

DECISION MEMO
USDA Forest Service, Sequoia National Forest
Kern River Ranger District
Kern County, California

Lookout Mountain Property Owners Association
Road Special Use Permit

BACKGROUND

Sequoia National Forest, Kern River Ranger District, issued a special use permit (SUP) to the Lookout Mountain Property Owners Association for a road on 05/09/72. The road is in place and is approximately 3,380 feet by 14 feet and accesses private property off of Forest Service Road 22S41 north of West Meadow (SE1/4, Sec. 36, T21S, R33E, MDB&M). There is a pipe gate located on private property where the road accesses the private property. Total area of the SUP is approximately 1.09 acres. A road maintenance schedule with standards for road maintenance will be incorporated in the operating plan for the permit.

PROPOSED ACTION

The Sequoia National Forest proposes to issue a new 10-year road SUP to the Lookout Mountain Property Owners Association. There will be no changes related to the operation and maintenance of the road. Any changes to the SUP, involving major ground disturbing activities, will be addressed in a separate environmental analysis.

DECISION

I decided to issue the road SUP for a 10 year term. The project involves issuing a non-recreation SUP where suitable private land is not available and where the use does not conflict with forest management objectives.

An environmental assessment (EA) or environmental impact statement (EIS) will not be prepared. I have reviewed the resource conditions pertaining to extraordinary circumstances (see below), including associated reports, and have determined that no extraordinary circumstances exist that would preclude use of a categorical exclusion in accordance with Council on Environmental Quality regulations at 40 CFR 1508.4. The project, as designed, will have little to no effect on the natural or human environment.

Further, I find that the issuance of this SUP meets the requirements found at 36 CFR 220.6 – Categorical Exclusions. Specifically, the project meets Category 36 CFR 220.6(e)(3) – Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land. This category is appropriate because the new SUP covers less than five contiguous acres, will be issued for a 10-year term to replace the previous SUP, there are no changes to the SUP, and the holder is in compliance with the terms and conditions of the previous SUP.

The Federal Land Policy and Management Act, as amended October 21, 1976, provides the principal authority to issue and administer road SUPs on National Forest System lands.

REVIEW OF EXTRAORDINARY CIRCUMSTANCES

In deciding whether a categorical exclusion may be used, the responsible official must assure there are no extraordinary circumstances related to the proposed action that would warrant further analysis and

documentation in an EA or EIS. In accordance with FSH 1909.15 Section 30.4, the following resource conditions were considered in determining whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA or EIS:

- **Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.**
 - According to District Wildlife Biologist, Steve Anderson, there are no known federally listed plant or animal species or their habitats, nor are there any Forest Service sensitive species that would be affected by the project.
- **Flood plains, wetlands, or municipal watersheds.**

According to District Hydrologist, Chris Stewart, the activities to be authorized by the SUP involve only minor ground disturbing activities and will not adversely affect any flood plains or wetlands. The project is within, but will not affect, the West Meadow Creek Watershed.
- **Congressionally designated areas such as wilderness, wild and scenic rivers, or national recreation areas.**
 - The project area does not fall within any congressionally designated wilderness or national recreation areas. The project will not affect these determinations.
- **Inventoried Roadless or Research Natural Areas.**
 - The project area does not fall within any inventoried roadless areas or research natural areas. The project will not affect this determination.
- **American Indian and Alaska Native religious or cultural sites, archaeological sites, or historic properties or areas.**
 - According to District Archaeologist, Dennis Dougherty, there are no American Indian and Alaska Native religious or cultural sites in the project area. An archaeological review of the project area was completed on 09/29/09. Any major ground disturbing activities (beyond normal grading, replacing the gate, and setting the fence posts) will require additional heritage review.

PUBLIC INVOLVEMENT

A letter requesting comments was mailed on 10/03/08 to the following:

- Local Legislators
- Local Chambers of Commerce
- Local media
- Local government agencies and departments
- Tule River Tribal Council
- Local Native American contacts
- Other interest parties listed on the Mediated Settlement Agreement mailing list

Of those that were contacted, no extraordinary circumstances were identified.

FINDINGS REQUIRED BY OTHER LAWS

- **National Historic Preservation Act.** The project constitutes an Exempt Undertakings (Attachment 4. II. (9): "routine road maintenance and resurfacing where work is confined to previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no historic properties or historic properties would not be affected because proposed work is clearly within disturbed

context.”) under the *Programmatic Agreement Among the USDA Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and Advisory Council on Historic Preservation Regarding the Identification, Evaluation, and Treatment of Historic Properties Managed by the National Forests of the Sierra Nevada, California.*

- **Endangered Species Act.** No threatened, endangered, or candidate species are affected by the project.
- **Migratory Bird Treaty Act.** The SUP will not affect snags, recruitment snags, green tree retention, down wood, and diversity which will provide for migratory bird habitat at the project scale.
- **Clean Water Act.** The SUP will be operated and the operating plan will contain appropriate Best Management Practices in accordance with requirements of the California Central Valley Regional Water Quality Control Board to ensure compliance with the California Water Code and the Federal Clean Water Act.
- **Clean Air Act.** The SUP will be conducted in accordance with the Clean Air Act, the conformity provisions of the Clean Air Act, California’s Title 17 (Smoke Management for Agricultural and Prescribed Burning), and local air pollution control district regulations.
- **National Forest Management Act.** This action is consistent with the goals, objectives, and management direction to grant non-recreation SUPs when suitable private land is not available and where the use does not conflict with forest management objectives. This action does not conflict with forest management objectives of the Sequoia National Forest LRMP, as amended by the 2004 Sierra Nevada Forest Plan Amendment Supplemental FEIS and ROD. This action is also consistent with the Sequoia National Forest Mediated Settlement Agreement.

IMPLEMENTATION DATE


Project implementation is proposed for July, 2010.

ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITY

This decision is not subject to appeal pursuant to Forest Service Regulations at 36 CFR 215, Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities, section 215.4(a).

CONTACT PERSON

For additional information concerning this decision or any other questions, please contact Artie Colson, Special Use Officer, at (760) 379-5646, extension 562, or send to the Sequoia National Forest, Kern River Ranger District, P.O. Box 3810, Lake Isabella, CA 93240.


TINA J. TERRELL
Forest Supervisor
Sequoia National Forest


Date

EXHIBIT A - LOCTAJON MAP

Lookout Mountain Property Owners Association Road - Type Site "53"

SE1/4, Section 36, T.21S., R.33E., NDBM

S E Q

N A T I O N A L

Pipe Gate

Private Road

21S16

22S41

21S28

22S41

Kern River Ranger District

Sequoia National Forest

Landlines are approximate.

adc 0" = 2' 09"

TN 1/4

1/4"

0 100 FEET 50 100 METERS

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