Decision Memo

Cockleburr Riding Club Permit Reissuance

USDA Forest Service
Spanish Fork Ranger District, Uinta National Forest
Utah County, Utah
Township 10 South, Range 3 East, Section 30, SLM

Background

In November of 1999 the Spanish Fork District Ranger issued a Special Use Permit to the Cockleburr Riding Club for the purpose of maintaining existing club facilities on National Forest System lands on the Spanish Fork Ranger District. Authorized facilities included a clubhouse, generator house, outhouse, water pipeline and troughs, and horse stalls. These facilities were authorized on a one-acre permit area. The Special Use Permit expired December 31, 2004.

Clause II.D of the 1999 Special Use Permit stated: "At the expiration or termination of an existing permit, a new permit may be issued to the holder of the previous permit or to a new holder subject to the following conditions:

1. The authorized use is compatible with the land use allocation in the Forest Land and Resource Management Plan.
2. The permit area is being used for the purposes previously authorized.
3. The permit area is being operated and maintained in accordance with the provisions of the permit.
4. The holder has shown previous good faith compliance with the terms and conditions of all prior or other existing permits, and has not engaged in any activity or transaction contrary to Federal contracts, permits, laws, or regulation."

Each of these conditions is met.

Decision

I have decided to issue a Special Use Permit renewing the authorization to the Cockleburr Riding Club to continue maintaining existing club facilities on National Forest System lands. This Special Use Permit will expire five years from the date of issuance, at which time the permit holder may apply for another permit.

The permit will not authorize construction of additional facilities. The permit will authorize the Cockleburr Riding Club to continue using and maintaining the existing facilities. The permit holder will be required to inspect the permit area for noxious weeds and may be required to treat any noxious weeds found during inspections.

Renewal of the permit was analyzed by a Forest Service archaeologist, ecologist, wildlife biologist, fisheries biologist and hydrologist. Each of these specialists concurred that there are no extraordinary circumstances that would warrant further analysis and documentation of the proposal in an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and that the proposal would not have a significant effect on the environment.

In my decision-making process I considered all of the concerns that were raised as a result of our public involvement efforts. This proposal was presented to the public for comment on November 12, 2004 with the publication of a legal notice in *The Daily Herald.* In addition, letters requesting comments were mailed to several interested individuals or groups.

A concern was raised over potential impacts to migratory birds, proposed, endangered, threatened and sensitive species, species of concern, and to population trends of management indicator species (MIS). Specific species identified included three toed woodpecker, goshawk, mollusks and amphibians. These concerns were analyzed by a Forest Service ecologist, fisheries biologist and wildlife biologist. Renewal of the permit is expected to have no effect on these species.

A concern was raised that renewal of the permit may contribute to the spread of noxious weeds. To mitigate this potential impact the permit area will be inspected annually and any noxious weeds found will be treated with herbicide or physically removed.

A concern was raised that the length of the term of the permit should be shorter than five years to allow changes to the authorization in response to unforeseen issues or events. Clause I.D of the previous permit stated: "This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms, conditions, and stipulations as may be required by law, regulation, land management plans, or other management decisions." The reissued permit would also contain this clause which gives the Forest Service the ability to respond to unforeseen issues or events.

A concern was raised that the permit should include language stating that it does not convey permanent rights to the permitted area. Clause I.C of the previous permit stated: "This permit is a license for the use of federally owned land and does not grant any permanent, possessory interest in real property, nor shall this permit constitute a contract for purposes of the Contract Disputes Act of 1978 (41 USC 611)." The reissued permit would also contain this clause.

A concern was raised that the permitee should be required to restore the permit area to a condition specified by the Forest Service. Clause V.D of the previous permit stated: "Prior to abandonment of the improvements or within a reasonable time following revocation or termination of this authorization, the holder shall prepare, for the approval by the authorized officer, an abandonment plan for the permit area. The abandonment plan shall address removal of improvements and restoration of the permit area and prescribed time frames for these actions. If the holder fails to remove the improvements or restore the site within the prescribed time period, they become the property of the United States and may be sold, destroyed or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all cost associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site." The reissued permit would also contain this clause.

I have determined that this proposal is categorically excluded from documentation in an environmental impact statement or an environmental assessment under Section 31.2, Item 15, of Forest Service Handbook (FSH) 1909.15 on Environmental Policies and Procedures. This category pertains to the issuance of a new special use authorization for a new term to replace an expiring 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. Each of these conditions is met.

Public Involvement

As stated above, this proposal was presented to the public for comment on November 12, 2004 with the publication of a legal notice in *The Daily Herald.* In addition, letters requesting comments were mailed to several interested individuals or groups. A response was received from one group and the pertinent concerns raised were discussed above.

Findings Required by Other Laws

This decision is consistent with the Uinta National Forest 2003 Land and Resource Management Plan (Forest Plan) as required by the National Forest Management Act. The proposal is consistent with Forest Plan standards and guidelines for Soil and Water Resource Management (Forest Plan pages 3-8 through 3-10), Wildlife and Fish Habitat Management (Forest Plan pages 3-11 through 3-31), Noxious Weeds and Vegetation Management (Forest Plan pages 3-15 through 3-20), and Special Uses Management (Forest Plan page 3-31).

Issuance of the permit would not violate the Endangered Species Act or any other applicable environmental laws. Additionally, the terms and conditions of the permit require the permit holder to comply with all laws applicable to the authorized facilities and activities.

Implementation Date

The Special Use Permit will be issued immediately.

Administrative Review or Appeal Opportunities

This decision is not subject to administrative appeal.

Contact Person

For additional information concerning this decision or the Forest Service appeal process contact Matt Keyes, Spanish Fork Ranger District, 44 West 400 South, Spanish Fork, UT, 84660, 435-623-0952.

/s/ *William A. R. Ott* 1/26/2005

WILLIAM A. R. OTT
Spanish Fork District Ranger
Responsible Official

Date