

DECISION MEMO

Reissuance of a 10-Year Special Use Authorization for Wasatch Powderbird Guides

Salt Lake, Davis, Morgan, Summit, Wasatch, and Utah Counties, Utah
Uinta-Wasatch-Cache National Forest
Salt Lake Ranger District

DECISION AND RATIONALE

I have reviewed Wasatch Powderbird Guides' (WPG) proposal and the associated environmental review documentation. It is my decision to reissue WPG's outfitter and guide permit, and authorize continued heli-ski operations on National Forest System (NFS) lands in the Central Wasatch Mountains. The reissued permit will include the same terms and conditions as the current permit, as listed below. The reissuance will be for a 10-year term. The current permit was issued on August 16, 2005, and expires in 2010. The new permit will be in force for WPG's 2009 – 2010 operating season, replacing the current permit. The terms and conditions of both the current and the reissued permit are as follows:

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

Tri-Canyon Area Use (weekends): The Tri-Canyon Area is closed to heli-skiing on Sundays and Mondays season-long. Exceptions to this closure are allowed for home runs, as defined below and a season limit of three earned Monday operating days.¹

Home Runs²: Home runs are permitted in Little Cottonwood Canyon when the Tri-Canyon Area is otherwise closed, i.e., on Sundays and Mondays. In particular, the permittee is authorized a seasonal limit of three "closed" weekend days for use as home runs in the Patsy Marley area. In addition, they may use White Pine Canyon for home runs when the Tri-Canyon Area is otherwise closed without any seasonal limitations. All home runs will count towards Tri-Canyon Area skier-day limits, or "caps."

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

Alpine Tours: Alpine Tours are authorized only in the Lone Peak Wilderness.

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

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

¹A Monday exception must be "earned" in advance by not operating in the Tri-Canyon Area on a prior Saturday. These Saturdays must be days when WPG can operate, but take their clients to other terrain outside of the Tri-Canyon Area at all. To count towards an exception, WPG must actually take clients to peripheral terrain on that Saturday.

² Home runs are the practice of ending the last ski run of the day at a road where a van transports skiers back to the heli-base rather than ferrying them back to the heli-base by helicopter.

WPG has provided heli-skiing opportunities on the UWCNF under special use permits continuously since 1973. The operational aspects and environmental effects of heli-skiing have been studied and considered by the UWCNF. Comprehensive environmental reviews were conducted most recently in 1999 and 2004 Environmental Impact Statements (EISs). A Record of Decision (ROD) authorizing the issuance of the heli-skiing permit followed each EIS.

The Forest Service regulates occupancy and use of NFS lands by outfitters and guides (O&G) through issuance of special use permits. O&Gs provide unique recreational opportunities to people without the knowledge, skills and equipment to participate on their own. They also provide information and education about NFS resources to their clientele. As a result, O&G operations fulfill an important role in meeting the Forest Service's recreational and educational mandates. The 2003 Revised Forest Plan for the Wasatch-Cache National Forest identified its Desired Future Condition for guided helicopter skiing as, "Helicopter skiing will continue to operate as a component of the recreational picture in the Central Wasatch" (p. 4-162). The March 19, 2003, Record Of Decision for the Forest Plan stated: "... helicopter skiing is an appropriate use and should be part of the recreation opportunities provided on the Forest" (p. 26). The 2003 Uinta National Forest Land and Resource Management Plan also included a goal for helicopter skiing: "Opportunities for heli-skiing are provided, consistent with the resource capability, other land uses, and other resource management goals." (G-6-12, pg. 2-19) Therefore, the decision to reissue the heli-skiing permit is consistent with the Forest Plans.

Until April 2005, it was national policy that O&G permits were authorized for terms of up to 5 years. Forest Service regulations have been revised to extend the maximum term for these authorizations to 10 years (see Final Directive, Federal Register Vol. 70, No. 71, April 14, 2005). Following publication in the Federal Register, the Forest Service special use administration regulations were revised. The revised Forest Service Handbook states: "For new applicants, authorize use for up to 1 year. For holders assigned priority use, use may be authorized for up to 10 years" (FSH 2709.11; Sec. 41.53j).

Forest Service policy governing environmental reviews for proposals to extend the term of existing O&G permits was also revised. The revisions include a categorical exclusion for reissuance of a special use permit for a new term. The conditions governing use of this categorical exclusion include the following:

"Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are no changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization" (36 CFR 220.6 [e][15])."

Reissuance of this permit for a 10-year term is consistent with the agency-wide direction outlined above and with the Uinta and Wasatch-Cache NF plans. The Forest has evaluated the proposal and the responses to scoping to ensure that there are no extraordinary circumstances that preclude categorical exclusion of this decision from additional review (see Reasons for Categorically Excluding the Proposed Action below). This decision will help maintain the diverse, high-quality recreational experience provided to the public by the UWCNF and further the management direction articulated in the Forest Plans.

Mitigation Measures Included in My Decision

The scoping notice circulated for this proposed action (see Scoping and Public Involvement below) listed a number of specific revisions to the existing mitigation measures requested by the permittee and under consideration by the UWCNF. Most of those proposed revisions concerned golden eagle nest sites in the permit area.

The existing eagle mitigation measures stem from analyses completed in the 1999 and 2004 EISs, before the study of such impacts was completed by the Forest Service, the U.S. Army Corps of Engineers, and Clemson University (*Investigating Potential Effects of Heli-Skiing on Golden Eagles in the Wasatch Mountains, Utah*, Grubb et al, Nov. 10, 2007 (Grubb study). The Grubb study recommended the revisions noted in the scoping notice.

I have decided to maintain the existing mitigation measures related to golden eagles. The only revisions to the mitigation measures and monitoring requirements are editorial in nature and reflect more effective and adaptive terminology and methodology to more effectively meet mitigation and monitoring requirements.

As outlined above, implementation of the mitigation measures listed in the 2004 ROD and incorporated into WPG's subsequent annual operating plans will continue to be required. These are included in Appendix A. Specific changes may be requested in the future. In order to consider changes to the mitigation measures, we would need additional monitoring. We are unable to commit to such a program at this time. However, the permittee, at their own cost, could pursue this route if they seek changes to the mitigation measures in the future.

Consistent with the existing mitigation measures (see Appendix A, Wildlife), I am authorizing a helicopter flight path and landing spot variance to the 0.5-half-mile eagle nest buffer for Peak 10,400 in American Fork Canyon. The Grubb study recommends this variance based on recognition that mountain ridgelines and other terrain features in this area effectively block the potential for disturbance to nesting golden eagles. We have coordinated with the US Fish and Wildlife Service, as required under the mitigation measure. The permittee's annual operating plan must be revised to reflect this revision.

The other revision proposed in the scoping notice reflected an oversight in preparation of the 2004 ROD. The mitigation measure limited the use of explosives for stability testing to 300 explosive charges for the entire permit area rather than limiting the charges for just the Tri-Canyon Area. Our review of the permittee's use of explosive charges under the last permit shows an annual average use of 35 explosive charges used in the Tri-Canyon Area and 75 in the peripheral terrain, totaling an average of 105 per season, permit wide. This is well below the limit of 300. I believe the mitigation measure, as it stands, is adequate and appropriate.

SCOPING AND PUBLIC INVOLVEMENT

On November 17, 2008, the UWCNF's Salt Lake Ranger District issued a scoping notice describing the proposal and soliciting public input on the proposed permit reissuance. The notice invited comments regarding issues and concerns to be considered in the UWCNF's review of the proposal in accordance with the National Environmental Policy Act of 1969 (NEPA). The notice was mailed to the agencies, organizations, and individuals on the UWCNF's mailing list and posted on the UWCNF's website. The 30-day scoping period closed December 19, 2008. Responses were received from three government agencies, six organizations and 178 individuals. Documentation of this public scoping process, including a scoping analysis report, is in the project file and available for review through the Salt Lake Ranger District. Key issues and response are summarized in Appendix B.

In reaching my decision, I considered issues identified by the agencies, organizations, and individuals who submitted scoping comments and by Forest Service interdisciplinary team members who reviewed the proposal. Several of the issues were related to the topic of "extraordinary circumstances," and the list of seven resource conditions which must be considered in evaluating whether extraordinary circumstances exist (36 CFR 220.6 [b]). These are discussed in the section below.

REASON FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION

I have determined that the proposed action falls within an established class of actions which are categorically excluded from documentation in an EA or EIS:

“Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are no changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization.” (Category 15, Forest Service NEPA regulations (36 CFR 220.6[e][15])

Based on my review of this permit reissuance, I have concluded that this permit reissuance includes only administrative changes, that it involves no authorized facilities or increases in the scope or intensity of authorized activities. Further, I have determined that the permittee is in full compliance with permit terms and conditions of the existing authorization.

I also find that, consistent with Forest Service handbook direction (FSH1909.15 [30.4]), the potential effects on the listed resource conditions are minor or non-existent. Similarly, I find that, consistent with federal regulations (36 CFR 220.6[b]), that there are no extraordinary circumstances or other resource conditions that would warrant further analysis and documentation in an EA or EIS. Review of the existing environmental review documentation, including the 1999 and 2004 EISs, resulted in the following determinations:

1. **Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.** Biological assessments (BAs) and biological evaluations (BEs) were prepared as part of the 1999 and 2004 environmental review processes. The BA and BE have been updated for this project. The permitted activity takes place in during the winter, at high elevation. Most special status wildlife species that occur in the Central Wasatch have shifted to lower elevations, and other species that might remain at high elevation (e.g., Canada lynx and wolverine) are not known to reside in the permit area. Plant species, including special status plants, are dormant and protected by several feet of snow. The potential impacts of avalanches inadvertently caused by stability testing were assessed and found to not differ notably from those of naturally occurring avalanches.

Further, no designated or proposed critical habitat exists for any threatened or endangered species in the project area, and no federally listed or candidate plant or animal species will be affected. Since the preparation of the 2004 BE, greater sage grouse and big horn sheep have been identified as sensitive species in Region 4. In the recently updated BE, it was determined that the permitted activities would have no affect on greater sage grouse, and would not likely contribute to a trend toward federal listing or loss of viability for big horn sheep. No other new information or changed conditions have been identified to alter determinations made in the 2004 BE. The BE identifies that some individuals of wildlife may be affected, but the permitted activity will not contribute to a trend toward federal listing or loss of viability for any Region 4 sensitive species. Based on these considerations, potential effects on special status wildlife or plant species, or their habitats do not constitute an extraordinary circumstance for this proposed action.

2. **Flood plains, wetlands, or municipal watersheds.** The permitted activity involves no construction or other surface disturbance and takes place in the winter, over snow. As a

result, impacts on flood plains and wetlands are not a concern. However, the heli-ski permit area does include portions of Salt Lake City's municipal watershed, and the potential for fuel spills or explosives residues to impact water quality has been identified as a concern. Helicopter fueling takes place off NFS land, at sites and facilities operating in accordance with applicable regulations. As a result, it does not pose a threat to water quality in the permit area. Explosives residues and their impact on water quality were addressed in the 1999 EIS and it was concluded that impacts to the watershed would be negligible. Monitoring for nitrates has been conducted for a number of years and there has been no indication of adverse impacts due to explosives. Explosives are used extensively in Big and Little Cottonwood Canyons at developed ski areas. Yet, water quality there remains well above drinking water standards, and water in canyons without explosive use exhibit similar values. Based on these considerations, potential effects on flood plains, wetlands, or municipal do not constitute an extraordinary circumstance for this action.

3. **Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.** Almost all of the permitted activities conducted by WPG are located outside of designated wilderness. One small part of their program does include alpine tours in the Lone Peak Wilderness Area. Alpine ski tourers are transported to helispots outside of the designated wilderness boundary by helicopter and travel on skis through the wilderness area. No motorized or mechanized equipment is used in the wilderness area. Group size is limited to ten people, consistent with Forest regulations. Alpine Tour use in the Wilderness is consistent with Forest Service policy regarding outfitter and guide use in wilderness, is consistent with the enabling legislation for the creation of the Lone Peak Wilderness (Public law 95-237 (2/24/1978), and is consistent with the Wilderness Act (Public Law 88-577, 9/3/1964). The permit area does not include any other wilderness study area or National Recreation Area. Based on these considerations, potential effects of alpine tour use in wilderness do not constitute an extraordinary circumstance for this proposed action.
4. **Inventoried roadless areas or potential wilderness areas.** The permit area includes portions of the following roadless areas: Farmington, Hogsback, Middle Francis, Mill Canyon Peak, Mt. Aire, Mt. Olympus, Mueller Park, North Francis, Rock Canyon/Buckley Mountain, South Fork of the Provo River, South Francis, Twin Peaks, and White Pine. However, the proposal includes no road construction or reconstruction, timber harvest, or any other activity currently reserved for approval by the Secretary of Agriculture. Reissuance of this permit does not preclude Congress from designating all or portions of the permit area as wilderness and special use permits include a provision for revocation of an authorization when it's determined to be in the public interest. The permitted uses and activities are short term in nature and do not affect the character or attributes of these areas to a degree that would preclude them for consideration as potential wilderness. Based on these considerations, the potential effects on inventoried roadless areas or potential wilderness areas do not constitute an extraordinary circumstance for this proposed action.
5. **Research Natural Areas.** The permit area does not include any Research Natural Areas and do not constitute an extraordinary circumstance for this action.
6. **American Indian and Alaska Native religious or cultural sites.** The permitted activity takes place during the winter, at high elevation and authorizes only over-the-snow activities and includes no construction or other surface disturbance that could potentially damage cultural sites. The potential impacts of avalanches inadvertently caused by stability testing were assessed and found to not differ notably from those of naturally occurring avalanches. Native American use of the permit area was limited to brief forays from camps at lower

elevations, and such use did not leave much archaeological imprint. No Native American sites have been found in or near the permit area. Based on these considerations, potential effects on American Indian and Alaska Native religious or cultural sites do not constitute an extraordinary circumstance for this action.

- 7. Archaeological sites, or historic properties or areas.** The permit area includes numerous remnants of the region's rich mining history. The permitted activity takes place during the winter, at high elevation and authorizes only over-the-snow activities and includes no construction or other surface disturbance that could potentially damage historical sites. The potential impacts of avalanches inadvertently caused by stability testing were assessed and found to not differ notably from those of naturally occurring avalanches. Based on these considerations, potential effects on archaeological sites, or historic properties or areas do not constitute an extraordinary circumstance for this action.

Based on the findings summarized above, I am categorically excluding this decision from documentation in an Environmental Assessment or Environmental Impact Statement. Based on experience with management activities similar to this, and upon the environmental analysis conducted for this project, the effects of implementing this action will be limited in context and intensity. Connected and cumulative actions have been appropriately addressed, the activity appropriately fits a category identified in the Code of Federal Regulations, and our review indicates no extraordinary circumstances to preclude the use of a categorical exclusion.

FINDINGS REQUIRED BY OTHER LAWS

The only finding required by other laws not addressed directly or indirectly above is Forest Plan compliance in accordance with the National Forest Management Act. The proposed action has been evaluated for consistency with the goals, objectives, standards, and guidelines of the 2003 Revised WCNF and UNF Forest Plans. The project area is located within a range of management areas, which permit winter motorized recreation for helicopter guided skiing under the terms of a special use permit. The pertinent Forest Plans specifically address heli-skiing and include mapping of the permit area. Thus, this action is consistent with the management area prescription and more specific Forest Plan direction.

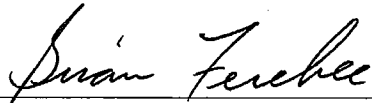
IMPLEMENTATION DATE

This decision pursuant to 36 CFR 215.12(f) is not subject to appeal. This decision may be implemented immediately.

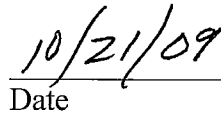
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Date

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APPENDIX A

MITIGATION MEASURES AND MONITORING REQUIREMENTS

This section describes the required measures that will be taken to mitigate the impacts of the heli-ski activities under a reissued permit, in addition to steps to be taken to monitor its operation. Mitigation is defined in terms of the various ways the adverse impacts of a project or activity might be avoided, minimized, eliminated, or compensated for (40 CFR 1508.20). On the other hand, monitoring involves actions to ensure "agency decisions are carried out..." (FSH 1909.15, Sec. 54). Generally, monitoring takes the form of Forest Service oversight to ensure the terms and conditions of a permit are met, anticipated results are achieved, and necessary adjustments are made to achieve desired results. Mitigation measures are important to keeping adverse impacts within levels predicted in the EIS, while monitoring activities usually are a part of the Forest Service's permit administration program. Accordingly, the measures listed and described below are denoted as either mitigation or monitoring.

The only revisions to the mitigation measures and monitoring requirements are editorial in nature and reflect more effective and adaptive terminology and methodology to better meet mitigation and monitoring requirements.

Wildlife

- To minimize potential impacts on golden eagles nesting in the WPG permit area, the following mitigation measures, based on U.S. Fish and Wildlife Service (FWS) raptor protection guidelines (Romin and Muck 1999), will be implemented:
 - Half-mile, no-fly buffers will be placed around all known golden eagle nest sites beginning February 1 and ending August 31. Within these buffers, helicopters will not fly at less than 1,000 feet above ground level (AGL) or at less than 30 miles per hour. The buffer will be initiated earlier if courtship behavior is confirmed before February 1.
 - If additional site-specific helicopter flight path and landing spot variances to the 0.5-half-mile buffer are proposed, the Forest Service, in coordination with the FWS, could consider them for authorization.
 - Nest sites that have not been occupied for seven years will be evaluated by the Forest Service to determine if they should be considered abandoned and the buffer removed.
- Monitoring of all golden eagle nest sites will be conducted by aerial surveys or other ground-based survey methods to determine early presence, nest occupancy, and breeding success. Initial surveys will be conducted during the early part of the season to determine presence, with surveys later in the season to determine nest occupancy, and breeding success. Standard aerial and ground-based survey protocols will be followed, and minimal time will be spent over or near the nest sites to minimize potential disturbance.
- In accordance with the Utah Northern Goshawk Forest Plan amendment (Forest Service 2000b), 30-acre no-fly buffers will be placed around all known active northern goshawk nest areas in the permit area from March 1 through September 30. Within these buffers, helicopters will not fly at less than 1,000 feet AGL or at less than 30 miles per hour.
- A Forest Service biologist will be notified if any special status wildlife species are observed in the project area. The agency will implement appropriate actions to insure that the species is adequately protected.

Designated Wilderness Area Considerations

- WPG will maintain a flight plan for operations over designated wilderness areas. This plan will be approved by the Forest Service and will be a part of WPG's annual operating plan. WPG helicopters will fly at least 1,000 feet above any designated wilderness, except: (a) when conducting avalanche control

work for the Utah Department of Transportation (UDOT) above Little and Big Cottonwood Canyon highways; (b) when conducting authorized rescue work; (c) when flying above 1,000 feet would compromise safety.

- Compliance with wilderness regulations is mandatory.
- Wilderness education will be a component of wilderness Alpine Tours.
- Wilderness use will be documented in all Activity Reports for monitoring purposes.

Safety in Aircraft Operations

- WPG will maintain an aircraft operating and safety plan. This plan will be approved by the Forest Service and will be part of WPG's annual operating plan.
- WPG will ensure that helicopters operated under the permit, whether leased or owned, will hold a Federal Aviation Administration (FAA) FAR Part 135 certificate and will abide by all FAR Part 135 safety standards and requirements. The FAA recognizes that mountain flying conditions involve complex geographic features and wind patterns that often require WPG to fly at low levels along ridges and through passes.
- WPG helicopters will fly at least 750 feet above roads and buildings except when landing or taking off or when flying at that altitude would compromise safety.
- Explosive use will be documented in Activity Reports

Safety in Use of Explosives

- Explosives use for stability evaluation is authorized at 300 explosive charges per year on an annual average.
- WPG will conduct all backcountry explosive slope stability testing before 9:00 a.m. or as early as practical to minimize the chance of affecting other users.
- WPG will make every practical effort to assure that their explosive stability testing will not endanger people using the area being tested.
- WPG will record the date, time, and location of all explosive duds and will find and destroy all explosive duds within reasonable time limits.
- WPG will use as few explosives on NFS lands as practical.

Safety and Courtesy in Interaction with Other Backcountry Recreationists

- WPG will practice good backcountry ethics, including: (a) allowing ski mountaineers who arrive at a particular location before WPG an opportunity to ski first, and (b) avoiding, when practical, flying through passes and along ridges occupied by other backcountry users.
- WPG will continue its efforts to notify the public of its operating plans a day in advance. This will include the notification of the second helicopter used in the Tri-Canyon Area and the earned Saturday/Monday exception. WPG operating plans will be reported on the Utah Avalanche Center (UAC) recorded information line and website (<http://utahavalanchecenter.org/>). WPG's web site (<http://www.powderbird.com/>) will be linked to the UAC web site and the UWCNF web site (<http://www.fs.fed.us/r4/uwc/>) WPG's office will be open 7 days a week and personnel will be available to provide detailed information during regular business hours. The information provided will note the main drainages in which WPG intends to operate, as well as areas they will not be skiing.
- WPG will emphasize the use of peripheral terrain when conditions allow reducing the level of potential competition and conflict with other backcountry recreationists in the Tri-Canyon Area.

Monitoring of Permit Compliance

- WPG will provide monthly and season-end activity reports, in an electronic format, recording the details of their operations to enable the Forest Service to observe their compliance with the

terms and conditions of the permit. The Forest Service will stipulate the content and format of activity reports.

Private Landowner Considerations

- WPG will identify all staging and refueling areas in their operating plan. All staging and refueling areas not located on NFS lands will require written approval and/or a permit from the landowner(s). WPG will provide copies of these written approvals to the Forest Service as part of their annual operating plan. Refueling operations will conform to any applicable regulations.

APPENDIX B

SCOPING SUMMARY AND RESPONSES

1. Use of the categorical exclusion. The option to categorically exclude this proposed action from higher level NEPA review (see Decision and Rationale above and Reason for Categorically Excluding the Proposed Action below) was questioned for the following reasons:

- a. Increasing the term to 10-years and decreasing eagle nest buffers are operational rather than administrative changes and thus not consistent with the terms of this categorical exclusion.

Response: In regard to the term increase, Forest Service, Washington Office direction (File Code 2700/2340, dated April 29, 2005) addresses implementation of the new term length for special use authorizations and states that the “conversion of a special use authorization to a new 10-year term to replace an existing authorization may be categorically excluded from further analysis and documentation in an EIS or EA if there are no extraordinary circumstances to the proposed action.” The directive goes on to identify categorical exclusion number 15 as the appropriate category. The agency’s directives indicated that a ten –year term reissuance is an administrative action and not considered a change in the scope or intensity of the use authorized in a special use permit.

Based on public comments, coordination with other government agencies, and discussions with our resource specialists, my decision maintains the existing buffers to golden eagle nests as well as maintaining all existing mitigation measures.

- b. To be consistent with the terms of this categorical exclusion, the permittee must be in compliance with the terms of the existing permit.

Response: Permit administration and performance reviews conducted by the agency over the past four years have not revealed any instances of noncompliance with the terms and conditions of the permit.

- c. Impacts in the areas of recreational conflict, explosives use, and noise may constitute extraordinary circumstances precluding use of this categorical exclusion.

Response: Federal regulations (36 CFR 220..6(b) and Forest Service Handbook (1909.15) provide direction on considering extraordinary circumstances and provides seven resource conditions that should be considered. Those seven conditions are addressed in the decision under Reasons for Categorically Excluding the Proposed Action. Regulation and direction for extraordinary circumstances utilized the word “should” consider rather than “shall” consider, recognizing that there could be other resource issues that should be considered. The Forest Service response in the Federal

Register (Vol. 73, No.143, 7/24/2008, p.43091) when announcing the federal regulations states, “The list of resource conditions is intended as a starting place and does not preclude consideration of other factors or conditions by the responsible official with the potential for significant environmental effects “. These other factors were analyzed in the 1999 and 2004 EISs, and reviewed for this analysis, to determine if there was any new information or substantial changes that would invalidate the previous analyses. We concluded that the determinations made in the previous analyses were still accurate and that no new information or changes in conditions have occurred that would result in significant environment effects that would preclude the use of this categorical exclusion.

d. Effects on the prospects for designation of new wilderness area in the Central Wasatch may constitute an extraordinary circumstance precluding use of this categorical exclusion.

Response: The potential effects on designated wilderness, roadless areas, and potential wilderness areas must be considered as potential extraordinary circumstances. The potential effects on these areas have been considered in the decision and determined to be minor to non-existent and do not preclude the use of a categorical exclusion.

The Forest Service’s function in the process of designating and managing wilderness is guided by established procedures, the results of which are spelled out in Forest Plans. These procedures were completed for the (formerly) two Forests involved, and the results are documented in the respective 2003 Forest Plans. Neither designates any proposed wilderness in the WPG permit area. Under the heading of Central Wasatch Management Area, Recreation Desired Future Conditions, Balance Diversity of Recreational Opportunities, the WCNF Forest Plan states (p. 4-461 – 4-462): “... no new wilderness is recommended on the Wasatch-Cache in the helicopter permit area.”

The recurring possibility that portions of the permit area could be included in a formal wilderness proposal does not affect management of these lands. The heli-ski authorization does not allow any development or activity that would permanently or irreversibly impact any wilderness attributes of the permit area and thus affect its potential for Congressional designation. In the event that such a designation was made, the agency would be obligated to revise the authorization accordingly, as permitted under the special use permit (Section VI A). The ongoing discussion of a new wilderness proposal does not constitute an impact or create an extraordinary circumstance.

e. Impacts no longer need to be “significant” in order to constitute an extraordinary circumstance.

Response: The Forest Service Handbook for implementing the NEPA regulations (36 CFR 220) was revised in April, 2009 and states “When an action is to be categorically excluded from documentation in an EA or EIS, the responsible official must be able to demonstrate that the action fits within the identified category and that the potential effects on the listed resources are minor or non-existent (FSH 190915 (30.4).” The determination for this decision is that the potential effects for all extraordinary circumstances are minor to non-existent.

f. During the time that will elapse between the last EIS and the expiration of a new 10-year permit, continued growth in the number of other backcountry recreationists may make previously identified impacts in areas such recreational conflict, safety, and noise significant.

Response: The issue of increasing recreational use of the Central Wasatch backcountry was adequately addressed in the 1999 and 2004 EISs, reaching the following conclusions: (1) some level of conflict is anticipated in such an accessible and popular area; (2) heli-skiing will not be curtailed at some arbitrary level of recreational use; (3) more accurate quantification of recreational use is not necessary to effective management decision making; and (4) the terms of the current permit, which

will be carried forward under the re-issued permit, effectively minimize conflict among user groups. These conclusions, based on analysis and review of Forest Plans, other pertinent planning guidance, and monitoring and operational data collected under the existing permit, remain valid. The agency has determined that the action does not individually or cumulatively have a significant effect.

2. Changes to the permit terms. Several commenters suggested changes to the permit terms, including abolishing home runs, limiting WPG's operation to one helicopter, limiting explosive charges to 50 annually or none in the Tri-Canyon Area, moving from Sunday/Monday closure to an odd/even weekend closure to allow weekend heli-skiing options to people who do not ski on Sundays, moving the heli-ski permit to more peripheral terrain, limiting permitted heli-skier numbers to match their proportion of the skiing population, and extending the heli-ski season to allow operations during prime corn snow conditions.

Response: The current proposed action is predicated on the UWCNF's view that the terms of the current authorization are appropriate to carry into the next 10-year term, and that there are currently no issues that warrant development and evaluation of alternatives.

A scoping report was prepared for this project and provides more detailed responses to these and other comments raised during the scoping period. The report is on file at the Salt Lake Ranger District.