

Decision Memo
Broken Wheel Ranch
Equestrian Outfitter Special-Use Permit

USDA Forest Service
Mississippi Bluffs Ranger District, Shawnee National Forest
Jackson and Union Counties, Illinois

Proposed Action

The Mississippi Bluffs Ranger District proposes to issue a one-year special-use permit to the Broken Wheel Ranch, a privately owned, cabin-rental site. The permit would allow access to national forest lands by equestrians using the Broken Wheel Ranch. The ranch is located near the River-to-River trail and is adjacent to the Bald Knob and Clear Springs Wildernesses (see attached Map A).

The ranch has four rental cabins, RV parking, horse-trailer parking and two barns. With the barns and parking area, the total equestrian capacity is less than 15 horses. The owner expects that 8-10 riders in one day would be the most that would use his facility during the peak riding season. Because the cabins are available for hikers as well as equestrians, he believes that it would be rare for the total capacity to be used by equestrians.

The proposed temporary permit would allow use from this cabin-rental site while the Forest completes a watershed assessment for the second phase of the trails designation project, which includes the two wilderness areas. This assessment would serve to explore and define the long-term management of the two wilderness areas and three of the watersheds within these areas. The proposed short-term permit would allow operation of this business until the larger analysis is completed and a decision is made on the long-term issuance of a permit.

In 2005 and 2006, all of the proposed permitted trails were inventoried by Forest personnel. Documented visitor contacts through the summer of 2006 indicated a relatively low use-rate by both hikers and equestrians in both wilderness areas. The inventory indicated that the trails are in fair condition, given the reduced level of maintenance they have received since wilderness designation. Problem areas were identified on all trails and found to be associated with the lack of trail design (e.g., old roads converted to trails), not the result of over-use.

In order to properly manage equestrian use and ensure the protection of wilderness character during the short term of the proposed permit, the following resource-protection measures would be incorporated in the permit:

- Broken Wheel Ranch equestrian clients will be allowed to ride only trails identified in the permit within Bald Knob and Clear Springs Wildernesses (Map A). They will also be able to ride the Cedar Lake trail system (Map B) and the Kinkaid Lake trail system (Map C).
- Broken Wheel Ranch equestrian clients will be allowed to ride April 1–November 30 in Bald Knob and Clear Springs Wildernesses. (The wildernesses will be closed to Broken Wheel Ranch equestrian clients December 1–March 31).
- The Forest Service shall determine the extent of moisture impacts on the trails within the Bald Knob and Clear Springs Wildernesses and inform Broken Wheel Ranch of wilderness closures for ranch clients. Broken Wheel Ranch will inform equestrian clients of the wet-weather closures.
- Broken Wheel Ranch equestrian clients shall limit group size within the Bald Knob and Clear Springs Wildernesses to no more than ten people at any one time.

- The Broken Wheel Ranch will provide equestrian clients bridle tags or some identifier suitable to the Forest Service that must be visible on their clients' horses when riding on the Forest.
- The Broken Wheel Ranch will inform equestrian clients of the Forest Order not to harm/harass snakes on the Forest.
- The Broken Wheel Ranch will inform equestrian clients of the steps needed for management of non-native invasive species.

Decision

It is my decision to implement this action as proposed. The current permit decision falls within the categorical exclusion (FSH 1909.15 Chapter 30. 12(8)) that includes approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands.

This permit will allow the Broken Wheel Ranch to operate on the Forest and will provide a safe, maintained trail system. This action is consistent with the 2006 Forest Plan and both 36CFR251, subpart B (regarding special-use permits) and the policy objectives of Forest Service Manual (FSM) 2340.3 (on privately provided recreation opportunities). This decision will allow a short-term special-use permit to be used to limit the impact of commercial equestrian recreation on the Forest while additional, site-specific analyses for the development of a designated trail system are completed. More information on the suitability of use of the categorical exclusion is presented below under the National Environmental Policy Act heading.

Public Involvement

Public participation was a key part of the development of the special-use permit for the Broken Wheel Ranch. Scoping is required for proposed actions, including categorical exclusions (FSH 1909.15, 30.3(3)). A scoping notice was published in *The Shawnee Quarterly* on July 6, 2007 and the Proposed Decision Memo and Draft Permit and Operating Plan were sent to individuals expressing interest. In addition, all the documents were posted on the Forest website on August 28, 2007. Postcards were sent to the Forest's mailing list noting the availability of the materials on the Forest website. (The mailing list contains about 300 people who have expressed interest in being informed of all National Environmental Policy Act (NEPA) decisions made on the Forest.) A comment period was provided August 28–September 24, 2007. The comments received were considered in the decision-making process.

Monitoring

The monitoring of permit compliance will include:

- ❖ The district will meet with the permittee to review and discuss permit compliance at least biannually (spring and fall).
- ❖ The district will review the permitted trails at least biannually (spring and fall) to ensure permit compliance and monitor trail conditions.

In addition to this monitoring and in conjunction with the second phase of the trails designation project, during the term of this permit Forest personnel will be gathering information in the project-area watersheds. The presence of Forest personnel should encourage permit compliance. Additionally, information gathered for the trails designation project will also be incorporated into the review and operation of the Broken Wheel Ranch special-use permit.

Design Criteria or Mitigation

The environmental effects of this project have been analyzed and documented in the case file. The results and effects of past similar special-use permits have been taken into account. Based on field work and the best available science, the resource protection measures listed above have been developed to reduce and avoid environmental effects and are a summary of the measures included in the operating plan for the Broken Wheel Ranch (Case File).

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

National Forest Management Act

In reaching my decision, I have carefully considered five important NEPA decisions and their respective analyses that have been conducted on the Forest in the last few years. These five decisions and their respective analyses are hereby incorporated by reference (40 CFR 1502.21) into the case file for this decision.

1. **2006 Forest Plan:** The Forest Plan and the programmatic environmental analysis set forth in the Forest Plan Final Environmental Impact Statement, were carefully reviewed to ensure that the proposed permit is consistent with the 2006 Plan and its programmatic goals and objectives.

The proposed action is consistent with the intent and standards and guidelines of the 2006 Forest Plan. The Plan encourages the Forest to work in partnership with those that provide recreational opportunities for Forest visitors (Plan page 20, Recreation Management). Additionally, the Forest Plan includes a guideline that states that "Outfitter and guide permits will be issued for a variety of commercial and recreational uses" (Plan page 45, FW27.3 (G) Outfitter and Guide Permits).

2. **2003 Commercial Equestrian Outfitter and Guide Services:** I have also read and reviewed the 2003 Commercial Equestrian Outfitter and Guide Services Decision Notice and Finding of No Significant Impact and the associated environmental assessment. During the early review of the current proposed permit, I contemplated using this decision and analysis as the basis for issuing this permit. The purpose and need for the current permit is similar to the permitting contemplated in the 2003 environmental assessment. The purpose and needs for these two projects are essentially the same and the rationale for the existing condition and potential effects analysis is also essentially the same. In those respects, I have decided to tier this decision to the Decision Notice and Finding of No Significant Impact for the 2003 Commercial Equestrian Outfitter and Guide Services.

However, I believe that the experience on the Forest in issuing and administering equestrian outfitter and guide permits is now much greater than it was in 2003 and the resource protection measures proposed are more refined because of this experience. I have decided to use this categorical exclusion and this accompanying decision memo to document and incorporate our experience. The resource protection measures, as outlined above, form the basis of why this permit is appropriately issued using the categorical exclusion.

3. **Trails Designation Project - Phase 1:** I have reviewed the Final Environmental Impact Statement and Record of Decision of the Trails Designation Project, Phase 1 to increase my understanding of potential advantages and disadvantages of equestrian campgrounds and cabin-rental sites. This was particularly useful in examining the scope of potential impacts to wilderness character.

4. **Cedar Lake and Kinkaid Lake Trail Maintenance Project:** These two projects were designed to enhance and maintain the trail systems at Cedar Lake and Kinkaid Lake. As part of these projects, the resource conditions within the two project areas were reviewed. The associated analysis provided information used to examine the effect of allowing Broken Wheel Ranch equestrian use at these areas.
5. **National Association Trail Ride Competition:** This project allowed the use of the Kinkaid Lake trail system for a competitive event. The analysis for this project provided information used to examine the effect of allowing Broken Wheel Ranch equestrian use at that same area.

National Environmental Policy Act

The Council on Environmental Quality NEPA regulations at 40 CFR 1507.3 provide that agencies may adopt categories of actions that typically do not have a significant effect on the human environment and, therefore, do not require preparation of an environmental assessment or an environmental impact statement. A categorical exclusion is not an exemption from NEPA, but rather a method of complying with NEPA that promotes efficiency in the review process by reducing excessive paperwork for those categories of actions that, based upon extensive practice and experience, have been determined not to have (individually or cumulatively) significant environmental effects. The current permit decision falls within the category (FSH 1909.15 Chapter 30.12(8)) of exclusion that includes:

- Approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands.
 - a. Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter and guide.

This category was designed for special-use permit situations similar to the Broken Wheel Ranch. We are limiting the approval to a short-term permit and incorporating resource protection measures to reduce impacts from equestrian use.

In order for the use of the categorical exclusion to be appropriate, the analysis needs to examine the potential for a cause-and-effect relationship between the proposed action and resource conditions to ensure that the action does not result in extraordinary circumstances (FSH 1909.15 chapter 30.3). Potential extraordinary circumstances were considered for significant effect by resource specialists in the following seven resource condition areas:

1. ***Federally listed threatened or endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat, or Regional Forester sensitive species.***

Site-specific analysis supported by field review and monitoring has determined that this project is not likely to affect threatened or endangered species, designated critical habitat, species proposed for federal listing or proposed critical habitat, or Regional Forester sensitive species. These findings are documented in the Wildlife and Aquatic Resources working papers that include the biological evaluations for the proposed permit issuance (Case File).

2. ***Floodplains, wetlands, or municipal watersheds.***

Site-specific analysis supported by field review and monitoring has determined that this project is not likely to affect floodplains, wetlands or municipal watersheds. While there will be a small level of impact associated with the permitted use, it is expected to be minimal and

minimized by the resource protection measures. These findings are documented in the Soil and Water Resource working papers for the proposed permit issuance (Case File).

3. ***Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.***

The Bald Knob (5,786 acres) and Clear Springs (4,789 acres) Wildernesses are two areas that could potentially be affected by the proposed permitted activity. Within these wildernesses there are currently about 20 miles of system trails (including the River-to-River trail) and about 24 miles of non-system trails, for a total of about 44 miles of trail in these two areas.

The current proposal would limit the use of Broken Wheel Ranch clients to about 17 miles of permitted trail. The action would require that a portion of the existing equestrian use, and any increased use, be conducted on permitted trails and roads, thereby reducing the use of and potential for creation of more non-system (user-developed) trails. Overall, there would be less of an impact from cross-country equestrian use and use of non-permitted trails with the implementation of this permit.

Implementation of this proposal is expected to have little impact relative to wilderness character in the interim period, to be reviewed during the study and designation of trails in phase two of the trails designation project. There are no wilderness study areas or national recreation areas within the project area and, so, none will be affected by this decision. These findings are documented in the Recreation and Wilderness working papers (Case File).

4. ***Inventoried roadless areas.***

There are no inventoried roadless areas affected by this decision. These findings are documented in the Recreation and Wilderness working papers (Case File).

5. ***Research natural areas.***

LaRue-Pine Hills Research Natural Area is within the project area. Additionally, Clear Springs, Toothless, Hutchison and Pine Hills Annex natural areas are also within the project area. None of the permitted trails enter the research natural area or any of the natural areas. The proposed permit would lessen the current level of effect by restricting a portion of the existing use and any increased use from the ranch to the permitted trails. This action does not alter the protection afforded these areas in the Forest Plan. These findings are documented in the Wildlife working papers that include the biological evaluations for the proposed permit issuance (Case File).

6. ***American Indian and Alaska Native religious or cultural sites.***

There are no American Indian or Alaska Native religious or cultural sites affected by this decision. This action does not alter the protection afforded these areas in the Forest Plan. These findings are documented in the Heritage Resources working paper (Case File).

7. ***Archaeological sites, or historic properties or areas.***

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. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. 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. The Native American

Graves Protection and Repatriation Act cover 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. This decision complies with the cited Acts. A cultural resource survey has been completed for this project. The Illinois State Historical Preservation Office (SHPO) concurrence letter was received on November 7, 2007 and SHPO concurred with the proposed undertaking will be "no effect on heritage resource." These findings are documented in the Heritage Resources working paper (Case File).

I have concluded that this decision is appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment as it is a routine activity within a category of exclusion and there are no extraordinary circumstances related to the decision that may result in significant individual or cumulative effects on the quality of the human environment. My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views and the acknowledgment of incomplete or unavailable information, scientific uncertainty and risk. My conclusion is based on information presented in this document and the entirety of the record.

Administrative Appeal

This decision is not subject to an administrative review or appeal pursuant to 36 CFR 215, as modified by court order in *Earth Island v. Ruthenbeck*.

IMPLEMENTATION DATE

This decision may be implemented immediately.

Case File and Contact Person

Records of the case file are available for public review at the Mississippi Bluffs Ranger Station. Further information about this decision can be obtained from Dan L. Lentz, District Ranger, Mississippi Bluffs Ranger District during normal office hours (weekdays 8:00 a.m. to 4:30 p.m.) at the Mississippi Bluffs Ranger Station (521 N. Main St., Jonesboro, IL 62952; Phone: 618-833-8576; Fax: 618-833-8576).

Additional information about this decision can be found on the internet at:

<http://www.fs.fed.us/r9/forests/shawnee/projects/projects/>

11/14/07
Date:

/s/ Dan L. Lentz
Dan L. Lentz
District Ranger
Mississippi Bluffs Ranger District
Shawnee National Forest