are:

1. Consistency with the Forest Plan – I have reviewed this proposal with regard to its consistency with the Forest Plan. As described in further detail in the EA, Mittersill is designated as Alpine Ski Area and Alpine Ski Area Expansion, MA 7.1 and 9.2 respectively. I have also reviewed the Forest Plan with regard to consideration of land adjustments, including exchanges. I have determined that the purpose of this exchange and my decision are consistent with the Forest Plan. The Mittersill-Sentinel Mountain Land Exchange is consistent with the White Mountain National Forest Land and Resource Management Plan. As required by NFMA Section 1604(i), I find this project to be consistent with the Plan.
2. Lands Suitable for Timber Harvesting – This project is an administrative decision regarding land ownership and does not authorize timber harvesting on suitable lands. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands.
3. Appropriateness of Even-aged Timber Management – This project is an administrative decision regarding land ownership and does not authorize vegetation management. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands.
4. Optimality of Clearcutting – This project is an administrative decision regarding land ownership and does not authorize vegetation management. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands.
5. Other Requirements for Vegetative Manipulation Including Assurance of Re-stocking – The National Forest Management Act includes specific requirements for manipulation of tree cover carried out as part of implementing Forest Plans on National Forest land. My decision to select Alternative 1 is an administrative decision regarding land ownership and does not authorize vegetation management. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands.
 - a. *The prescription is best suited to the multiple-use goals established in the Forest Plan for this area and considers the potential environmental, biological, cultural, scenic, engineering, and economic impacts as stated*

the White Mountain National Forest Plan. I find that the EA demonstrates that Alternative 1 is consistent with the multiple use goals and objectives stated in the Forest Plan.

- b. *The prescription assures that lands can be adequately restocked except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices.* My decision to select Alternative 1 is an administrative decision regarding land ownership and does not authorize vegetation management. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands.
- c. *Alternative 1 is not chosen because it would give the greatest dollar return or the greatest output of timber.* I have selected Alternative 1 for this project for reasons stated in the Decision and Rationale section of this document, which do not include either of these reasons.
- d. *The prescription should be chosen after considering potential effects on residual trees and adjacent stands.* My decision to select Alternative 1 is an administrative decision regarding land ownership and does not authorize vegetation management. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands.
- e. *The prescription maintains site productivity and ensures conservation of soil and water resources.* My decision to select Alternative 1 is an administrative decision regarding land ownership and does not affect soil or water resources. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands. Subsequent project design will ensure the application of Forest Plan standards and guidelines that will prevent soil compaction, erosion and sediment delivery to streams, and will conserve water on federal lands.
- f. *The prescription provides the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation uses, scenery, and other resources.* My decision to select Alternative 1 is an administrative decision regarding land ownership and does not authorize land management activities on federally acquired lands.
- g. *The prescription is practical in terms of transportation and harvesting requirements and total costs of preparation, logging, and administration.* My decision to select Alternative 1 is an administrative decision regarding land ownership and does not authorize land management activities. Subsequent site and project-specific analysis will consider land management activities on federally acquired lands. My decision does take into consideration the efficient and cost effective management of National Forest System lands as described in the EA; this decision does provide for effective and practical land management and administration.

Endangered Species Act Compliance

The Forest Biologist completed a Biological Evaluation of the potential effects to Threatened, Endangered, Proposed and Sensitive species for the land exchange. The Wildlife section in Chapter 3 of the EA details how various surveys, field reviews, and other information were used to determine the potential for any of these species or their habitat to occur here. A determination of the effects of Alternative 1 (the Proposed Action) on species with potential habitat in the area is explained in the Biological Evaluation and EA as follows:

Federally listed species

- **Canada lynx** (Threatened): may affect but would not likely adversely affect individual Canada lynx or associated habitat. Lynx are unlikely to occur in the project area, the loss of 100 acres of suitable habitat at Mittersill would be effectively negated by a 4-party Memorandum of Understanding (MOU) to protect high elevation habitat, and human disturbance is expected to slightly increase or remain similar to current conditions.

Regional Forester Sensitive species

- **Eastern small-footed bat:** no impact. *Potential habitat at Mittersill is not very suitable and unlikely to be used compared to much higher quality habitat nearby.* Bats would only be present during the summer, when human use is expected to remain similar to current conditions (unlikely for disturbance to occur). Quality and availability of foraging habitat would remain unchanged. Proposed activities would not contribute to any negative future impacts that might result from white-nose syndrome.
- **Northern bog lemming:** *may impact individuals, but would not likely cause a trend toward Federal listing or loss of viability to the population or species.* Suitable habitat for this species at Mittersill is minimal and of low quality. Effects from snow compaction would not be substantially more than what currently exists.
- **Bicknell's thrush:** *may impact individuals, but would not likely cause a trend toward Federal listing or loss of viability to the population or species.* Bicknell's thrush was located during summer surveys of Mittersill (this species would not be present during the winter). An MOU would protect existing habitat and minimize human disturbance effects (See EA, Attachment A and B).
- **American peregrine falcon:** *may impact individuals, but would not likely cause a trend to federal listing or loss of viability.* There are no active or historic nest sites in the project area, although one exists nearby. Peregrine falcons would not be present during the winter. Suitable foraging habitat exists at Mittersill, but human disturbance effects are expected to be low during the summer.
- **Broad-leaved twayblade and Heartleaf twayblade, northern comandra, and mountain avens:** *may impact individuals, but would not likely cause a trend toward federal listing or loss of viability.* Suitable habitat exists

at Mittersill, but was searched by the Forest Botanist. The MOU will provide some protection for these species at higher elevations, and state law would provide protection for these species.

Migratory Bird Treaty Act

Implementation of Alternative 1 complies with Executive Order 13186, dated January 10, 2001, which governs the responsibilities of Federal agencies to protect migratory birds. The original Act of 1918 was passed to regulate the hunting of migratory birds and the sale of their parts.

National Environmental Policy Act

The Mittersill-Sentinel Mountain Land Exchange environmental analysis was conducted following the procedures and requirements contained in this Act. The documentation of the analysis in the environmental assessment and this Decision Notice also comply with the Act's requirements.

Executive Order 11990 (wetlands) and 11988 (floodplains)

Alternative 1 is an administrative action and is in compliance with these orders; wetlands and floodplains would not be adversely affected by the implementation of Alternative 1. Mittersill does not contain wetlands; no wetlands would leave federal ownership. Sentinel contains 12 acres of red maple wetlands resulting in the federal acquisition of an additional 12 acres of wetlands.

Executive Order 12898, Environmental Justice

Based on demographic information for the Towns of Franconia and Piermont, implementation of Alternative 1 will not cause disproportionate human health or environmental effects to any segment of the population.

Clean Water Act

This is a decision regarding an administrative action. No ground disturbing activities are authorized by this decision; there are no effects to water or its beneficial uses. The beneficial uses of water in streams draining Sentinel would be maintained during and following the implementation of Alternative 1.

Clean Air Act

This is a decision regarding an administrative action. No ground disturbing activities or effects on air quality are authorized by this decision; there are no effects to air quality. The EA determined that National Ambient Air Quality Standards are not likely to be exceeded by the decision to implement the administrative action in Alternative 1.

National Historic Preservation Act

A Cultural Resource Reconnaissance Report was completed for the project area based on field surveys and a review of historic maps and literature.

The Richard Taft Ski Trail is the only inventoried cultural site within the federal parcel to be exchanged. This site was noted on the inventory; the State Historic Preservation Office will be charged with protection following the implementation of Alternative 1. The cultural resource report and protection measures have been approved by the New Hampshire State Historic Preservation Office. Alternative 1 complies with this Act.

Wild and Scenic Rivers Act

The administrative action implemented in Alternative 1 will not affect any designated or eligible rivers under the Wild and Scenic Rivers Act.

Finding of No Significant Impact for the Mittersill-Sentinel Mountain Land Exchange

Findings

Based on my review of the analysis and documentation for this project, I have determined that the activities included in Alternative 1 do not represent a major federal action, individually or cumulatively, and will not have a significant affect on the quality of the human environment. Therefore, preparation of an environmental impact statement is not required. This finding is based on the context and intensity of the actions explained as follows:

1. **Context:** Activities conducted as part of Alternative 1, the selected course of action, would not have significant effects when considered in the context of similar projects on the White Mountain National Forest. My decision includes the administrative action of land exchange and cash equalization of 100 acres of federal land and 244 acres of non-federal lands. I have reviewed the cumulative effects of past management, combined with this project and reasonably foreseeable future actions as they are analyzed in Chapter 3 of the EA and feel that the context of this decision is localized. My decision to select Alternative 1 is consistent with the direction outlined for Alpine Ski Area (MA 7.1) and Alpine Ski Area Expansion (MA 9.2) in the Forest Plan and with the Forest Plan Environmental Impact Statement that considered the effects of this type of land ownership change.
2. **Intensity:** Intensity is a measure of the severity, extent or quantity of effects and is based on a determination using the following ten factors:
 - a. *Consideration of both beneficial and adverse impacts.* Both beneficial and adverse impacts from implementing Alternative 1 are considered in Chapter 3 of the EA. My finding of no significant impact is not biased or weighted by the beneficial effects of the alternative. In other words, I did not ignore or trivialize negative effects by “offsetting” them with beneficial effects. The EA demonstrates that the adverse effects are not directly, indirectly, or cumulatively significant.
 - b. *Consideration of effects on public health or safety.* Alternative 1 is an administrative action and does not contain actions that would be expected to create public health or safety risks. This project does not involve national defense or security, herbicide application, prescribed fire, or timber harvest.
 - c. *Consideration of unique physical or biological characteristics of the geographic area.* No historic or cultural resources would be adversely affected by Alternative 1. There are no parklands, prime farmland, eligible Wild and Scenic Rivers, or ecologically critical areas that would be adversely affected in the geographic area. Small wetland areas within Sentinel will be acquired as federal lands and will be

subsequently protected by the application of Forest Plan standards and guidelines. The selected alternative will not violate standards set for Outstanding Resource Waters for New Hampshire nor is it expected to adversely affect Threatened, Endangered, Proposed or Sensitive species.

- d. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Controversy in this circumstance refers to situations where there is substantial dispute within the scientific community with regard to the effects of a federal action. Consultation with the New Hampshire Department of Fish and Game and the State Historic Preservation Office did not generate any scientific controversy regarding the effects of Alternative 1 on the physical or biological environment. Past and ongoing research at the nearby Hubbard Brook and Bartlett Experimental Forests reinforces the scientific validity of proposed actions and analysis of their predicted effects. Based on these factors and the analysis provided by Forest Service resource specialists and documented in the environmental assessment, I have concluded that the effects on the quality of the human environment are not controversial.
- e. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The Interdisciplinary Team and I have considerable on-the-ground experience on the White Mountain National Forest with the types of activities to be implemented in Alternative 1. The analysis of effects in Chapter 3 of the EA shows the effects are predictable, and do not involve unique or unknown risk. The range of site characteristics is similar to those taken into consideration and disclosed in Chapter 3 of the Forest Plan Final Environmental Impact Statement, and the predicted effects of this project are within the range anticipated in this chapter and the Record of Decision. The body of knowledge gained through years of land management decisions, monitoring reviews, wildlife surveys and applied research provides me with a basis for determining that there will be no highly uncertain effects or unique or unknown risks associated with this project.
- f. *The degree to which the action may establish a precedent for future actions with significant effects, or represents a decision in principal about a future consideration.* This is not a precedent setting decision. Similar land acquisitions and exchanges have occurred previously across the White Mountain National Forest. As was previously stated, the effects of implementing Alternative 1 are within the range of effects of these other similar actions and within the range of effects disclosed in the Forest Plan Final Environmental Impact Statement. All actions are wholly consistent with the Forest Plan, and therefore this is not a decision in principal. This decision does not commit me to actions that may have significant effects on lands outside the project area. I have determined that this action does not establish precedence for future actions with unknown adverse impacts.

- g. *Whether the action is related to other actions with individually insignificant but cumulative significant effects.* Chapter 3 of the EA analyzes the combined effects of this project with other past, present, and reasonably foreseeable future actions. None of the actions included in Alternative 1 would create an unacceptable or significant impact alone or when considered with other actions. Based on the analysis in the environmental assessment and the Forest Plan Final Environmental Impact Statement, I have determined that there are no cumulative significant impacts.
- h. *Consideration of effects to sites listed or eligible for listing in the National Register of Historic Places, or loss of significant scientific, cultural, or historic resources.* A cultural resource inventory of Mittersill was completed. The Richard Taft Ski Trail is the only inventoried cultural site within the federal parcel to be exchanged. This site was noted on the inventory; the State Historic Preservation Office will be charged with protection following the implementation of Alternative 1. The findings and recommendations from the inventory were submitted to the New Hampshire State Historic Preservation Office and we received their concurrence. I have determined that no adverse impacts will occur as a result of this project.
- i. *The degree to which the action may affect an endangered species or their critical habitat.* Compliance with the Endangered Species Act and protection of species and their habitat are described in Biological Evaluation and in the Wildlife section of Chapter 3 in the EA and summarized in the section of the Decision Notice titled Findings Required by Other Laws and Regulations – Endangered Species Act. Both of these references document the determination that Alternative 1 will have no affect on federally listed endangered species, or its critical habitat.
- j. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.* All applicable laws for the protection of the environment are incorporated into the standards and guidelines in the White Mountain National Forest Plan. Alternative 1 complies with the Forest Plan. A further description of the project’s compliance with applicable laws occurs in the Decision Notice section of this document, above. I have found that none of the actions included in Alternative 1 threatens to violate applicable Federal, State, or local laws.

Project Appeal Rights and Implementation

This decision is subject to appeal in accordance with 36 CFR 215. A person has standing to file an appeal only if they submitted a comment or expressed interest during the 30-day Comment Period (36 CFR 215.11(a)). 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. Appeals must be filed within 45 days of the date of legal notice of this decision in the *New Hampshire Union Leader*, Manchester, New Hampshire. The Notice of Appeal must be sent to:

Appeals Deciding Officer Kent Connaughton
ATTN: Appeals and Litigation
USDA Forest Service, Eastern Region
626 East Wisconsin Avenue,
Milwaukee, WI 53202
414-944-3963 (FAX)

Or via email at: <appeals-eastern-regional-office@fs.fed.us> (e-mail in Microsoft compatible format or .pdf)

The office hours for those submitting hand-delivered appeals are: 7:30am-4:00 pm (Central Time), Monday through Friday, excluding holidays. 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 runs out 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 *New Hampshire 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 Susan Mathison at the Pemigewasset Ranger Station at 603-536-1315 for the publication date.

Appeals must meet the content requirements of 36 CFR 215.14. At a minimum, an appeal must include the following: Appellant's name and address, with a telephone number, if available; Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal); 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; 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; 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)); any specific change(s) in the decision that the appellant seeks and rationale for those changes; any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement; why the appellant believes the Responsible Official's decision failed

to consider the submitted comments; and 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 Pemigewasset Ranger Station, 1171 NH Route 175, Holderness, NH 03245. It is also posted on the White Mountain National Forest web page <www.fs.fed.us/r9/forests/white_mountain>. Questions regarding the EA, this decision, or the Forest Service appeal process should be directed to Susan Mathison at the Pemigewasset Ranger Station, (phone: 603-536-1315, extension 4014).

My office is located at 719 Main Street, Laconia, NH 03246. My phone number is (603) 528-8774; my fax number is (603) 528-8783.

If no appeal is received, implementation of this decision may occur on, but not before five 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.

Responsible Official's Signature



November 13, 2008

THOMAS G. WAGNER

DATE

Forest Supervisor

White Mountain National Forest

