

RECORD OF DECISION

WASATCH POWDERBIRD GUIDES SPECIAL USE PERMIT RENEWAL

USDA FOREST SERVICE WASATCH-CACHE AND Uinta NATIONAL FORESTS SALT LAKE, DAVIS, SUMMIT, AND UTAH COUNTIES UTAH

INTRODUCTION

In 1997, the five-year permit for Wasatch Powderbird Guides (WPG) helicopter skiing outfitter-guide service on the Wasatch-Cache and Uinta National Forests was scheduled to expire. In 1996, WPG applied for a new five-year permit. The Forest Service initiated scoping for an environmental assessment (EA) analyzing permit renewal in January, 1997. Based on the issues identified through scoping, the Forest Supervisor decided to prepare an environmental impact statement (EIS) instead of an EA. Scoping for the EIS was initiated by a Notice of Intent published in the Federal Register in December, 1997. A Draft EIS was circulated for public comment in June, 1999. Comments on the Draft EIS were analyzed, and a Final EIS prepared with consideration of those comments. The Final EIS is being published concurrent with this Record of Decision.

In 1997-98 and 1998-99, the Forest Service granted WPG successive one-year permits pending completion of the EIS. The current decision addresses WPG operations for the next five years.

PUBLIC INVOLVEMENT

Public interest and involvement in this analysis has been extraordinary. Scoping for the initial environmental assessment resulted in 267 responses; scoping for the environmental impact statement resulted in 144 responses; public review of the draft environmental impact statement resulted in approximately 2,000 responses. Letters were received from local Wasatch Front area residents, elsewhere in Utah, 32 other states, the District of Columbia, Puerto Rico, and six other countries. Two public meetings were held as part of scoping for the EA, and one was held during review of the Draft EIS; approximately 90-100+ people attended each of those meetings.

Senators and Members of Congress from Utah and several other states have inquired into the status of permit renewal upon the request of their constituents. Top Forest Service leadership at the regional level in Ogden and at the national level in Washington D.C., as well as the office of the Undersecretary of Agriculture have been approached by citizens wishing to influence the decision. Local media and several national skiing magazines have covered this issue.

Public sentiment surrounding the renewal of the WPG permit has been polarized for many years, and remained so during the current analysis process. The great majority of comments on the Draft EIS favored either Alternative A (issuing no permit to WPG), or Alternatives B or C (issuing a permit with minimal restrictions). Forest and District staff have met frequently and repeatedly with representatives of the

backcountry and helicopter skiing communities in order to fully understand the perspectives of all parties, and to seek common ground upon which to build a satisfactory resolution.

DECISION AND RATIONALE

I have reviewed the EIS and have thoroughly studied the effects of the proposed action and alternatives to that action. I have also reviewed the results of public involvement. After considerable deliberation and discussion with the interdisciplinary team and other District, Forest, and Regional level staff, I have selected the alternative described below.

DECISION TO ISSUE A NEW PERMIT

I have decided to issue a new five-year permit to Wasatch Powderbird Guides. The permit will include the following terms and conditions, which were analyzed as Alternative D, Option 1 (Number and Location of Helicopters) and Alternative G, Option 2 (Caps and Closures), plus additional mitigation measures and management requirements considered in the Final EIS and displayed below.

1. Establish an operating season beginning December 15 and ending April 15.
2. Authorize two helicopters based at Snowbird. In general, only one helicopter at a time will be authorized to operate in the Tri-Canyon area; the other will be limited to peripheral terrain. On up to five days per season, both helicopters may be authorized to operate at one time in the Tri-Canyon Area with advance Forest Service approval. Each helicopter will be limited to a season-long average of 24 clients per day.
3. Authorize helicopter skiing under condition of the following average annual limits on skier days;
 - Permit area: 2400 skier days
 - Tri-Canyon Area: 800 of the 2400 skier days in the permit area
 - Northern Powder Circuit: 650 of the 800 skier days in the Tri-Canyon Area
4. Close the Tri-Canyon area to helicopter skiing, including home runs (last runs of the day) on Sundays and Mondays season-long.
5. Remove the Thousand Peaks/Uinta Mountains circuit from the permit area.
6. Apply a five-year average annual cap of 300 explosive charges for slope stability testing in the Tri-Canyon area.

My decision is based on a number of critical factors. It takes into account law, regulation, and policy where they apply. It follows direction in the current Wasatch-Cache and Uinta National Forests' Land and Resource Management Plans, while recognizing that both Forests are beginning the revision process for those plans. The decision is strongly guided by the purpose and need for action identified at the beginning of the analysis process. It incorporates current scientific information regarding affected natural resources, and fully considers the range of public opinion. Finally, this decision strives for an objective and balanced response to qualitative issues in an environment dominated by and widely divergent views and values.

REASONS FOR THE DECISION

My decision to issue a new permit is based on the following factors. The reasons for specific terms and conditions of the permit are described below under the heading, "Response to Major Issues."

I see helicopter skiing as a recreation activity which falls within the spectrum of motorized and non-motorized opportunities considered generally appropriate on national forest system lands. The current Wasatch-Cache and Uinta National Forests' forest plans consider helicopter skiing an appropriate use of the permit area. Neither the monitoring of those plans, nor review of the conditions surrounding this permit every five years, have led the Forest Supervisors to propose amending forest plans to change the direction that helicopter skiing be allowed to continue. The need to review forest plan direction during plan revision to address the long term has been identified.

I appreciate the role played by outfitter-guide services, including helicopter skiing services, in providing for people who lack the specialized skill, knowledge, and/or equipment to engage in a recreational activity on their own. These services play an important part in providing recreational opportunities to a broad range of national forest users, including those who come from outside the local area and those who are not physically able to access backcountry skiing terrain on foot.

Helicopter skiing in the Wasatch Mountains has a long history and continuing demand. A combination of terrain and snow characteristics, accessibility to a major airport, and adjacency to several major downhill ski resorts have made this area especially attractive for helicopter skiing by a national clientele.

This decision has been quite difficult, even after several years of analysis and debate. One reason for the difficulty is a fundamental policy question of whether or not to separate competing and conflicting uses. I believe it is generally preferable to integrate recreation uses on the national forests by encouraging people to share their public lands; separating uses is a last resort, taken reluctantly. National forest lands are limited, and the lands with highest quality for given types of recreation are even more limited. There is not enough quality acreage to allocate a separate area to each competing recreation use without also limiting the total amount of any particular activity. Increasing demands and an expanding variety of uses compound the issue.

On the other hand, for many people who use non-motorized access, motor vehicles in an area seriously detract from a quality recreation experience. People with those values require some separation from motorized uses if their desires are to be met.

I have attempted in this decision to establish conditions under which all users may enjoy the opportunities they seek. Neither non-motorized backcountry users nor helicopter skiers will receive everything they would like to see in this decision, but neither has been emphasized to the exclusion of the other.

MITIGATION MEASURES AND MANAGEMENT REQUIREMENTS

Wildlife Protection

1. WPG will, beginning February 1 (or earlier, if courtship behavior is reported by an authorized Forest officer) observe "no-fly" buffer zones around all known golden eagle nest sites. These buffer zones will be 0.5 miles in radius around and above each nest site. Site-specific variances will be identified for certain helicopter landing spots and flight paths where it has been determined by the Forest

Service in coordination with the U.S. Fish and Wildlife Service (USFWS) that flying within 0.5 mile is unlikely to adversely affect the eagles. Once nesting has been confirmed by Forest Service biologists in a given season, buffers will be retained for the occupied nest site and removed from unoccupied sites for the remainder of that season. Nest sites that have not been occupied for a number of years will, in accordance with USFWS guidelines, be periodically evaluated by the Forest Service and USFWS to determine whether they should be considered abandoned and protective buffers removed.

2. The Forest Service will make one site visit in mid-to-late March to an area in a side canyon of the American Fork drainage where a pair of peregrine falcons was observed in 1994. If peregrine falcons are found nesting in the area, a 1-mile radius buffer will be applied to the nest site. If peregrine falcons are found nesting anywhere else in the permit area, a 1-mile radius buffer will be established.
3. The Forest Service, in consultation with the USFWS, will develop a monitoring plan that identifies timetables for monitoring eagle nests. Nest monitoring will be designed to: a) monitor the onset of courtship behavior; b) establish the onset of nesting; c) determine nesting success; d) validate assumptions about the effectiveness of established buffers, including designated variances from the 0.5 mile radius, in minimizing impacts on eagles; e) monitor potential impacts of other dispersed backcountry recreation on eagle breeding success; f) note the presence or absence of other sensitive species (such as goshawk and wolverine) so that we can evaluate the need for additional protective measures. WPG will notify the Forest Service if, during their routine operations, nesting is observed. WPG will reimburse the Forest Service for costs of eagle and/or peregrine falcon monitoring, up to \$5,000 per year.
4. The Forest Service will conduct surveys to determine the presence or absence of lynx on National Forest System lands. Surveys will be conducted in the most suitable habitat first, where it is most likely that this species might be present. Permit conditions will be added to protect lynx if they are found to be using any areas open to helicopter skiing under this permit.

Designated Wilderness Area Consideration

5. WPG will develop a flight plan for flights over designated wilderness areas. This plan will be approved by the Forest Service and will become a part of the annual operating plan. WPG helicopters will fly at least 1,000 feet above any designated wilderness, except: 1) when conducting avalanche control work for the Utah Department of Transportation (UDOT) above Little and Big Cottonwood Canyon highways; 2) when conducting authorized rescue work; and 3) when flying above 1,000 feet would compromise safety.

Safety in Aircraft Operations

6. WPG will develop an aircraft operating and safety plan. This plan will be approved by the Forest Service and will become part of the annual operating plan.
7. WPG will ensure that helicopters that are 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.

8. 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.

Safety in Use of Explosives

9. WPG will conduct all backcountry explosive slope stability testing before 9:00 a.m. or as early as practicable to minimize the chance of affecting other users.
10. WPG will make every practical effort to assure that their explosive stability testing will not endanger people using the area being tested.
11. WPG will record the date, time, and location of all explosive duds and will find and destroy all explosive duds within reasonable time limits.
12. WPG will use as few explosives on National Forest System lands as practicable. Each time explosives are used, factors contributing to the need for such use will be documented by WPG and monitored by the Forest Service.

Safety and Courtesy in Interaction with Other Backcountry Recreation Users

13. WPG will practice good backcountry ethics, including: a) allowing ski mountaineers who arrive at a particular ski location before WPG an opportunity to ski first, and b) avoiding, when practicable, flying through passes and along ridges occupied by other backcountry users.
14. WPG will expand the scope of its past practices in notifying the public of its operating plans a day in advance. WPG will continue to provide a telephone recording during its months of operation, updated by 5:00 p.m. each day, that tells the caller where WPG is planning to fly the next day. WPG operating plans will be reported on the Avalanche Forecast Center recorded information line as well as the WPG recording. WPG will establish a web site, updated on the same schedule as the recordings, to report on the following day's plans. Links will be established between the WPG web site, the Avalanche Forecast Center web site, and the Wasatch-Cache National Forest web site. Recordings and the web site will mention the main drainages in which WPG intends to operate, as well as areas they will not be skiing.
15. WPG will emphasize the use of peripheral terrain when conditions allow to reduce the level of competition and conflict with other backcountry users in the Tri-Canyon Area.

Monitoring of Permit Compliance

16. WPG will develop, subject to Forest Service approval, a combination of technological approaches to improving WPG permit compliance monitoring without increasing Forest Service funding and staffing. Examples include helicopter-mounted GPS recorder units, videocameras, and voice recorders. The system(s) will be designed to help determine precisely where the helicopter has operated on a given day, and to document flight paths and interactions with other users.
17. A Forest Service employee will fly with WPG to monitor activities on a regular schedule to be established in the annual operating plan.

Private Landowners Consideration

18. WPG will identify all staging and refueling areas in their operating plan. All staging and refueling areas not located on National Forest System lands will require written approval and/or a permit from the landowner(s). WPG must provide copies of these written approvals to the Forest Service before the operating plan is approved.

RESPONSE TO MAJOR ISSUES

WILDLIFE

According to the Final EIS, the only threatened, endangered, proposed, or sensitive species known to inhabit the permit area is the golden eagle. Golden eagles are protected by law under the Migratory Bird Treaty Act of 1918 and the Eagle Protection Act of 1940. The U.S. Fish and Wildlife Service (USFWS), which is responsible for implementing those laws, published guidelines for the State of Utah in May, 1999. A mitigation measure that applies spatial and temporal nest site buffers, developed under those guidelines in coordination with the USFWS, will be a condition of the permit under this decision.

USFWS guidelines have been applied only to helicopter use in the area at this time, because data clearly indicate that raptors can be flushed by aircraft in close proximity. There is also less conclusive evidence, cited in the guidelines, to raise the question of impacts on eagles by other types of dispersed recreation. Since the terrain surrounding eagle nests in the permit area is receiving increased backcountry recreation use in addition to helicopter skiing, we will monitor other potential impacts on eagle breeding success as we look to long-term recreation and resource management of the area.

Finally, I have decided to remove the Thousand Peaks-Uinta Mountains circuit from the permit area primarily for wildlife-related reasons. First, the Uinta Mountains have much greater potential as suitable Canada lynx habitat than the Wasatch. Since the lynx has been proposed for listing, the requirements for consultation and analysis of potential impacts has risen considerably. Second, elk winter range in the Uintas has been identified and certain areas declared off-limits to helicopter skiing in the past; this decision would further protect that resource. The projected negligible effects of helicopter skiing on wildlife in the Uinta Mountains, as analyzed in the EIS, are in part attributed to the extremely low levels of historic use by WPG in that area. Given that low level of use and related importance of the Uinta Mountains to WPG and their clients, I have decided that removing the area from the permit adds a level of protection for wildlife without detracting substantially from established recreation use.

SAFETY

I am concerned about the safety issues raised in this analysis, as I am for safety issues wherever they occur on the Forest. I also face a major challenge in addressing safety issues as they relate to public recreation activities that carry inherent risks, such as backcountry skiing. The difficulty in assessing and addressing safety is compounded by the interaction of helicopter skiing with other backcountry uses.

The accident record for WPG operations over 26 years is good. There have been few injuries to WPG clients, and no reported injuries to other backcountry users. Nevertheless, it is evident from the accounts of some non-motorized backcountry users that helicopters have landed above other recreationists and that helicopter skiers have skied above and through other groups. Likewise, I understand that non-motorized backcountry users also have climbed or skied above one another, raising similar concerns. Whenever an inherently high-risk situation is complicated by the unexpected actions of another party, there is an understandable concern for safety. When the actions are taken by parties who are operating under a permit, the standard to which they are held is higher than the standard applied to users in general, because a permit is a privilege that carries corresponding responsibilities for safe and professional conduct.

I have taken these concerns into account in my decision. The WPG permit will include a number of conditions directed at elements of safety and backcountry ethics. The requirement that technological approaches to permit monitoring be developed is intended, in part, to address questions of interaction among users, including those interactions alleged to raise safety questions.

I also considered safety as a factor in deciding on a fixed schedule of Tri-Canyon Area terrain closures, rather than rotating zone closures. Rotating closures could result in concentrating uses by both groups. Concentrated use would increase the potential of non-motorized backcountry skiers to affect safety for one another in closed areas, and of helicopter skiers and other backcountry users to affect safety for one another in open areas. In addition, partial closures would have limited the ability of helicopter skiing guides to seek the safest snow conditions or avoid other backcountry users on a given day, while the selected alternative offers maximum flexibility on those days they do operate.

Finally, I have approved a 300-charge cap on explosives used in the Tri-Canyon area to reflect a level of use slightly above recent high levels. The analysis in the EIS indicates that the overall safety benefits of explosive use for slope stability testing outweigh the potential for increased risk associated with that use.

RECREATION COMPETITION AND CONFLICTS

This issue is clearly the most challenging to address in an equitable manner, and impossible to resolve while satisfying all parties. People's preferences and values are diverse, intense, and deep-seated; their sense of how public lands should be used, and who should have priority for that use spans the range of opinion.

On the one hand, there are those who emphasize that national forests are national resources and should be managed to facilitate use by those who are unfamiliar with the terrain. Helicopter skiing primarily serves a national (non-local) constituency. On the other hand, there are those who believe that the Wasatch Mountains are above all a local resource, and that local area residents and their needs should have priority. Especially in light of an increasing local population, it is difficult for the latter to understand why the Forest Service would continue to provide for non-local use.

In a similar vein, some people believe that the experience of backcountry skiing, and especially the reward of "untracked powder" should be reserved for those who labor for it by climbing the slopes under their own power. Others believe just as strongly that backcountry skiing and its rewards should be available to those whose physical condition precludes non-motorized access. These views are further compounded by the perception that non-motorized access is available to those with lower income levels

while helicopter skiing is for the wealthy. Allegations of elitism have been applied both to the physically well-off and to the economically well-off.

Finally, there are differences in expectations and the desired recreation experience among different users. People vary widely, for example, in the effects of noise on their level of enjoyment. Likewise, some people enjoy the social aspects of recreation, while others seek to be alone or in small groups. Even among non-motorized backcountry skiers, there is a range of relationships with helicopter skiing. On one end of the spectrum are those who ski where the helicopter is operating because they appreciate knowing where WPG considers the snow conditions safest; on the other end are those whose day is ruined if their backcountry experience involves interacting with a helicopter. For some in the middle, sharing terrain is not a big deal one way or the other.

Providing responsibly for the range of users described above is an extraordinary challenge. I have done my best to meet that challenge in this decision in the following ways:

December 15-April 15 operating season: I have established a fixed operating season in this decision to provide a predictable non-motorized recreation setting for backcountry users early and late in the season. This operating season reflects the core WPG operating dates from recent years, and as such should provide a range of skiing conditions and a length of season that will enable that use to continue.

Number and location of helicopters. I have decided to authorize two helicopters based at Snowbird to provide WPG with a level of flexibility and cost containment. I have also, however, decided to limit WPG to operating only one helicopter at a time in the Tri-Canyon Area in response to concerns raised by others about helicopter noise. I will authorize WPG to operate two helicopters in the Tri-Canyon Area up to five days per season with prior approval, providing for increased helicopter skiing opportunities under special circumstances and accepting the additional noise impacts on those days.

Skier-day caps: I have applied average annual skier-day caps because they prevent gradually increased competition over time by holding helicopter use near average annual use levels for the most desirable terrain, while offering the opportunity to increase that use in other areas. As I recognize that caps of this type do not resolve competition and conflict between users on a day-to-day basis, I have chosen additional measures to address that aspect of the issue.

Terrain closures: I have exhaustively explored and evaluated various strategies for reducing day-to-day conflicts between competing backcountry users. The rotating closures of selected zones within the Tri-Canyon Area that were tried in recent years and analyzed in the Draft EIS had mixed results. Rotations do offer a level of predictability for users seeking a helicopter-free zone to ski on a given day. However, helicopter noise (the most often cited source of conflict) can be heard from use in adjacent zones. In addition, rotating closures are confusing, as users must track a complex schedule of open and closed days and places. Comparable patterns for other recreation activities have mixed success, in part, because people don't remember the details and end up doing the wrong thing in the wrong place on the wrong day. Finally, partial closures reduce the potential for a safe and enjoyable helicopter skiing experience by limiting the option of moving across the Tri-Canyon Area in search of safe and skiable snow while trying to avoid other users on a given day.

For these reasons, I have decided that a consistent closure of all four zones in the Tri-Canyon Area to any helicopter skiing on the same days every week is a better choice than rotating partial closures. I anticipate that the resulting patterns will spread whatever backcountry use is allowed on a given day (non-

motorized only or non-motorized and motorized) throughout the Tri-Canyon Area, in contrast with the concentrating effects of zone closures.

The selection of Sunday and Monday for those closures provides one weekend day plus one weekday for backcountry skiers who want to ski without helicopters in the Tri-Canyon Area. The remaining five days of the week will provide for helicopter skiing and for those backcountry users who are comfortable sharing terrain. Those five days would include the two most critical revenue-producing days for the permittee (Friday and Saturday), mitigating the impact of closures on the economic viability and future availability of helicopter skiing as a recreational opportunity in this area.

Other measures: In addition to limits on the operating season, helicopter numbers and locations, skier day caps, and terrain closures, WPG will be required to improve the effectiveness of its advance notice system, using additional telephone recording options and developing a site on the Internet.

ECONOMIC CONSIDERATIONS

The need to integrate recreation uses and reduce conflicts while taking into account the factors that contribute to the economic viability of helicopter skiing further complicates the challenge described in the previous section.

Some have asked why the Forest Service considers itself responsible for the economic viability of an outfitter-guide service such as WPG. That is an important question, and the answer needs to be clear. The primary Agency commitment is not to a particular business, but to the public served by that business. If the guide service is not economically viable, the type of helicopter skiing they offer will not survive, and the people who value that opportunity will no longer be served. The question then shifts back to our desire to integrate recreation uses rather than separating them. The viability of the guide service is one component of integrating these uses, because if the business cannot be operated in a viable manner, the helicopter skiing opportunity will not continue to be offered.

The EIS indicates that the Wasatch Powderbird Guides operation is economically marginal, and that very small changes in its ability to contain costs or generate revenue would tip the balance of viability. The following are key components of viability identified in the EIS, and this decision's response to those components:

- Two helicopters are needed to keep one in the air at all times. *The decision authorizes two helicopters.*
- One helicopter should not be limited to peripheral terrain; the option of flying two helicopters in the Tri-Canyon Area at one time is needed to take advantage of demand. *The decision, while generally limiting one helicopter to peripheral terrain, provides for up to five days per season of exception to that rule if authorized in advance.*
- The costs of a second base away from Snowbird are too high. *The decision authorizes the use of the Snowbird base for both helicopters.*
- Any reduction in skier days beyond that imposed by weather is a serious economic threat. *The skier-day cap for the entire permit area is nearly twice as high as the average for the past six years.*

- Any cap on Tri-Canyon Area use below 720 skier days would keep WPG from breaking even. *The cap on use in the Tri-Canyon Area is 800 skier days.*
- Any cap on use of the Northern Powder Circuit under 434 skier days would be unprofitable. *The cap on use of the Northern Powder Circuit is 650 skier days.*
- Rotating partial terrain closures would result in down days and reduced demand. *We anticipate that the effects of fixed closures would be less severe than rotating partial closures. Fixed closures would enable WPG to design its season around maximizing the use of Tuesdays through Saturdays and doing so in a way that takes advantage of the full flexibility offered on those days. It appears from the analysis that less flexibility on more days represents a greater adverse impact on economics than greater flexibility on fewer days. According to the EIS, although both heliskiing and non-motorized backcountry use peak on weekends, heliskiing has the potential to shift more of its use toward mid-week. For these reasons, we anticipate that WPG will be able to adjust its operations to fit the pattern of closures in this decision while remaining viable.*
- The Northern Powder Circuit and Tri-Canyon Area are essential to capitalizing on partial days (where weather does not allow for seven or eight runs). *The decision provides for the full use of these areas on approximately 88 days out of a 123-day operating season.*
- Weekend rotating closures are better economically than week-long closures. *This statement is based on a premise that WPG can shift its operation to midweek if weekends are limited. My decision also accepts that premise and encourages WPG to shift its Sunday use to Tuesdays through Fridays.*
- Shifting use to peripheral terrain to reduce conflicts may not be justified economically because costs would be higher and demand lower due to comparatively lower quality experiences. *This decision emphasizes shifting use to peripheral terrain on two days a week and in cases where a second helicopter is called into use on a given day. Although those limitations may have economic impacts, I believe they can be mitigated and are necessary in order to reduce conflicts.*

In summary, the selected alternative provides virtually all the operational flexibility for helicopter skiing on a given day, five days a week, that WPG has under its 1992 permit. On those five days, the permittee can choose from the full range of options for the sequence and location of runs, based on weather, snow safety, avoidance of others, and quality of skiing. Five-year average annual skier day caps are not likely to affect the recent level of operations adversely, though they would limit additional growth in use of the Tri-Canyon area. This decision authorizes two helicopters, including the occasional use of both helicopters in the Tri-Canyon Area to capitalize on unique opportunities.

Nevertheless, I cannot be entirely sure that the selected alternative will be viable for WPG. The Final EIS indicates that the combination of skier-day caps and terrain closures in Alternative G, Option 2 is economically problematic using the assumptions and terms of economic analysis applied to all alternatives. That analysis has developed and applied a formula that indicates whether a given alternative has a reasonable chance of resulting in enough skier-days to meet or exceed the "break-even point" developed on the basis of costs and revenues generated by the operation in recent years.

The terms of this permit represent a different pattern of using the authorized terrain over the course of a season than has been in place before. The viability of the operation will depend on the permittee's ability to increase revenue or to reduce costs to compensate for the smaller number of days on which the most cost-effective terrain may be used. Revenue could increase by increasing the number of clients per day or by increasing fees for service. Revenues could also be enhanced if the permittee were to expand operations onto the substantial amount of private terrain in the Wasatch backcountry. Costs could be reduced by focusing staffing and other operating costs on those five days a week with the highest level of flexibility and the greatest potential cost-benefit return.

Despite the uncertainties of viability under this decision, I have concluded that there is an overriding need to provide for competing and conflicting uses without inherently favoring motorized options over non-motorized ones. While it is my preference to provide for both types of opportunity in an easily accessible, quality setting; I believe that under conditions of increasing demand the patterns of past helicopter skiing must be modified in order for the two types of use to continue sharing the permit area over the next five years.

OTHER ISSUES

A number of issues raised during the analysis do not fit within the major issue categories discussed above. Those issues and our responses are displayed in the Final EIS, Response to Comments.

ALTERNATIVES NOT SELECTED

For the most part, the rationale described above for making this decision also gives the explicit or implicit rationale for not selecting other alternatives. The following is summarized from the previous discussion, with additional detail added only as needed for clarity.

ALTERNATIVE A-NO ACTION: The No Action alternative did not meet the Purpose and Need for Action. The Purpose and Need calls for maintaining helicopter skiing in the Wasatch backcountry for a segment of the public that values that opportunity; and for issuing the permit to the existing, experienced operator.

ALTERNATIVE B-PROPOSED ACTION: This alternative did not meet the Purpose and Need for Action, because it was not well designed to integrate uses and minimize conflicts between helicopter skiing and other backcountry uses.

ALTERNATIVE C-UPDATED 1992 PERMIT: This alternative also failed to integrate uses and minimize conflicts. In addition, this permit appears to be unrealistic because WPG has never approached the limits set in that permit. If it ever did expand to the limits stated, the level of conflict with other users would increase dramatically.

ALTERNATIVE D-NUMBER AND LOCATION OF HELICOPTERS: I did not choose Options 2 or 3 because limiting WPG to one helicopter or requiring them to establish a second base would contribute significantly to costs without commensurate benefits. I decided that a modified version of Option 1 represented an equitable trade-off between cost and value.

ALTERNATIVE E-SKIER DAY CAPS: I did not choose Option 1 because I did not want to provide for significant overall increases in helicopter skier days in the Tri-Canyon Area and the Northern Powder Circuit. I did not choose Option 2 because I did not want to reduce the limit on average annual use of the Northern Powder Circuit below recent levels. I did not choose Option 3 because I did not want to constrain annual average use of the Tri-Canyon Area below recent levels; I have chosen instead to reduce conflicts in that area by closing it to helicopter skiing two days a week season-long.

ALTERNATIVE F-TERRAIN CLOSURES: I did not choose any of the rotating partial closures (Options 1-6) for several reasons. First, rotating closures do not effectively address the needs of backcountry skiers who seek to avoid helicopter noise. Second, they represent a cumbersome and confusing approach to providing for conflicting uses. Third, they reduce day-to-day operational flexibility for WPG with corresponding adverse effects on client satisfaction and economic viability. Fourth, they would concentrate types of use into zones of desirable terrain rather than spreading them out across the entire area.

ALTERNATIVE G-CAPS AND CLOSURES, OPTION 1: Although I eventually selected a combination of caps and closures, I did not select this combination because it did not provide adequate opportunity for backcountry skiers who value a helicopter-free experience.

RELATIONSHIP OF THIS DECISION WITH PURPOSE AND NEED FOR ACTION

The Purpose and Need for Action identified at the beginning of this analysis includes the following needs to be met:

- Protecting natural resources. The need to protect golden eagles during their breeding season is the primary natural resource issue raised in this analysis. The selected alternative applies temporal and spatial buffers to nest sites, as specified by the USFWS. Additional monitoring requirements have been established to identify and protect other sensitive species that may inhabit the area. The Uinta Mountains have been removed from the permit area for wildlife considerations.
- Meeting demand for the opportunity to safely ski untracked powder in the Wasatch backcountry by users who have adequate skiing skills but lack the specialized equipment, avalanche knowledge, and terrain familiarity. The selected alternative provides for continued helicopter skiing in response to the desires of those users described above.
- Integrating helicopter skiing activities with other recreational uses. The selected alternative attempts to integrate competing uses on five days of the week by promoting shared use of terrain and allowing maximum flexibility for helicopter skiing operations, and on two days a week by closing the most accessible and desirable terrain (the Tri-Canyon Area) to helicopter skiing and providing predictability to users who prefer a non-motorized setting.
- Allowing an experienced operator to provide helicopter skiing services. The selected alternative meets this need by authorizing WPG to continue helicopter skiing under a renewed permit. Forest Service policy calls for non-competitive renewal of permits to existing operators when their performance has been satisfactory.

- Allowing for an economically viable helicopter skiing operation. I intend under this decision to provide continued helicopter skiing in the Wasatch backcountry for those who desire that opportunity. For that reason, I have taken economic viability concerns seriously in making this decision. However, I also intend to provide a quality backcountry skiing experience for those who use non-motorized access, including those for whom the noise associated with helicopter skiing seriously detracts from their recreation experience. I have concluded after nearly three years of study that I probably cannot meet both needs at optimal levels at the same time. This decision calls for the permittee to do business in a different, and somewhat untested, way. While many critical factors that have contributed to past viability are retained, new limitations are imposed.

RELATIONSHIP OF THIS DECISION WITH FOREST PLANS

This decision is consistent with the 1985 Wasatch-Cache and 1984 Uinta National Forests' forest plans. Both plans are early in the process of revision, and decisions should be reached in the years 2000 or 2001. The analysis of permit renewal for Wasatch Powderbird Guides raised some issues that are not fully addressed here, but will be addressed during plan revision.

For the Wasatch-Cache National Forest, one critical forest plan revision issue deals with winter motorized recreation in areas allocated to non-motorized recreation during the snow-free season. In most cases, that issue focuses on snowmobiling, but in the Tri-Canyon Area it focuses primarily on helicopter skiing. As winter uses have increased across the Forest, the reality of conflict between motorized and non-motorized access is increasingly evident. Although the philosophy of the current plan indicates that competing uses should be separated only for health and safety reasons, we are seeing that reasons associated with a quality recreation experience are also valid and should be taken into account. These questions are central to plan revision and will be considered in that context for the Forest as a whole.

The current Uinta and Wasatch-Cache forest plans allow for continued helicopter skiing, and make similar decisions about other types of outfitter-guide services elsewhere on the Forests. The revised plans will probably not make decisions that allow or disallow specific types of services. The Forest Plans will make broad "zoning" decisions, such as decisions emphasizing motorized or non-motorized recreation on specific areas of the Forest. In addition, the plan will include criteria for issuing outfitter-guide permits. Those criteria will be applied to decisions made in site-specific analyses such as this one.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

The Council on Environmental Quality (CEQ) Regulations (40 CFR 1500-1508) require that the Record of Decision identify the alternative(s) that could be considered environmentally preferable. The environmentally preferred alternative is defined by CEQ as 1) The alternative that causes the least damage to the biological and physical environment, and 2) the alternative that best protects, preserves, and enhances historic, cultural, and natural resources.

The vast majority of potential environmental impacts resulting from the proposal to renew the Wasatch Powderbird Guides outfitter-guide permit are social and economic. The projected physical and biological impacts are, for the most part, negligible.

The only exception is the potential impact of helicopter landings on nesting golden eagles in the Northern Powder Circuit. Although the application of Fish and Wildlife Service Guidelines to action alternatives mitigates that impact, Alternative A might be environmentally preferable. To fully evaluate

and minimize potential impacts on eagles, we would also need to monitor the potential impacts of other winter uses on the same terrain with an eye to limiting those other uses if impacts were identified.

No historic or cultural resources within the project area have been identified as potentially affected by the proposed action or alternatives. None of the alternatives is environmentally preferred on the basis of those factors.

IMPLEMENTATION DATE AND APPEAL OPPORTUNITIES

This decision is subject to appeal pursuant to 36 CFR 215.7. A written Notice of Appeal must be post-marked within 45 days after the date this notice is published in the Salt Lake Tribune, Salt Lake City, Utah. The Notice of Appeal should be sent to: USDA, Forest Service, Intermountain Region, ATTN: Appeals Deciding Officer, 324 25th Street, Ogden, UT 84401.

Appeals must meet the content requirements of 36 CFR 215.14. For further information on this decision, contact Rob Cruz, EIS Project Manager at the Salt Lake Ranger District, 6944 South 3000 East, Salt Lake City, UT 84121, (801)733-2685.

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

BERNIE WEINGARDT
Forest Supervisor
Wasatch-Cache National Forest

Date

