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Department of
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Service

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Sullivan Private Land Access Special Use Permit

Decision Memo

**USDA Forest Service, Eastern Region
Green Mountain National Forest
Middlebury Ranger District
Towns of Lincoln and Ripton
Addison County, Vermont**

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Sullivan Access Special Use Permit Project Decision Memo

USDA Forest Service, Eastern Region, Green Mountain National Forest
Middlebury Ranger District
Towns of Ripton, Addison County, Vermont

I. SUMMARY

As District Ranger for the Middlebury and Rochester Ranger Districts, I am authorizing the issuance of a special use permit (SUP) to James Sullivan. The permit is issued for a term of 20 years, with an expiration date of September 30, 2029.

The Sullivan SUP will be issued to allow the reconstruction of a user-maintained four-wheel drive road along an existing access route of approximately 0.65 miles to the Sullivan's land on Sparks Brook. The access route will be gated and all maintenance to U.S. Forest Service (USFS) standards will be the responsibility of the special use permittee. Maintenance necessitated by use is both required and authorized. The Sullivan permit is located on National Forest System (NFS) land in the Town of Ripton, Addison County, Vermont on the Middlebury Ranger District of the Green Mountain National Forest (see attached map).

II. DECISION TO BE IMPLEMENTED

A. Background and Project Area

James Sullivan owns a private property inholding, a parcel of private land surrounded by NFS land, and currently does not have legal access to his parcel. Mr. Sullivan has requested year-round motorized access across NFS land to the east of Forest Road (FR) 54. The special use request for access to the Sullivan property was incorporated in the Natural Turnpike Project Preliminary and Final Environmental Assessments (EA) (March 2008). At that time, the District Ranger determined that wheeled motorized access is necessary for the reasonable use and enjoyment of this property. The Decision Notice for the Natural Turnpike project however, deferred the Sullivan SUP request and did not include any permit authorizations in that decision. It was determined that additional time was needed to work with the landowner to determine adequate access to their private property.

The road accessing the Sullivan tract has been in use for over sixty years, although the USFS has never authorized access with a special use permit. This low-standard, native surface road is not gated, and therefore is open to unauthorized truck and ATV travel year-round. The Sullivan's request is to reconstruct and improve the existing road to an eight-foot wide access route accommodating four-wheel drive traffic. Reconstruction will include: hardening approximately 30 percent for the road with rock/gravel; installing a bridge suitable for ATV use; improve and/or relocate waterbars; rehabilitation of rutted areas next to the road, and installing a gate to prevent unauthorized public use. The Sullivan access request analyzed in the Natural Turnpike EA identified the need for a four-foot wide ATV trail; this request has been changed to an eight-foot wide four-wheel drive road to accommodate the need for occasional truck or heavy equipment access for maintenance and upkeep of the property. The Sullivan's request is to utilize the access route primarily by ATV on a regular basis, with occasional use by trucks or heavy equipment. Winter access would continue to be by snowmobile as in past years. The Sullivan access is located within the Wilderness Study Area Management Area (MA) and the Steam Mill Roadless Area (RA).

B. Purpose and Need

The purpose of this action is to process the special use applications submitted by Mr. Sullivan for the reconstruction, use, and maintenance of a travelway to their property. The landowner has requested motorized access across NFS land. The need for the project is to allow NFS lands to be used for access to the private in-holdings. I have determined that wheeled motorized access is necessary for the reasonable use and enjoyment of this property (letter to the file, 2710, March 23, 2009). If this request for legal access to private land is not considered, the USFS would not be in compliance with law (Alaska National Interest Lands Conservation Act-ANILCA), policy (Federal Land Policy and Management Act-FLPMA), and GMNF Land and Resource Management Plan direction (Forest-wide standard and guideline, Non-Recreation Special Uses, S-10 and G-1; and Wilderness Study Areas MA standard and guideline, Non-Recreation Special Uses S-1).

In addition, there is a need to improve soil and water quality by eliminating sources of stream sedimentation, erosion, compaction, and rutting. Approximately 60 percent of the existing road accessing the Sullivan tract is continually wet and rutted. There are three locations along the road where sediment is being delivered to the stream. The one stream crossing has no stream crossing structure. All sediment sources are relatively small, but should be addressed before becoming larger.

This decision is intended to contribute to accomplishment of the 2006 GMNF Land and Resource Management Plan (Forest Plan) Goal 14 of providing for a safe, efficient, and effective Forest transportation system that meets both the needs of the Forest Service and the public (Forest Plan, p. 16).

C. Alternative Actions Considered but Dismissed

Alternatives considered but eliminated from further analysis are described, along with a rationale for dismissal, in the project file. In summary, the following alternatives were considered to the proposed action of issuing a SUP to Sullivan:

Alternative Description	Reason for Dismissal
1. New trail route from FR54/59 Bypass trail south to camp	Extensive new construction
2. Retain current location but bypass mud holes	Require an additional stream crossing and would still require hardening of new construction areas
3. Relocation located on route from FR 54 parking lot through logged over area and 1/3 mile of new construction to camp mostly following former logging skid trails.	The route is longer and would require 1/4 mile of new construction.
4. New location over the route of the Catamount Trail from FR 59 north for 3/4 mile then following old skid roads and about 1/4 mile of new construction to camp.	Would create user conflict with skiers in winter when Sullivan access is via snowmobile. Portion of route exceeds 15 percent slope.

D. Description of Decision

This decision authorizes the USFS to issue a SUP, to James Sullivan, to use, and maintain for that purpose, four-wheel drive travel route to access their private property (see attached maps). Access is granted for the stated purpose only and does not constitute permanent access rights via this route. The permit is issued for a term of 20 years, with an expiration date of September 30, 2029. When the permit expires, upon the permittee's request, and after appropriate evaluation of environmental conditions at that time, new permit can be issued.

Sullivan's Land Access: This decision authorizes the reconstruction of a user-maintained four-wheel drive road along an existing access route of approximately 0.65 miles to the Sullivan's land in the Town of Ripton on Sparks Brook. More specifically, the access permitted will be an eight-foot wide road suitable for occasional truck access with drainage and hardening as specified in the SUP to prevent soil erosion and compaction. An ATV accessible bridge will be constructed to cross Sparks Brook; however, the ford will be used for occasional truck and/or heavy equipment access. Although these actions do not currently require clearing of vegetation to allow operation of highway-legal vehicles on the travelway, the removal of hazard trees as they may develop from time to time is permitted. Prior notification and approval from the USFS will be required before any vegetation clearing is performed.

A sign will be posted at the intersection of the authorized travelway and FR 54, restricting traffic to authorized use only. In addition, a gate will be installed to control unauthorized access and all maintenance to USFS standards will be the responsibility of the special use permittee. In addition to providing legal access, this action addresses rutting, erosion, and stream sedimentation issues from the existing access road through:

- Road hardening (additional rock material placed in rutted spots, which occupy about 30 percent of the road)
- Installing an ATV accessible bridge at the crossing of Sparks Brook
- Improving and relocating selected water bars
- Rehabilitating rutted areas next to the road
- Installing a gate on the road at FR 54 to prevent unauthorized use

This decision includes implementation of design criteria identified in Appendix A of this Decision Memo. Resource conditions for roads under Special Use Permit are monitored every three years per Forest Service Manual direction (FSM 2716.53). If soil and water resource damage is occurring as a result of ATV and/or truck access, permit conditions will be reviewed. This decision is based upon an environmental analysis, conducted by USFS personnel, and responses to public scoping. This information is located in the project file at the GMNF Middlebury Ranger District Office in Middlebury, Vermont.

III. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or an environmental assessment when they are within one of the categories found at 36 CFR 220.6(d) and (e), and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

A. Category of Exclusion

Based upon the environmental analysis contained in the project file and on experience with similar activities on the GMNF, I have concluded that this decision can be appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment. I have determined that the selected action is a routine activity within

the following category of exclusion found at 36 CFR 220.6(e) Section 31.2 (3): “Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land. “

B. Relationship to Extraordinary Circumstances

The list of seven extraordinary circumstances that were examined for this analysis may be found at 36 CFR 220.6(b). The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effects of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. I have concluded that there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment. My conclusion is based on information presented in this document, in the Natural Turnpike Final EA document (March 2008), and the entirety of the record. A summary of the project’s potential effects on each resource condition is as follows:

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 –

Wildlife

The Endangered Species Act requires that federal activities not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species’ designated critical habitat. In accordance with Section 7(c) of this Act, a report of the listed and proposed, threatened, or endangered species that may be present in the project area was reviewed.

A Biological Evaluation for wildlife was prepared in September 2007 to assess the likelihood of occurrence, habitat needs, and determination of findings regarding Threatened, Endangered, and Sensitive (TES) wildlife species as part of the Natural Turnpike Project EA (Torres 9/19/07). No Federally listed species are known to occur in the project area. The Rusty Blackbird and West Virginia White are the only Regional Foresters Sensitive Species (RFSS) that have suitable habitat in or nearby the Natural Turnpike project area; however, no animal RFSS have documented occurrences within the project area, either currently or historically. Based upon the BE’s analysis of effects, a “no effects” determination was made for all T&E species due to lack of occurrence and lack of potential habitat. A no impact determination was made for the RFSS listed species tracked for the GMNF.

Plants

A Biological Evaluation was prepared in February 2008 to assess the likelihood of occurrence, habitat needs, and determination of findings regarding TES plant species as part of the Natural Turnpike Project EA (Deller 2/12/2008). The BE included a pre-field analysis of available information and identified one plant on the RFSS list - *Polemonium vanbruntiae* (Appalachian Jacob’s ladder) as occurring in the Natural Turnpike Project area. An additional 11 plants on the RFSS list were identified as having potentially suitable habitat in the Natural Turnpike project area. There are no federally listed plant species on the GMNF.

Based on the analysis in the BE and Natural Turnpike EA, no direct or indirect effects are expected as a result of the proposed activities because no rare plants were found during surveys and these activities would not change habitat type. Authorization of this

SUP would have "no effect" on any of the plant RFSS or their preferred habitats. Issuance of the SUP is not likely to lead to loss of viability or trend toward federal listing for any rare plants on the RFSS list (Deller 2/12/2008).

2. Floodplains, Wetlands, or Municipal Watersheds –

The potential for impacts to water resources was analyzed as part of the Natural Turnpike Project EA (March 2008). In summary, the proposed Sullivan access road rehabilitation would improve water and wetland resources by reducing sources of sedimentation into Sparks Brook and eliminating compaction and rutting that is occurring in a wetland crossing area. The wetland crossing would require sufficient culverts to maintain water flow between the wetland portions. The hydrology of the wetland would be maintained by allowing water flow through the culverts and the wetland would be protected by eliminating the compaction and rutting that is presently occurring.

Forest Plan Water and Riparian Area Protection and Restoration S&Gs (Forest Plan, pp. 20-22), and Forest Service Manual 2526.03 will be followed to provide and maintain water, wetland and seasonal pool protection. No significant impacts to floodplains, wetlands or municipal watersheds are expected to result from this project. (Donna, March 2008).

3. Congressionally Designated Areas, such as Wilderness, Wilderness Study Areas, or National Recreation Areas –

The project will not affect congressionally designated resources because it is not contained within any congressionally designated Wilderness, Wilderness Study Areas, National Recreation Areas, National Scenic Trails, or Wild and Scenic River corridors.

4. Inventoried Roadless Areas–

The proposed access route to private lands is located in a roadless areas that was identified during the development of the 2006 Forest Plan. The proposal is in compliance with Forest Plan direction found in Forest-wide Standards and Guidelines and Management Area direction for the Wilderness Study Area MA.

Additionally, the analysis assessed the impacts to the Wilderness evaluation criteria found in Forest Service Handbook (FSH) 1909.12 Chapter 70. The FSH identifies roadless character criteria for determining whether NFS lands meet the baseline standard to be identified as inventoried roadless area. Some of the criteria apply nationwide; other criteria apply only to the National Forests in the eastern U.S. in recognition of the history of human use and modification and the natural ability of these lands to recuperate. The roadless character criteria that apply on the GMNF are:

1. The area contains at least 5,000 acres or, if it is smaller, is either contiguous to an existing wilderness or similar allocation or can be managed as a separate unit of the National Wilderness Preservation System.
2. The land is regaining a natural, untrammled appearance.
3. Improvements in the area are being affected by the forces of nature rather than humans and are disappearing or muted.
4. The area has existing or attainable NFS ownership patterns, both surface and subsurface, that could ensure perpetuation of identified wilderness values.
5. The location of the area is conducive to the perpetuation of wilderness values.

6. The area contains no more than ½ mile of forest roads under Forest Service jurisdiction for each 1,000 acres.
7. No more than 15 percent of the area is in non-native, planted vegetation.
8. Twenty percent or less of the area has been harvested within the past ten years.
9. The area contains only a few dwellings on private lands and the location of these dwellings and their access needs insulate their effects on wilderness characteristics of National Forest lands.

The management activity to authorize the private landowner (Sullivan) to reconstruct a road to access their private property may impact roadless character as identified in FSH 1909.12 Chapter 70. To analyze the impacts of these activities, I have considered the road density (1/2 mile per 1000 acres) roadless character criteria in combination with the less than 5,000 acre criteria as outlined in the Forest Service Handbook and implemented in the 2006 Forest planning process as a threshold. The roadless area (Steam Mill RA 92023) potentially impacted is less than 5,000 acres, so the analysis includes existing adjacent wilderness acres to determine if the threshold is exceeded (2006 Forest Plan FEIS, Appendix C, p. C-262).

The proposed Sullivan access road is located within the 1,384 acre Steam Mill RA identified in the 2006 Forest Plan. The RA does not meet the 5,000 acre criteria to be considered an independent roadless area in the 2006 Forest Plan. Therefore, the area of the Breadloaf Wilderness (21,151 acres) was used to classify it as a roadless area in the 2006 Forest Plan. The total acres of the Breadloaf Wilderness and the Steam Mill RA is 22, 535 acres. The RA currently has 0.03 miles of road per 1,000 acres. The access road would increase road density to 0.06 miles per 1,000 acres. This would be a very slight impact to the roadless character and well below the criteria of ½ miles for forest road per 1000 acres. The Sullivan access road therefore would not preclude its potential to be included in future inventories , or its eligibility as wilderness. No other actions of this proposal affect the criteria to determine roadless characteristics.

5. Existing and Candidate Research Natural Areas –
This project is not located within or near an Existing or Candidate Research Natural Area (concurrence from Forest Ecologist March 5, 2009)

6. American Indian and Alaska Native Religious or Cultural Sites –

See Item 7 below.

7. Archaeological Sites, or Historic Properties or Areas –

This decision complies with the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act. A 'no properties affected' determination was made for properties within the project area (concurrence from Forest Archaeologist March 2008, reviewed August 18, 2008).

8. Other Resources –

In addition to resource conditions that could lead to extraordinary circumstances, I also have considered the direct, indirect, and cumulative effects to other resources such as soil/water, fisheries, visuals, recreation, and non-native invasive species. The project will not result in significant impacts to these resources, particularly because all applicable Forest Plan

Standards and Guidelines will be implemented (Natural Turnpike Final EA March 2008, reviewed August 2008).

IV. PUBLIC INVOLVEMENT

The special use authorizations for access to the Sullivan property was initially scoped as part of the Natural Turnpike Project Environmental Assessment. Although the Natural Turnpike Project Decision Notice deferred the Sullivan SUP action and did not include any permit authorizations, comments provided on the Natural Turnpike Project are applicable to this Decision Memo and were reviewed as such (Natural Turnpike Final EA Response to Comments Appendix March 2008).

The Natural Turnpike Project, including the Proposed Action of issuing the Sullivan SUP, was listed in the quarterly *Green Mountain National Forest Schedule of Proposed Actions (SOPA)* beginning in January 2007 through June 2008. Additional scoping activities for the Natural Turnpike Project are described in the Final EA (pp. 19-20) (March 2008).

The project specific to the Sullivan SUP has been listed in the SOPA beginning in October 2008 and will remain in the SOPA until the project is authorized for implementation. Due to changes in the Sullivan access request (from a four-foot wide ATV trail as proposed in the Natural Turnpike project, to an eight-foot wide four-wheel drive road as requested in their SUP application), additional scoping was conducted. Forest Service employees discussed the changed request with the Sullivans. In addition, individuals who commented on the original proposed action for the Sullivan access were contacted and informed about the change in the width from four foot to eight foot. A concern was expressed that a wider access will invite more unauthorized use by non-permittee resulting in damage to the road and failure to achieve soil and water protection. Also of concern is the permittee using trucks for access for convenience on a regular basis once the reconstruction is done resulting in soil and water impacts.

The permittee will be required to install a gate to prevent unauthorized access.

Concerns expressed from the additional scoping include a dispute with James Sullivan over the eastern property boundary between his parcel and NFS land. A Forest Service Surveyor has reviewed the survey and is confident the property boundary is correct. In addition, Mr. Sullivan contends that there could be an existing legal right-of-way (ROW) making the SUP unnecessary, but has yet to find the documentation substantiating this potential ROW.

Comments received during the Natural Turnpike scoping process and during development of this decision were used to refine the project and analysis. Comments were also used to consider the possibility of extraordinary circumstances and potential effects to those resources.

V. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

My decision will comply with all applicable laws and regulations. I have summarized some pertinent ones below.

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

Forest Plan Consistency (National Forest Management Act) –The National Forest Management Act (NFMA) requires the development of long-range land and resource management plans, and

that all site-specific project activities be consistent with direction in the plans. The GMNF Land and Resource Management Plan (Forest Plan) was completed and approved in 2006 as required by NFMA. The Forest Plan provides direction for all management activities on the GMNF. The Sullivan Access SUP Project implements the Forest Plan.

The GMNF Forest Plan states that SUPs required by law to provide access to non-federal land shall be issued (Forest Plan, p. 44, S-2 and S-10, and p. 112). In addition, Forest Plan direction for non-recreation Special Uses requires that a Special Use Permit (SUP) shall be administered consistent with MA direction. The project area is within Wilderness Study Area Management Area (MA) as described in the 2006 Forest Plan. As required by NFMA Section 1604(i), I find this project to be consistent with the Forest Plan including goals, objectives, desired future conditions, and Forest-wide and Management Area Standards and Guidelines.

The proposed Sullivan access route is approximately a 0.65 mile road constructed for access by four-wheel drive vehicles. The Wilderness Study Area MA allows for the issuance of non-recreation special use permits where legal access is needed (Forest Plan, p. 112). The Forest Service is required by law (ANILCA) to provide access for private inholdings. The proposed action of issuing a special use permit for a private road access is consistent with Forest Plan management direction and law.

Alaska National Interest Lands Conservation Act (ANILCA) – In situations where private landowners have no access, other than across Federal lands the Alaska National Interest Lands Conservation Act (ANILCA, 16 U.S.C. 3210) provides statutory entitlement to private land access. Authorization of access under ANILCA is subject to terms and conditions the Forest Service may impose. The standard is that the authorizing officer provides access that allows for the reasonable use and enjoyment of the land and minimizes the impacts on Federal resources. Reasonable use and enjoyment use must be decided on a case-by-case basis depending on the characteristics of the property and is based on contemporaneous uses made by similarly situated lands in the area (36 CFR 251.114(a)). Access under ANILCA is generally granted via a SUP. Unlike an easement, a Forest Service SUP provides permission without conveying an interest in land and is both revocable and terminable.

Federal Land Policy and Management Act – This Act allows the granting of easements across National Forest System Lands. The regulations at 36 CFR 251 guide the issuance of permits, leases, and easements under this Act. Permits, leases, and easements are granted across National Forest System lands when the need for such is consistent with planned uses and Forest Service policy and regulations. This decision is consistent with this Act.

Endangered Species Act - The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. In accordance with Section 7(c) of this Act, a report of the listed and proposed, threatened, or endangered species that may be present in the project area was reviewed. See Section III, Item B.1 of this document.

Clean Water Act – The intent of the Clean Water Act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through Forest Plan Standards and Guidelines, specific project design criteria, and/or mitigation measures to ensure protection of soil and water resources.

Wetlands (Executive Order 11990) - Executive Order 11990 directs the agency to avoid to the extent possible the adverse impacts associated with the destruction or modification of wetlands,

and to avoid support of new construction in wetlands wherever there is a practical alternative. See Section III, Item B.2 of this document.

Floodplains (Executive Order 11988) - Executive Order 11988 directs the agency to avoid to the extent possible the adverse impacts associated with the occupancy and modification of floodplains, and to avoid support of floodplain development wherever there is a practical alternative. See Section III, Item B.2 of this document.

National Historic Preservation Act - Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. It also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. See Section III, Item B.7 of this document.

Archaeological Resources Protection Act - The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. See Section III, Item B.7 of this document.

Native American Graves Protection and Repatriation Act - The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items. See Section III, Item B.6 of this document.

Wild and Scenic Rivers Act - See Section III, Item B.3 of this document.

Federal Noxious Weed Act of 1974 and Executive Order 11312 (Non-Native Invasive Species) – The Federal Noxious Weed Act requires cooperation with State, local, and other federal agencies in the management and control of non-native invasive species (NNIS); Executive Order (EO) 11312 requires all pertinent federal agencies (subject to budgetary appropriations) to prevent the introduction of NNIS. This project’s decision meets the intent of this law and EO by incorporating all pertinent Forest Plan Standards and Guidelines to ensure the management and control of NNIS.

Environmental Justice (Executive Order 12898) - This order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this order. Public involvement occurred for this project, the results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

VI. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is not subject to an administrative review or appeal pursuant to 36 CFR 215 and the Earth Island Institute v. Ruthenbeck Ruling of October 19, 2005.

This decision is subject to appeal pursuant to 36 CFR 251 by those who hold or, in certain instances, those who apply for written authorizations to occupy and use National Forest System lands. An appeal for initial review may be filed by those who hold or, in certain instances, those who apply for written authorizations to occupy and use National Forest System lands. To appeal

this decision under 36 CFR 251, a written Notice of Appeal, meeting the content requirements at 36 CFR 251.90, must be postmarked or received within 45 calendar days after the date of notice of this decision to applicants and holders of written authorization to occupy and use National Forest System land. However, when the 45-day filing period would end on a Saturday, Sunday, or Federal Holiday, the filing time is extended to the end of the next Federal working day.

The Notice of Appeal must be sent to: USDA, Forest Service, Green Mountain and Finger Lakes National Forests, ATTN: Forest Supervisor, Margaret Mitchell, 231 N. Main St. Rutland, VT 05701 (fax: 802-747-6766). The Notice of Appeal may alternatively be faxed to: USDA, Forest Service, Green Mountain and Finger Lakes National Forests, Region 9, ATTN: Forest Supervisor, Margaret Mitchell, (fax: 802-747-6766). A copy of the appeal must simultaneously be sent to the District Ranger (fax: 802-767-4777). If an appeal is filed, I am willing to meet and discuss concerns. Additionally, if an appeal is filed, an oral presentation concerning the appeal (36 CFR 251.97) and/or stay of implementation (36 CFR 251.91) of the decision may be requested at any time prior to closing the appeal record.

VII. IMPLEMENTATION DATE

This decision may be implemented immediately.

VIII. CONTACT PERSON

Further information about this decision can be obtained from Dan McKinley during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Rochester District office at 99 Ranger Road, Rochester, VT 05767; Phone: 802-767-4261 x 516; Fax: 802-767-4777; or e-mail: dmckinley@fs.fed.us.

Additional information about this decision can be found on the Internet at:
<http://www.fs.fed.us/r9/forests/greenmountain/htm/greenmountain/links/projects/decisionsfrom2009.htm>

IX. SIGNATURE AND DATE

/s/ Greg Smith

Date: 26 May 2009

GREG D. SMITH
District Ranger
Responsible Official

Attachment(s): Map of project area
Appendix A: Design Criteria

Appendix A
Design Criteria for Sullivan Private Land Access

1. The wetland crossing impacting 1256 square feet of wetland will require sufficient culverts to maintain water flow between the wetland portions.