

Decision Memo
Timberline Four Seasons Resort Management Company, Inc.
Permit Amendment – Time Extension Winter 2008/2009

USDA Forest Service, Eastern Region
Cheat Potomac Ranger District, Monongahela National Forest
Tucker County, West Virginia

I. Decision To Be Implemented

A. Description of Decision

I have decided to amend Special Use Permit (SUP) #POT404902 currently held by Timberline Four Seasons Resort Management Company, Inc. (Timberline). The amendment will extend the expiration date of the current SUP extension from October 31, 2008 to April 6, 2009.

B. Purpose and Need

The Monongahela National Forest (MNF) is currently working with Timberline to develop a new 10-year SUP. However, the process required for authorizing a new 10-year SUP can not be completed in time to allow use of areas on National Forest System (NFS) lands during the 2008-2009 winter ski season.

Before the MNF can issue a new 10-year SUP, the MNF must complete formal Endangered Species Act (ESA) consultation with the USDI Fish and Wildlife Service (FWS) over potential impacts to the Cheat Mountain salamander, which is listed as threatened under the ESA. This is a lengthy process that could not be completed in the timeframe between when Timberline applied for a new SUP and when their current SUP will expire.

Salamander Run, a portion of which is located on NFS lands, is an important component of Timberline's winter ski program. If the MNF did not extend Timberline's SUP, Timberline would not be able to keep the run open for the 2008-2009 winter ski season. This could have a negative economic impact on Timberline because Salamander Run is important in attracting beginning skiers. Workers at the resort and area businesses that depend on the ski industry could also be impacted. This could affect the MNF's ability to work constructively with local communities.

C. Project Description

The SUP amendment covers use of the portion of Salamander Run, a portion of an abandoned road formerly known as Forest Road 80 (FR80), and the connector trail between them that are located on NFS lands. The amendment only extends the expiration date of the

SUP five months; it does not authorize additional activities or locations. Authorized activities include snow-making, snow grooming, skiing, hiking, and maintenance as needed.

II. Reasons for Categorically Excluding the Decision

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.12 or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

I have concluded this decision is appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment as it is a routine activity within a category of exclusion, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment. My conclusion is based on information presented in this document and the entirety of the project file.

A. Category of Exclusion

This decision is categorically excluded because it is within the category of exclusion identified in Forest Service Handbook (FSH) 1909.15, Chapter 30, Section 31.12(8):

“Approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands.”

This decision is a continuation of an existing SUP. It extends the SUP by five months.

B. Relationship to Extraordinary Circumstances

The extraordinary circumstances have been reviewed and are summarized below. Additional details are contained within the project record, the draft Environmental Assessment (MNF, May 7, 2008), and the draft Biological Opinion (FWS, October 26, 2008). Therefore, I find that no extraordinary circumstances exist.

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

a. Aquatic Wildlife: (Draft Timberline EA, 2008):

There are no federally listed or proposed threatened or endangered aquatic species or designated or proposed critical habitat in the area. Therefore, there will be no impact to any federally listed or proposed threatened or endangered species or critical habitat.

Two sensitive fish species can be found downstream of the project area.

- Pearl dace (*Margariscus margarita*) have previously been documented in Red Creek at locations no closer than approximately 5 stream miles from the project area. Extension of the SUP and continuation of winter activities on NFS lands for an additional five months will have no direct, indirect, or cumulative impacts on pearl dace.
- Redside dace (*Clinostomus elongatus*) have historically been documented in the Blackwater River no closer than 2 stream miles from the project area. Extension of the SUP and continuation of winter activities on NFS lands for an additional five months will have no direct or indirect effects on reidside dace. Because reidside dace potentially occur within the cumulative effects area for this project, a conservative determination was made that the project may impact individuals, but is not likely to cause a trend to federal listing or a loss of viability.

The extension of the SUP and the continuation of winter activities on NFS lands for an additional five months are not expected to result in any additional impacts to sensitive aquatic species.

b. Terrestrial Wildlife: (Draft Timberline EA, 2008; Timberline Biological Assessment & Evaluation, 2008; Draft Timberline Biological Opinion, 2008)

Three federally listed terrestrial species are known to occur within the MNF.

The project area is not expected to provide habitat for the two bat species, and there are no known occurrences of these species within or near the area affected by the project. Therefore, the project should have no effect on them.

- Virginia Big-Eared Bat (*Corynorhinus townsendii virginianus*). The project area falls outside of any identified Virginia big-eared bat foraging range, as it is over 7 miles to the nearest known Virginia big-eared bat hibernacula. There would be no trees cut; therefore, there would be no effects to Virginia big-eared bats or primary habitat.
- Indiana Bat (*Myotis sodalis*). The project area falls outside of any Indiana bat primary range, as it is over 10 miles to the nearest known Indiana bat hibernacula. Likewise, no maternity sites occur in this area, the closest known site being over 10 miles away. There would be no trees harvested; therefore, there would be no effects to Indiana bats.

The third federally listed terrestrial species is known to occur within the project area, and may be impacted.

- Cheat Mountain salamander (*Plethodon nettingi*). During the winter, Cheat Mountain salamanders are well below the ground surface. Therefore, there will be no direct effects to salamanders from downhill or cross-country skiing, or the associated slope grooming activities. Indirect effects from snow-making are unknown, but are being monitored. Indirect effects from the maintenance of Salamander Run continue to alter the landscape in the project area.

With the exception of the species addressed below, the project area is not expected to contain individuals or habitat for sensitive species. Therefore, no impacts to those sensitive species are expected as a result of direct, indirect, or cumulative effects associated with this project.

- Southern rock vole (*Microtus chrotorrhinus carolinensis*) and Allegheny woodrat (*Neotoma magister*). There are no known populations of these species in the project area. The adjacent wooded land on both Timberline and the MNF, however, is considered potential habitat for both. There will be no direct effects to salamanders from downhill or cross-country skiing, snow-making, or associated slope grooming activities. Indirect effects due to the potential effects of Snomax® (which is used in making snow) on vegetation would be discountable.
- Timber rattlesnake (*Crotalus horridus*). There have been no recorded observations of this species on the ski slope itself, but the project area does provide suitable habitat in the form of basking and hunting areas. There will be no effects to this species because it hibernates during the winter.

The extension of the SUP and the continuation of winter activities on NFS lands for an additional five months are not expected to result in any additional impacts to sensitive wildlife species.

c. Botany: (Draft Timberline EA, 2008; Timberline Biological Assessment & Evaluation, 2008)

Four federally listed plant species are known to occur within the MNF; however, the project area is not expected to provide habitat for these species, and there are no known occurrences of these species within or near the area to be affected by the project. Therefore, the proposed project should have no effect on or is not likely to adversely affect them.

- Small Whorled Pogonia (*Isotria medeoloides*)
- Running Buffalo Clover (*Trifolium stoloniferum*)
- Shale Barren Rock Cress (*Arabis serotina*)
- Virginia Spirea (*Spiraea virginiana*)

The extension of the SUP and the continuation of winter activities on NFS lands for an additional five months are not expected to result in any additional impacts to sensitive plant species. Any sensitive plants that might have been in the project area in the past have already been disturbed, and no additional disturbance outside the existing footprint will take place.

2. Floodplains, Wetlands, or Municipal Watersheds

- a. Floodplains: Floodplains within the area are believed to be nearly non-existent because of the headwater locations of the activities on NFS lands. There will be no impacts to floodplains.
- b. Wetlands: The FWS National Wetlands Inventory does not identify any wetlands in the activity area. There will be no impacts to wetlands.
- c. Municipal Watersheds: There will be no impacts to municipal watersheds because none exist within the activity area.

3. Congressionally Designated Areas, such as wilderness, wilderness study areas, or national recreation areas.

- a. Wilderness: There are no congressionally designated wilderness areas within the project area. Dolly Sods Wilderness and a potential wilderness area - Dolly Sods North - are located adjacent to Timberline. Snow grooming machines, over snow machines, and snowmaking guns are used on Salamander Run and on other trails on private land. These all make noise that can impact solitude (Draft Timberline EA, 2008). However, the elimination of these activities on approximately five acres of NFS lands is not likely to make a noticeable difference in quality of solitude because of the continuation of these activities on adjacent private land. People can access the wilderness through Timberline, private, and NFS lands. Extending the SUP by five months is not expected to change the amount or type of this use.
- b. Wilderness Study Areas: There are no Wilderness Study Areas within the project area and none that will be affected by this decision.
- c. National Recreation Areas: There are no National Recreational Areas within or adjacent to the project area and none that will be affected by this decision.

4. Inventoried Roadless Areas

There are no inventoried roadless areas within the project area, and none that will be affected by this decision.

5. Research Natural Areas

There are no Research Natural Areas on the forest. Therefore, none would be affected.

6. American Indian and Alaska Native Religious or Cultural Sites

There are no tribal trust or ceded lands in the proclamation boundary or in West Virginia. There are no federally recognized Indian tribes in West Virginia. Therefore, there will be no impacts to any American Indian or Alaska Native religious or cultural sites as a result of this decision. (Project File, Heritage report)

7. Archaeological Sites, or Historic Properties or Areas

This decision will not result in any effects to any historical or cultural sites. (Project File, Heritage report)

8. Other Extraordinary Circumstances

No other extraordinary circumstances related to this project were identified.

III. Public Involvement

Public input on issuing a 10-year SUP for proposed Timberline activities was solicited from the general public, Forest Service employees, other public agencies, and organizations. The activities being authorized in this Decision Memo are a sub-set of the activities that have been presented to the public and that would be authorized in a 10-year permit (i.e. the winter season activities, but not the spring, summer, and fall activities). The public has had the opportunity to comment on the activities being authorized by this Decision Memo. Public involvement was sought through various means:

- 1) On October 1, 2007, scoping began with the inclusion of a proposal to issue another 10-year permit to allow Timberline to continue their activities on NFS lands in the Monongahela Schedule of Proposed Actions (SOPA). The SOPA is a publication that is mailed to over 140 individuals and organizations and is posted on the Monongahela National Forest's website at www.fs.fed.us/sopa/forest-level.php?110921 . The project has been listed in each subsequent issue of the SOPA.
- 2) On January 29, 2008, legal notices were published in *The Grant County Press* and *The Elkins Inter-Mountain* requesting input. These legal notices gave a summary of the purpose and need and proposed action, and described how to get additional information and how to provide input.
- 3) On January 29, 2008, a scoping letter requesting input was sent to interested parties. This scoping letter summarized the purpose and need for action, the proposed action, and described various ways to get additional information and how to provide input.
- 4) On January 31, 2008, the proposal and request for input were posted for public review on the Monongahela National Forest's website at www.fs.fed.us/r9/mnf/environmental/proposed_projects/ .

- 5) On May 7, 2008, legal notices were published in *The Elkins Inter-Mountain* and *The Parsons Advocate* announcing the start of the 30-day Notice and Comment period and the availability of the draft EA.
- 6) On May 7, 2008, almost 100 letters and e-mails were sent to interested parties. These letters and e-mails announced the start of the 30-day Notice and Comment period, the availability of the draft EA, and how to provide comments.
- 7) On May 9, 2008, the draft EA and request for input were posted for review on the Monongahela National Forest's website at www.fs.fed.us/r9/mnf/environmental/nepa_documents/.

Comments and requests for information have been submitted by a dozen individuals and organizations that have contacted us in the form of letters, e-mails, or phone calls as a result of the scoping and notice and comment processes (project file). Comments were used to define issues, develop alternatives, identify environmental effects, and help guide the analysis and decision processes.

IV. Findings Required By And/Or Related To Other Laws and Regulations

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below that are not discussed above.

Forest Plan Consistency (National Forest Management Act): This Act requires the development of long-range land and resource management plans. The Monongahela National Forest Plan was approved in 2006, as required by this Act. The Act requires all projects and activities to be consistent with the Plan. The Plan has been reviewed in consideration of this project. This decision is responsive to guiding direction contained in the Plan. This decision is consistent with the standards and guidelines contained in the Plan.

Environmental Justice (Executive Order 12898): This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this Act. This decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act: This Act requires public involvement and consideration of potential environmental effects. Public involvement is described in section III above. The entirety of documentation for this decision, including the project file, supports compliance with this Act.

Federal Cave Resources Protection Act: No known cave resources will be affected by this decision.

V. Administrative Review or Appeal Opportunities

This decision is not subject to administrative review or appeal pursuant to 36 CFR 215.12.

VI. Implementation Date

This decision may be implemented immediately.

VII Contact Person

Further information about this decision may be obtained from Kristine Vollmer during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.):

Kristine Vollmer, North Zone NEPA Coordinator
Cheat Potomac Ranger District
HC 59, Box 240
Petersburg, WV 26847

Phone: (304) 257-4488, extension 24

Fax: (304) 257-2482

E-mail: kvollmer@fs.fed.us

If Kristine Vollmer is unavailable, please contact Sam Lammie, Acting District Ranger, at the address above. The phone number is (304) 257-4488, extension 13 and the e-mail address is slammie@fs.fed.us.

VIII. Signature of Responsible Official and Date

Clyde N. Thompson
CLYDE N. THOMPSON
Monongahela National Forest
Forest Supervisor
Responsible Official

10/17/2008
Date

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