

NELSON SHUTTLE SERVICE SPECIAL USE PERMIT

Decision Notice

Lolo National Forest
Superior Ranger District
Mineral County, Montana

October 2014

Lead Agency:	USDA Forest Service
Responsible Official:	Tim Garcia, Forest Supervisor
For Further Information, Contact:	Beth Kennedy, Superior District Ranger P.O. Box 460 Superior, MT 59872 (406) 822-3954

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202)720-6382 (TDD). USDA is an equal opportunity provider and employer.

Nelson Shuttle Service Special Use Permit Decision Notice

TABLE OF CONTENTS

1.0 Decision.....	1
2.0 Purpose and Need for Action.....	2
3.0 Rationale for the Decision.....	2
4.0 Public Involvement	3
5.0 Issues.....	3
6.0 Other Alternatives Considered.....	5
7.0 Finding of No Significant Impact.....	5
8.0 Findings Required by Laws, Regulations, and Policies.....	9
9.0 Pre-decisional Administrative Review Process (Objection Process) and Implementation.....	10

APPENDICES

Appendix A: Map

Appendix B: Response to Comments on the EA

This page left intentionally blank

NELSON SHUTTLE SERVICE SPECIAL USE PERMIT Decision Notice

1.0 DECISION

I have decided to authorize the issuance of a special use permit for a commercial bicycle shuttle service on National Forest System lands as described in Alternative 2 of the Nelson Shuttle Service Special Use Permit Environmental Assessment (EA) along with associated mitigation measures.

1. The permittee is authorized to use a 12-passenger van and trailer on roads listed in Table 1 to transport clients and their bicycles to approved routes listed in Table 2. The period of operation is Memorial Day to Labor Day.
2. Issuance of the special use authorization will be for one year with annual renewal rights dependent upon performance. A longer-term permit could be considered if permit requirements are successfully met over the course of three years.
3. Annual monitoring by Forest Service personnel will be conducted to ensure that the terms of the permit are being followed. Trail conditions and reported user conflicts and safety concerns will be reviewed to determine if permitted activities should be amended.

Table 1: Shuttle service is authorized to use these listed roads to transport clients

NorPac Rd. #4208	Ferry Landing Boat Access Road
Dominion Creek Rd. #810	Old Mullan Rd. #2148
Silver Creek Rd. #305	Camels Hump Rd. #3800
Dry Creek Rd. #342	Boyd Mountain Rd. #6302
Mill Creek Rd.(1) #439	Tamarack Creek Rd. #284
Mill Creek Rd.(2) #9113	Twelvemile Creek Rd. #352
Mayo Gulch Rd. #4227	

Table 2: Shuttle service is authorized to provide access to these travel routes

Northern Pacific Railroad Grade #4208 (Lookout Pass to Taft)	Flat Rock Creek Trail #253 (Tamarack to Twelvemile)
Saltese Mountain Trail #808	Storm Peak Trail #255
Dry Creek Divide Trail #203	River Trail #223 (Ferry Landing to St. Regis)
Boyd Mountain Trail #202	Mullan Road #459
Camel's Hump / Mayo Gulch Trail #213	

Mitigation Measures

1. The permittee will be required to educate clients on trail safety and Share-The-Trail etiquette. Information will also include Pack It In-Pack It Out principles of not littering on trails.

2. The Forest Service will install Share-the-Trail signs to inform trail users of proper trail etiquette and notify them that all forms of trail use (e.g. bicycles, horses, motorcycles, and hikers) may be encountered.

2.0. PURPOSE AND NEED FOR ACTION

The purpose of this project is to evaluate a public request for a special use permit to conduct a commercial bicycle shuttle service on National Forest System lands.

3.0 RATIONALE FOR THE DECISION

The Forest Service administers and manages National Forest System lands in accordance with the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C.528-531); the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600-1614); and the National Forest Management Act of 1976. These laws authorize the Forest Service to grant many forms of land and resource uses to the general public through the issuance of permits or leases. This particular request to operate a commercial bicycle shuttle service is considered a “special use” and may be authorized under 36 Code of Federal Regulations (CFR) 251.50(a).

Based on the analysis in the Environmental Assessment and Project File, I believe the authorized actions will not cause any adverse environmental effects. The roads authorized for use by the shuttle service are currently open to public motorized use and the routes the shuttle service will provide access to are currently available to bicycle use. My authorization of this activity does not change the travel management designation on these routes.

I have carefully considered the public concerns regarding potential trail safety and user conflicts. My staff addressed these concerns by dropping some of the trails the shuttle service would provide access to and developing mitigation measures. I believe these measures will be effective in reducing the potential for these issues to occur. At this time, I do not anticipate a significant increase in traffic on the designated roads and trails. Our monitoring of trail conditions and review of any reported safety and user conflict incidents will help us determine if any permit terms need to be adjusted.

I have also authorized this activity because I believe it will contribute to the diversity of recreational opportunities in the area and help establish another small business in Mineral County.

I have made my decision based on the information in the Environmental Assessment and the Project File; and consideration of issues and public comments. I have determined my decision is consistent with the Lolo Forest Plan and all laws, regulations, and agency policies. I have also considered the potential cumulative effects.

4.0 PUBLIC INVOLVEMENT

On February 6, 2014, a scoping letter describing the proposal was mailed to organizations, other agencies, and individuals who previously requested notification of Lolo National Forest projects. In addition, the project has been listed on the Lolo National Forest Schedule of Proposed Actions since February 2014, which is available on the Lolo National Forest website. Eighteen comment letters were received. Some comments supported the proposal and other comments expressed concerns, which are described below in Section 5.0.

On May 2, 2014, copies of the Nelson Shuttle Service Special Use Permit Environmental Assessment were mailed to eighteen individuals and organizations that had previously commented on or expressed interest in the project. The EA was also posted on the Lolo National Forest website. The 30-day comment period on the EA began with the publication of a legal notice in the *Missoulian* newspaper on May 7, 2014. At the close of the comment period, five comment letters had been received. The Forest Service's response to these comments is contained in Appendix B.

On August 14, 2014, the draft Decision Notice was published and mailed to individuals that had previously commented on or expressed interest in the project. The document was also posted on the Lolo National Forest website. The draft DN included the Forest Service's response to public comments on the Nelson Shuttle Service Special Use Permit Environmental Assessment. The 45-day Objection period on the draft DN commenced with the publication of a legal notice in the *Missoulian* newspaper on August 19, 2014. No objections were received.

5.0. ISSUES

The Forest Service reviewed all comments received during the scoping period to identify issues, determine appropriate analysis procedures, and identify if there were any alternatives to the proposed action. The Forest Service modified the proposed action to respond to public comments concerned about potential trail user conflicts between the bicycle shuttle service clients and already permitted outfitter and guide activities (see below). Mitigation measures were developed to address safety and other trail user conflict concerns (see Section 1.0). Although public comments raised other issues, none were identified that would require another alternative to address them. These issues are also discussed below.

The shuttle service would result in an increase in bicycle traffic on travel routes (trails and roads) which could cause conflicts with other trail users: Although bicycle use is legal on the travel routes the shuttle service would provide access to, authorizing a commercial shuttle service could lead to increased bicycle traffic on these routes. Increased bike use could result in conflicts and safety concerns with other trail users, specifically with existing permitted outfitters. In response, the Forest Service worked with the bike shuttle proponent and concerned permitted outfitters to find a workable solution. The initial proposal was modified to drop access to three requested routes that were of specific concern:

- *CC Divide Trail #404*
- *Hawk Mountain Trail #811*

- Road #16161

This modification eliminated the need for permitting use of the following roads for the shuttle service:

- CC Divide Road #378
- Taft Summit Road #7709
- Randolph Creek Road #286.

To further minimize potential user conflicts, a Share-the-Trail sign plan would be implemented to inform trail users of proper trail etiquette and that all forms of trail use (e.g. bicycles, horses, motorcycles, and hikers) may be encountered. The shuttle service permit would include a requirement that the permittee educate clients on trail safety and Share-The-Trail etiquette. The Forest Service would review reported conflicts and/or safety concerns and determine if and how permitted use should be amended.

Additional bicycle use could degrade trail conditions: *The potential increase in bicycle traffic on some authorized routes could also result in added trail wear and increase maintenance needs. The Forest Service generally performs annual maintenance to clear fallen trees off of trails. At that time, trail conditions would be evaluated to determine if there are effects from increased bicycle use. Resource damage and safety issues would be addressed. Depending on monitoring findings, permitted use could be amended.*

Additional bicycle use could affect the water quality of a permitted surface water diversion and domestic well in the Timber Creek drainage: *Due to the modification of the initial proposed action as described above to respond to user conflict concerns, the shuttle service permit would not include access to any routes in the Timber Creek drainage. Thus, this permitted action would have no effect on the identified water source.*

Additional bicycle use could increase litter on the trails, which could negatively affect other trail users' experiences: *The shuttle service permit would include a requirement that the permittee educate clients about trail etiquette, which would include Pack It In-Pack It Out principles of not littering on trails. In addition, the Forest Service generally conducts annual maintenance on trails and trash is removed. Since the routes the shuttle service would provide access to are open to public use, litter could be encountered whether the shuttle service were permitted or not.*

A shuttle service could lead to additional bicycle use on trails which could have negative impacts on deer and elk: *Some additional, occasional disturbance to deer and elk could occur as a result of the proposal if trail use by bicycles measurably increases. However, these trails are already open to bicycles and motorcycle use. Permitted use would occur during the summer from Memorial Day to Labor Day. Summer is the least critical season to avoid disturbance to deer and elk because food and weather stress are generally low and dense vegetation provides extensive hiding cover. Potential increased trail use resulting from the shuttle service would not be constant during the day, week, or operating period across the area.*

6.0. OTHER ALTERNATIVES CONSIDERED

Section 102 (2)(E) of the National Environmental Policy Act (NEPA) requires the Forest Service to study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. My staff did this with Alternative 1 - No Action, Alternative 2, and the initial Proposed Action (eliminated from detailed study).

Alternative 1 - No Action

This alternative represents the existing condition. None of the proposed actions would occur.

Alternatives Eliminated from Detailed Study – Initial Proposed Action

The Proposed Action, as initially presented to the public during scoping in February 2014, was dropped from detailed study because it was modified in response to public comments. As described in Section 5.0 above, some public concerns regarding user conflicts resulted in the deletion of three routes that the proponent of the shuttle service initially requested access to.

7.0. FINDING OF NO SIGNIFICANT IMPACT

After considering the environmental effects described in the Nelson Shuttle Service Special Use Permit Environmental Assessment (EA), I have determined that the Selected Action will not have a significant effect on the quality of the human environment based on the context and intensity of its impacts (40 CFR 1508.27). Therefore, an environmental impact statement will not be prepared.

The Forest Service found no significant issues or unresolved conflicts concerning alternative uses of available resources. The Selected Action was modified from the original proposal to address public concerns about potential user conflict between bicyclists and other trail users. Implementing regulations for NEPA (40 CFR 1508.27) provide criteria for determining the significance of effects. Significance, as used in NEPA, requires consideration of both context and intensity.

(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale, rather than the world as a whole. Both short- and long-term effects are relevant (40 CFR 1508.27).

Authorized activities are of limited scope and duration, affecting only the specified roads and trails listed in Tables 1 and 2 during the summer from Memorial Day to Labor Day. The special use authorization will be for one year with annual renewal rights dependent upon performance. The effects of the Selected Action are limited in context. Effects are local in nature and are not likely to significantly affect regional or national resources. Within the context of the landscape as a whole, the ecological consequences are not found to be significant in either the short- or long-term.

(b) Intensity. This refers to the severity of impact. The following ten aspects are considered in the evaluation of intensity (40 CFR 1508.27).

1. Impacts that may be both beneficial and adverse

I considered beneficial and adverse impacts associated with the proposed action as presented in the Nelson Shuttle Service Special Use Permit EA. These impacts are within the range of effects identified within the Lolo National Forest Plan. Based on the detailed specialist reports contained within the project file and summarized in the EA, I conclude that the specific direct, indirect, and cumulative effects of the Selected Action are not significant, and this action does not rely on beneficial effects to balance adverse environmental effects.

No Effects

Because permitted activities are consistent with existing allowed uses and a substantial increase in traffic is not anticipated, the Selected Action was determined to have no effects to Federally listed Threatened, Endangered, and Sensitive Plant species (EA, p. 9); heritage resources (EA, p. 9); fisheries and water quality (EA, p. 9); wildlife (EA, p. 9); weeds (EA, p. 10); and soil resources (EA, p. 11).

Beneficial Effects

The authorization will provide another recreational opportunity for the public in this area. It will also allow for the establishment of a new local business which will contribute to the local Mineral County economy.

Potential Adverse Effects

No adverse effects are anticipated. However, some public comments expressed concern about potential user conflicts and resulting safety issues on the trails that the shuttle service will provide access to. To address this issue, the Forest Service deleted three trails from consideration (EA, p. 4). Mitigation measures are also included in this decision to minimize the potential for user conflicts and safety concerns (see Section 1.0). In addition, the Forest Service will review reported user conflicts and/or safety concerns and determine if and how permitted use should be amended.

2. The degree to which the proposed action affects public health or safety

There will be no change to existing legal trail and road uses. The shuttle service will operate on roads open to public motorized use and will provide access to routes where bicycle travel is currently allowed. The modification of the proposed action and the application of the mitigation measures address public concerns about safety. The permittee will be required to educate clients on trail safety and Share-The-Trail etiquette. The Forest Service will also install Share-The-Trail signs to inform trail users of proper trail etiquette and notify them that all forms of trail uses may be encountered.

3. Unique characteristics of the geographic area, such as proximity to historic or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas

The Selected Action will not impact any known historic or cultural sites (EA, p. 9). The roads authorized for use by the shuttle service (Table 1) are currently open to public motorized use. Use of these roads will have no effect on any parklands, wild and scenic rivers, wetlands, or ecological critical areas. This authorized use will not result in a change to the travel management status of any existing system road or trail. Based on this information, I conclude that the Selected Action will have no effects on unique resources.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial

Based on the limited context of the project, review of the public comments received to date, and the analysis documented in the EA and Project File, I do not find any controversial effects to the human environment. In the NEPA context, “highly controversial” does not encompass all public opposition to a proposed action, but instead only applies to a substantial dispute as to the size, nature, or effect of an action.¹

I conclude that the effects of the Selected Action are not considered highly controversial by professionals, specialists, and scientists from associated fields of forestry, wildlife biology, soils, fisheries, hydrology, and recreation management.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risk

Based on my review of public comments received on this project and the analysis documented in the EA and Project File, I conclude that there are no uncertain or unique characteristics in the project area which have not been previously encountered or that would constitute an unknown risk to the human environment.

A technical analysis (EA and Project File) that discloses potential environmental impacts (which is supportable with use of accepted techniques, reliable data, and professional judgment) has been completed, and I believe that the impacts of implementing this decision are within the limits that avoid thresholds of concern.

¹ Indiana Forest Alliance, Inc. v. United States Forest Service 325 F.3d 851 (10th Cir.2003) citing Wetlands Action Network v. United States Army Corps of Engineers, 222 F.3d 1105 (9th Cir.2000); Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1212 (9th Cir.1998) citing Greenpeace Action v. Franklin, 14 F.3d 1324, 1335 (9th Cir.1993)); Sierra Club v. United States Forest Service, 843 F.2d 1190, 1193 (9th Cir.1988) (accord); LaFlamme v. Federal Energy Regulatory Commission, 852 F.2d 389, 400-01 (9th Cir.1988)

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration*

The Nelson Shuttle Service Special Use Permit request is a site-specific project that does not set precedence for future actions or represent a decision in principle about future considerations. Any proposed future project must be evaluated on its own merits and effects. The Selected Action is consistent with the Lolo National Forest Plan and the capabilities of the land.

7. *Whether the action is related to other actions with individual insignificant but cumulative significant impacts*

Connected, cumulative, and similar actions have been considered and included in the scope of the analysis. The analysis accounts for past, present, and reasonably foreseeable future actions. Based on my review of the analysis and disclosure of effects in the EA, specialists' reports, and other analyses in the Project Record, I conclude that the Nelson Shuttle Service Special Use Permit will not contribute potential cumulative adverse impacts (EA, pp. 7-11).

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources*

The Selected Action will have no effect to historic or cultural properties because authorization of the special use permit will not change the type of existing uses, provide new access to culturally or historically sensitive areas, or result in ground disturbance outside of existing travelways. The shuttle service will operate on roads currently open to motorized use (EA, p. 9).

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973*

This project will have no effect on any threatened or endangered species or its habitat (EA, pages 9-10).

10. *Whether the proposed action threatens a violation of Federal, State, or local law requirements imposed for the protection of the environment*

The Selected Action meets all federal, state, and local laws, including those for heritage resources (EA, p. 9), water quality (EA, p. 9), and threatened and endangered species (EA, pp. 9-10). It also meets the National Environmental Policy Act disclosure requirements (Nelson Shuttle Service Special Use Permit EA).

The Selected Action is consistent with the National Forest Management Act (NFMA) and the Lolo National Forest Plan. Authorized activities are consistent with the standards, goals, and objectives of all Management Areas, as determined in the Forest Plan. This project does not require any Forest Plan amendments.

8.0 FINDINGS REQUIRED BY LAWS, REGULATIONS, AND POLICIES

I have determined that my decision is consistent with the laws, regulations, and agency policies related to the project. The following summarizes findings required by major environmental laws.

National Environmental Policy Act (NEPA)

NEPA requires Federal agencies to: (a) use a systematic interdisciplinary approach in planning and decision-making; (b) consider the environmental impact of proposed actions; and (c) consider alternatives to the proposed action. I find that the analysis process and documentation of the Nelson Shuttle Service Special Use Permit request is consistent with NEPA.

National Forest Management Act (NFMA)

On April 9, 2012 the Department of Agriculture issued a final planning rule for National Forest System land management planning (2012 Rule) (77 FR 68 [21162-21276]). None of the requirements of the 2012 Rule apply to projects and activities on the Lolo National Forest, as the Lolo Forest Plan was developed under a prior planning rule (36 CFR §219.17(c)). Furthermore, the 2012 Rule explains, “[The 2012 Rule] supersedes any prior planning regulation. No obligations remain from any prior planning regulation, except those that are specifically included in a unit’s existing plan. Existing plans will remain in effect until revised” (36 CFR §219.17).

NFMA requires that projects and activities be consistent with the governing Forest Plan (16 USC 1604 (i)). The Lolo National Forest Plan establishes management direction for the Lolo National Forest. This management direction is achieved through the establishment of Forest Plan goals and objectives, standards and guidelines, and Management Area goals and accompanying standards and guidelines.

This decision is consistent with the standards, goals, and objectives of the Lolo National Forest Plan (USDA Forest Service 1986).

Endangered Species Act

Under provisions of this Act, Federal agencies are directed to seek to conserve endangered and threatened species and to ensure that actions are not likely to jeopardize the continued existence of any of these species. The biological assessments disclose that the project will have no effect on any Threatened or Endangered species or its habitat. The shuttle service will operate on roads currently open to public motorized travel. This project is consistent with the Endangered Species Act.

Clean Water Act and State Water Quality Standards

The authorized activities will have no effect on water quality because the shuttle service will operate on maintained, open roads and the project will not result in a substantial increase in traffic on these roads. Upon review of the Nelson Shuttle Service Special Use Permit EA and

Project File, I find that the Selected Action is consistent with the Clean Water Act and Montana State Water Quality standards.

National Historic Preservation Act

The Selected Action will have no effect to historic properties because the authorization of the special use permit will not change the type of existing uses, provide new access to culturally or historically sensitive areas, or result in ground disturbance outside of existing travelways. Thus, the Selected Action is consistent with Forest Plan direction and Section 106 of the National Historic Preservation Act.

9.0 Pre-Decisional Administrative Review Process (Objection Process) and Implementation

A draft Decision notice was issued in August 2014, which was subject to the objection process pursuant to 36 CFR 218. The 45-day objection period commenced with the publication of a legal notice in the Missoulian newspaper on August 19, 2014. No objections were received. Implementation can begin immediately.

Further information about this decision can be obtained from Beth Kennedy during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Superior Ranger District Office (Address: 209 West Riverside Avenue; P.O Box 460; Superior, MT 59872); Phone/voicemail: (406) 822-4233.

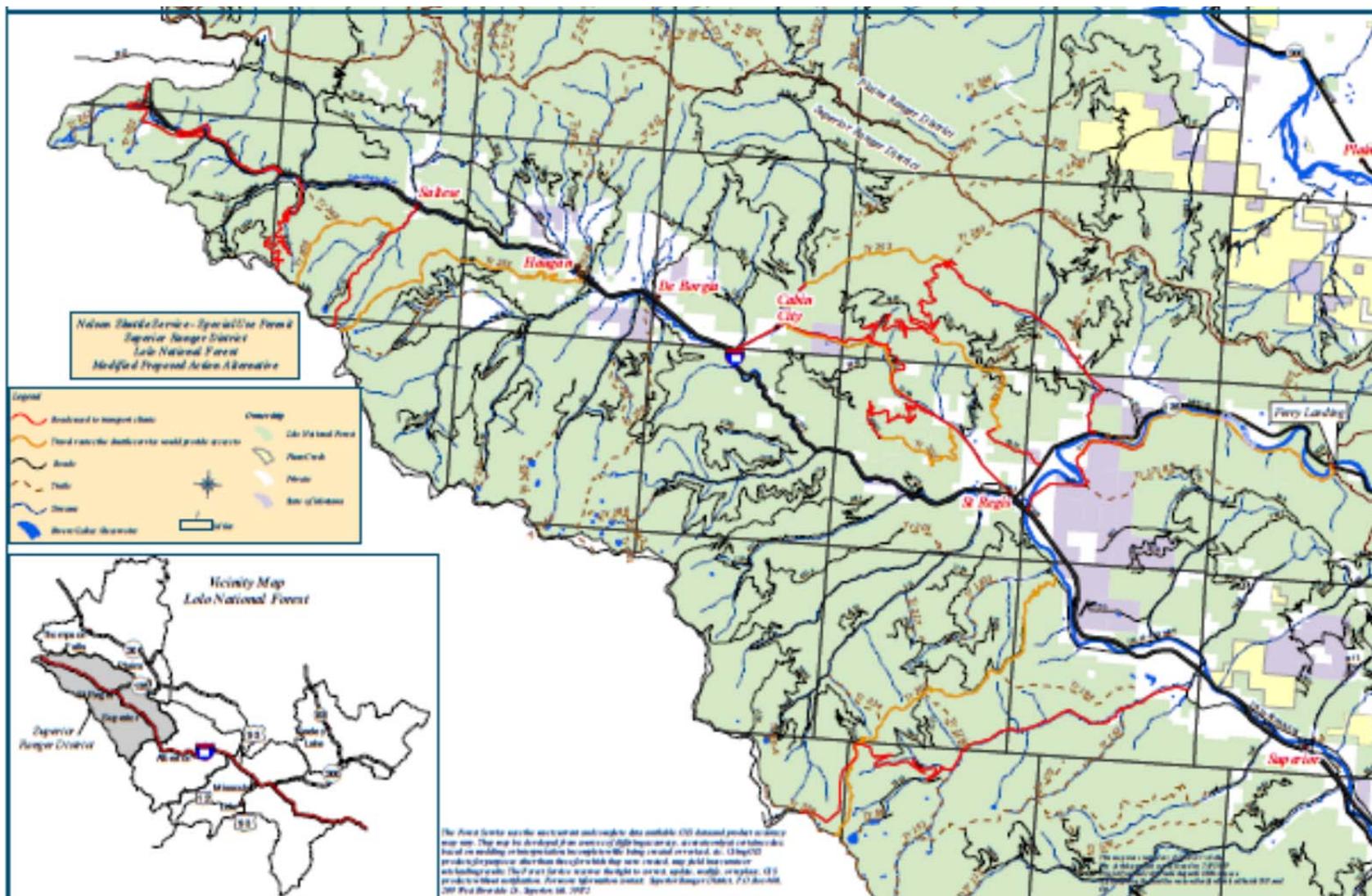
/s/ Timothy Garcia

10/20/2014

TIMOTHY GARCIA
Forest Supervisor

Date

APPENDIX A



APPENDIX B

Response to Comments on the Environmental Assessment

On May 2, 2014, copies of the Nelson Shuttle Service Special Use Permit Environmental Assessment were mailed to eighteen individuals and organizations that had previously commented on or expressed interest in the project. The EA was also posted on the Lolo National Forest website. The 30-day comment period on the EA began with the publication of a legal notice in the *Missoulian* newspaper on May 7, 2014. At the close of the comment period, five comments had been received.

Letter 1: Dirk Isben, Missoula, MT

Letter 2: Kathy Garard, Missoula, MT

Letter 3: Fredericka & Richard Thompson, Missoula, MT

Letter 4: Karl Uhlig, Bonner, MT

Letter 5: Phil Edholm

Letter 1: Dirk Isben

Comment 1: *A number of the citizens affected by this proposal are single track motorized users who are concerned about the creeping tendency over the past 25 years of continuing restriction and closure trend limiting their recreation opportunities and concentrating impacts. None of these citizens have been contacted by the Agency. As an example of this creeping tendency, by last count available from the USFS, single track motorized trail miles on the Lolo NF have dropped from 2174.86 miles to 87.33. I may question the accuracy of the numbers provided (there are duplications, nonexistent trails, etc) depending on the individual providing the numbers and the Ranger District examined, the trend is clear and dramatic. A decline in opportunities by over 90%. This is a phenomenon not unique to the Lolo NF. This is pervasive in Region 1. Specific numbers are available region wide.*

FS Response: This proposal does not include any changes to the travel management designation of trails or roads and thus does not reduce the miles of single track motorized trail opportunities.

Public outreach is important to the Lolo National Forest. For this project, the Forest Service mailed scoping letters to approximately 200 people and organizations, including Western Montana Trail Riders, Montana Trail Vehicle Riders Association, and the Blue Ribbon Coalition. The project is listed on the Forest's Schedule of Proposed Actions, which is posted on the Lolo National Forest website. The Environmental Assessment for this project was also posted on the website and a legal notice of the EA's availability was published in the *Missoulian* newspaper.

Comment 2: *Although this assessment for the permit request does not specifically close any trail to motorized use, it most certainly does not acknowledge the past trend nor provide any data about lost motorized single track opportunities and the urgent need to protect and preserve the few remaining opportunities for this legitimate user group. This environmental assessment is*

not complete without acknowledgement of and addressing these concerns. This agency has not contacted (or has not revealed that it has contacted) any of the motorized single trail users affected by this decision. However, the Agency has stated that it has contacted bike shuttle proponents and outfitters. As previously stated, trails 255,811,253,202,404 and 203(although not included in the original discussion and has been added to a modified alternative) are of significant concern and must be protected for motorized single track users.

FS Response: Please see the Forest Service’s response to Comment #1.

Trails #255, 811, 253, 202, 404, and 203 were included in the scoping letter that was mailed to the public on February 6, 2014. As discussed in the EA (page 4) and this Decision Notice (Section 5.0), Trails 404 and 811 were deleted from the proposal.

Comment 3: *It should be stipulated that in the “event of any conflicts arising out of the new permitted uses, the permit shall be immediately revoked and uses shall return to the traditional uses authorized just prior the existence of the permit.”*

FS Response: The special use authorization will be for one year with annual renewal rights dependent upon performance and resource concerns. As discussed in the EA (page 7) and this Decision Notice (Section 1.0), the Forest Service will review trail conditions and reported user conflicts and safety issues to determine if permitted activities should be amended.

Letter 2: Kathy Garard

Comment 1: *With all of the nonmotorized trails in your region, are you trying to make nonmotorized and motorized co-exist? Why can’t you allow nonmotorized permits on some of the many trails that don’t allow motorized use? It’s shameful that you have choked motorized users down from about 2174 miles to 87. Shame on you! It is so disappointing as an active person all my life, enjoying the outdoors, to have lost so many opportunities in our state so the green people can have their way with most recreation.*

FS Response: Bicycling is currently a legal activity on the trails the shuttle service would provide access to. The Superior Ranger District manages most of the trails identified in this project, for both motorized and non-motorized activities and has done so since the trails were adopted into the National Forest trail system. User conflicts between motorcyclists and bicyclists have not been an issue.

To address the potential that the authorization of this special use permit could result in trail user conflicts, mitigation measures have been included (see Section 1.0). Please also see response to Comment #3, Letter #1.

Letter 3: Fredericka & Richard Thompson

Comment 1: *There are some valid concerns by motorized users about this proposed permit for taking bikers to trails between Superior and Lookout Pass. The trend in Region 1 for the past 25-30 years has been to increasingly restrict recreation opportunities for single-track motorized*

users. By some estimates the available opportunities have declined by 90%. That is astonishing and appears to be targeted directly at motorized users.

Thus it is vital to preserve what few opportunities remain for this user group, a legitimate group that has been significantly affected by these past decisions to curtail their recreation opportunities. This area must remain open to historic single-track motorized use because it is one of the last available trail systems that is legal for motorcyclists.

FS Response: Please see response to Comment 1, Letter 1.

Comment 2: *You have contacted the proponents and outfitters, but apparently not any of the other legitimate affected users. Have you affirmatively contacted any of the individuals or user groups which will be significantly impacted by this decision?*

FS Response: Please see response to Comment 1, Letter 1.

Comment 3: *There are a number of trails that weren't included in the original proposal; what is the reason for these (202, 203, 253, 255, 404, and 811) being added since these are significant to motorized users.*

FS Response: Please see response to Comment 2, Letter 1.

Comment 4: *We believe historic use of this trail system by single-track motorized users must be protected. Should the proposal be approved and there result any conflicts, the permit must be revoked and traditional users authorized to the uses in existence before the granting of the permit. A new use should not be allowed to wipe out an historic and legal current use.*

FS Response: Please see response to Comment 3, Letter 1.

Letter 4: Karl Uhlig

Comment 1: *I'd like to offer the following comment regarding the above special use permit. I see that the period of use is Memorial Day to Labor Day. I am a hunter and also a mountain bike rider. I spend many days on the Superior ranger district traveling many of the listed roads and trails. I would appreciate if the wildlife had a rest period between the end of the shuttle service operational period and the beginning of bow season. I would suggest the operation period end two weeks prior to Labor Day. I feel that a period of use from Memorial Day to August 15th is more appropriate.*

FS Response: The Forest Service considered your concern and determined that there is no biological need to provide a rest period for wildlife. The roads the shuttle service will operate on are currently open to public motorized travel. The trails the shuttle service will provide access to are already open to bicycles and motorcycle use. Permitted use will occur during the summer from Memorial Day to Labor Day. Summer is the least critical season to avoid disturbance to deer and elk because food and weather stress are generally low and dense vegetation provides

extensive hiding cover. Potential increased trail use resulting from the shuttle service will not likely be constant during the day, week, or operating period across the area.

Letter 5: Phil Edholm

Comment: *Safety is a priority in all of our Lookout Pass Ski Area and Route of the Hiawatha operations. We have expertise in public transportation operations, including passengers with mountain bikes, and wanted to take this opportunity to comment on the Nelson Mountain Bike Shuttle Service proposal.*

First, Lookout Pass is registered with the U.S. Department of Transportation, Federal Motor Carrier Safety Administration. We are authorized to conduct interstate carrier operations. DOT requirements include a minimum of \$5million in liability insurance coverage, year around, and all of our drivers have Commercial Drivers Licenses (CDL's) with Passenger endorsement. FMCSA driver qualifications, record keeping, and maintenance logs are extensive and include periodic drug testing, qualified physician physical exams for drivers, driver hour logs, incident requirements, safety inspections, etc. We employ three full time mechanics to maintain our rolling stock, inclusive of our 10 full size school buses utilized on the Hiawatha.

12 passenger vans have a dubious consumer safety record. Visit www.dot.wisconsin.gov/safety/vehicle/passenger-vans.htm for initial information. Nelson Mountain Bike Shuttle Service may be able to represent themselves as an intrastate operator, not subject to FMCSA requirements, but the addition of hauling mountain bikes on a trailer for hire may require FMCSA application. Transporting passengers over a state line, for a fee, (no matter how short the distance), will trigger FMSCA registration.

In all our operations, we have qualified first responder and CPR staff (many with higher certifications), plus equipment and supplies, to aid in accident and sudden illness events. First aid is a very important in any permit consideration. We know, first hand, that the NORPAC trail from Lookout Pass to Taft has numerous sink holes, Tunnel 1 has safety issues, and there is a cut-off trail that many bicyclists utilize that will cause resource damage if not improved or closed.

Communications is also important in the event of emergencies or breakdowns. Our buses all carry base units, hand held radios, & CB's plus we have satellite phones and base area transceiver capabilities with a high end antenna at the top of the mountain.

FS Response: The permitted use is for the operation of a shuttle service on existing roads currently open to public motorized travel. The special use permit will require the permittee to comply with all state and federal safety requirements and to have liability insurance.