



February 27, 2023

VIA EMAIL

Objection Reviewing Officer
Intermountain Regional Office
324 25th Street
Ogden, UT 84401
objections-intermtn-regional-office@usda.gov

Re: *Final Environmental Assessment for Outfitter-Guide Management Plan for the Sawtooth NRA and Draft Decision Notice*

Dear Objection Reviewing Officer:

I am submitting the below objection in response to the Final Environmental Assessment, Finding of No Significant Impact and Draft Decision Notice (“Final EA”) for the Sawtooth National Recreation Area Outfitter & Guide Management Plan (“O&G Management Plan”) as it relates to future helicopter skiing operations on the Sawtooth NRA. The responsible official for the Final EA is Jake Strohmeyer, Forest Supervisor, Sawtooth National Forest. This objection is consistent with the prior written comments submitted by me on this project dated August 31, 2022 which addressed the legally insufficient bases for the decision to impose a hard cap of only one authorization for what the agency has referred to as a long-term approach and why that decision does not recognize or allow adjustments for the already very high and increasing demand for these services which is also diverse.

In the Final EA, the Sawtooth NRA has decided to implement a hard cap of a single special use authorization authorizing helicopter skiing in the Sawtooth NRA. A hard cap of only one authorization for what the agency has referred to as a long-term approach does not recognize or allow adjustments for the already very high and increasing demand for these services which, as noted below, is also diverse. Nor is this decision consistent with the agency’s goals of ensuring high quality visitor services and the agency’s awareness of the critical role that outdoor recreation plays in the local and regional economy around the Sawtooth NRA. This decision creates an inflexible government-imposed monopoly for these services rather than allow the O&G Management Plan to permit new entities to submit for the agency’s consideration proposals to provide other types of packages to the public for helicopter skiing services.

The Final EA acknowledge at Table 7 that the need for backcountry skiing is high. Presumably this assertion includes backcountry skiing through the use of helicopters because that specific demand is in fact very high. Table 1 in the Final EA shows that recreation use has

almost doubled from 2015-2020. The Final EA also states that “the amount of actual use for land-based outfitter and guide activities on the Sawtooth NRA has steadily increased over the last 12 years” and the recent increase in recreational activity “is believed to be a climbing trend as opposed to an anomaly brought on by the pandemic.” Final EA and 4, 5.

However, the Final EA further states that “[b]ased on actual use reports, it is believed that the amount of guided helicopter skiing currently available meets the needs of the guided public.” Final EA at 82 (Design Element A08). The current sole permittee which provides helicopter skiing services on the Sawtooth NRA, Sun Valley Heli-Ski Guides, however, is not meeting the needs of the guided public because of it only offering one type of helicopter skiing service. Nor would the actual use reports provide any basis for the agency’s assertion. Therefore, the agency’s assertion lacks any support in the administrative record and is therefore arbitrary.

As is the case with many outfitters, helicopter skiing operations vary widely to cater to the very different demands of helicopter skiing guests. While Sun Valley Heli-Ski Guides provides services which consist primarily of day skiing, the vast majority of other helicopter skiing operations in North America provide multiday packages that include food and lodging as well as helicopter services. In addition, each operator provides a unique product to the public and thus has its own unique customer base and target market based on its particular type of operations. As a result, one operator will not appeal to all members of the public who are interested in participating in this recreational activity. Thus, the assertion in the Final EA as to the amount of guided helicopter services meeting the need of the guided public is incorrect, arbitrary and not supported by the record.

In addition, Sun Valley Heli-Ski Guides is not using all of its allocated user days. This underuse, however, is apparently not due to a lack of demand but instead is due to either Sun Valley Heli-Ski Guides not providing the types of services that are in demand, or the fact that it can only operate on a limited number of days due to weather conditions. As a result, many members of the public are unable to also enjoy this recreational activity because Sun Valley Heli-Ski Guides has a limited number of helicopters that can serve guests on these days. But even if the current demand was being met, there is no basis provided in the administrative record to conclude the future, higher demand will be met by one operator. Given this fact, the proposed hard cap of only one operator for these services will very much tie the agency’s hands in the future as this demand increases.

The Final EA also states any expansion of service could effect the quality of recreation experience for other users specifically backcountry users. Final EA at 82. However, the Final EA is devoid of any support for this assertion. Therefore, this determination in the Final EA is also not supported by the record and the decision based on it is arbitrary. While the Final EA suggests that this conclusion was based on actual user reports, user reports would not provide this information. Final EA at 82. Regardless, given the very, very small percentage of recreationists which engage in helicopter skiing as compared to other users across the forest, it is not valid to assert that expanding these services would have a detrimental effect on the quality of other backcountry users. Most if not all of the helicopter operations occur in areas that are not reachable without the use of helicopters. If they were reachable by other means, most people

would of course be using those means as they likely would be far less expensive than using helicopters.

In addition, creating a de facto monopoly for providing helicopter skiing services in the Sawtooth NRA is extremely disadvantageous to the public. First, it limits the public to only one operator and the services that operator provides. However, as discussed above, there are many different types of helicopter skiing services. The public should not be limited to only one type of helicopter skiing service any more than they should be limited to one type of fishing or hunting outfitter service. The public's demands vary and having different operators allows these different demands to be met. In addition, having only one operator does not promote the benefits of competition and often leads to deficient services to the public.

Notably, the Chugach National Forest, which also has outstanding helicopter skiing opportunities, recently issued a prospectus specifically to ensure that the public would have the ability to select from several different helicopter skiing operators both to meet the overall public demand as well as the demand for different types of services. In issuing that prospectus, the Chugach National Forest explained that helicopter skiing was an important part of the range of recreation opportunities for the following reasons, all of which apply to the Sawtooth NRA:

- Access to slopes beyond the range of the average backcountry skier.
- Opportunities to find locations with suitable terrain aligned with client skill.
- Wider dispersion of recreation uses in the backcountry by integrating helicopter skiing with other recreation uses.
- Opportunity to enjoy the beauty, freedom, solitude, and untracked snow of the backcountry for those forest visitors lacking the specialized equipment, avalanche knowledge, and/or terrain familiarity to ski in the backcountry safely.

Guided Helicopter Skiing Prospectus, Cordova Ranger District, Chugach National Forest (November 2020). chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd859365.pdf. A copy of that document is attached and is therefore part of the administrative record pursuant to 36 C.F.R. § 219.54(b).

Prior to the release of the Final EA, Kirk Flanigan, the Area Ranger for the Sawtooth National Recreation Area, issued a letter dated June 27, 2022 in which he stated that the agency was “keenly aware of the critical role that outdoor recreation plays in our local and regional economy” and that it is “in many ways the foundation or driving force that keeps our community vibrant.” A copy of that letter is also attached and therefore part of the administrative record in this matter. The agency’s final decision to limit the providing of helicopter skiing operators to only one operator for this very popular recreational activity is inconsistent with those statements. Mr. Flanigan also asserted in that letter that the Draft EA, which is unchanged in the Final EA, “will give me the tools to provide for more flexibility and increase opportunities for existing O&G and new ones alike.” Again, however, imposing a hard cap of only one helicopter skiing operator is inconsistent with this stated goal because it does not provide any flexibility to adjust for growth nor provide any opportunities for new operators.

As the Idaho District Court previously held in *Idaho State Snowmobile Association v. U.S. Forest Service*, 2021 WL 493412 at *15-16 (D. Idaho 2021), involving the Forest Service's efforts to restrict snowmobile activity on the Sawtooth National Forest:

As an organization, the Forest Service is charged with a difficult task: managing national forest lands with multiple goals in mind, including pleasing the public or specific groups with widely varying interests. This case presents an example of this conflict—particularly Claim Two. Simply put, whichever alternative the Forest Service chose, someone was likely to be unhappy. Nevertheless, in cases such as this, the Court's role is not to choose the course of action it deems best, but “to determine whether or not as a matter of law the evidence in the administrative record permitted the agency to make the decision it did.” *Occidental Eng'g Co.* 753 F.2d at 769.

[] Regarding Claim Two and the Forest Service's actions under NEPA, the Court finds that, upon review, the evidence *does not* support the Forest Service's conclusions. By all accounts the evidence suggests that lynx, wolverines, and mountain goats either are not present in the Analysis Area or would reasonably tolerate human interaction. Thus, it is difficult to understand why the Forest Service then determined that OSV use in the area needed to be restricted. Ultimately, the Court fails to see a “rational connection between the fact found and choices made.” *Motor Vehicle Mfrs.*, 463 U.S. at 43. Because substantial questions exist regarding the environmental impact of the Forest Service's Decision, the Court grants summary judgment in ISSA's favor on Count Two and remands the case to the Forest Service.

(Emphasis added); *id.* at *6, *13 (“a court must inquire whether the agency examined the relevant data and articulated a satisfactory explanation for its action including a rational connection between the facts found and the choice made” and while the Forest Service went through the appropriate steps under NEPA, its Decision was not “founded on a reasoned evaluation of the relevant factors”).

For the reasons set forth above and in my prior comments, the agency's decision is not valid as a matter of law. As held in *Sierra Club, Inc. v. United States Forest Service*, 897 F.3d 582, 589-590 (4th Circuit 2018), a court will “‘hold unlawful and set aside [a federal] agency action’ for certain specified reasons, including whenever the challenged act is ‘arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.’” *Citing Friends of Back Bay v. U.S. Army Corps of Eng'rs*, 681 F.3d 581, 586–87 (4th Cir. 2012) (quoting 5 U.S.C. § 706(2)(A)); *see also The Wilderness Society v. United States Forest Service*, 850 F. Supp. 2d 1144, 1155 (D. Idaho 2012) (“An EA is arbitrary and capricious if it fails to consider an important aspect of the problem, or “offer[s] an explanation that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise”).

Very truly yours,

THE GARDEN LAW FIRM, P.C.

Kevin R. Garden

Kevin R. Garden

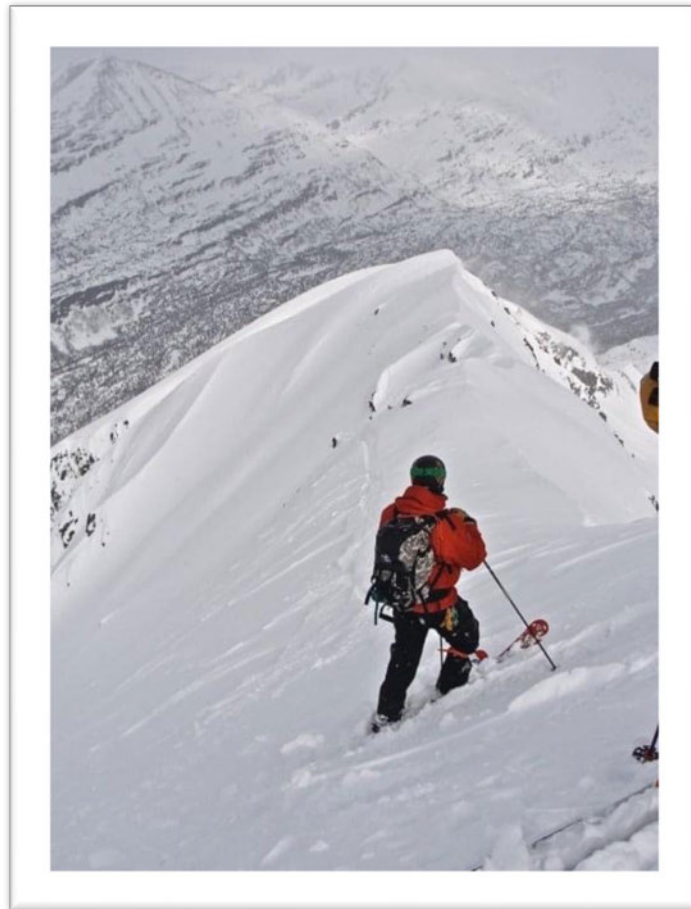
Enclosures



United States Department of Agriculture

Guided Helicopter Skiing Prospectus

Cordova Ranger District



Forest Service
Alaska Region

Chugach National Forest
Cordova Ranger District

R10-MB-882

November 2020

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I. Introduction

The Chugach National Forest invites proposals from interested parties to provide guided helicopter skiing services on the Cordova Ranger District. This prospectus is being offered to address increasing demand for this service and to meet forest objectives. The goal is to select businesses best qualified to provide visitors with a safe, satisfying recreation experience that promotes enjoyment, understanding, and appreciation of the Chugach National Forest while minimizing impacts to resources and other forest users.

Several factors make guided helicopter skiing a unique experience and an important part of the range of recreation opportunities available on the Chugach National Forest. Factors include, but are not limited to:

- Access to slopes beyond the range of the average backcountry skier.
- Opportunities to find locations with suitable terrain aligned with client skill.
- Wider dispersion of recreation uses in the backcountry by integrating helicopter skiing with other recreation uses.
- Opportunity to enjoy the beauty, freedom, solitude, and untracked snow of the backcountry for those forest visitors lacking the specialized equipment, avalanche knowledge, and/or terrain familiarity to ski in the backcountry safely.

Responses to this prospectus will be used to determine the best qualified businesses to be awarded a special use permit for guided helicopter skiing. One or more permits may be issued.

The Authorized Officer for this process is the Cordova District Ranger. This process is expected to be completed in time for service providers to operate in December 2021/January-April 2022.

Read this package carefully, including the sample special use permit (Attachments 2.0 to 2.5), and discuss with Forest Service contacts if questions arise.

While this document contains descriptive information regarding the area and opportunity, proponents are responsible for making their own determination of economic feasibility, assessment of business opportunity, and fact-checking.

Forest Service estimates of costs, expected use, snow conditions, or other business factors are only of a general nature. It is the proponent's responsibility to make their own estimates based on their proposals.

Each proponent must provide a complete proposal package. **Incomplete proposal packages will not be considered.** See Attachments 1.1 to 1.5 – Proposal Package, which contains all forms, templates, and criteria to prepare a proposal package.

Direct questions about this prospectus to Steve Namitz (907-424-4747, steven.namitz@usda.gov) or Jennifer Mac Donald (907-738-2786, jennifer.l.macdonald@usda.gov).

II. Definitions

The following terms and definitions will be helpful in reviewing the information presented in this prospectus.

Allocation of Use. An amount of use allocated to a holder that is measured in service days or quotas and that is enumerated in a programmatic or project decision that is consistent with the applicable land management plan.

Assigned Site – A location that is authorized for use and occupancy (e.g., equipment storage, seasonal temporary camp) by an outfitter/guide and for which a fee is paid. Occupancy of the site is generally not year-round.

Authorized Officer – The forest officer having delegated authority to issue, suspend, terminate, revoke, or amend permits, operating plans, etc. This is the Cordova District Ranger.

Concessioner – An individual, organization, company, corporation, or cooperating State or local agency holding a valid special use permit authorizing the provision of commercial recreation services, facilities, or activities on National Forest System (NFS) lands.

Guiding – Providing services or assistance (such as supervision, protection, education, training, packing, touring, transporting people, or interpretation) for profit or gain to individuals or groups on NFS lands. The term "guide" includes the permit holder's employees and agents.

Guided Helicopter Skiing – Guided winter recreation activities (like skiing, snowboarding, and snowshoeing) where a helicopter is used to provide up-hill transportation for participants.

Monitoring – Actions needed to ensure compliance with the terms and conditions in a special use authorization.

Outfitting – Renting on or delivering to NFS lands for profit or gain any vehicle, boat, camping gear, or similar supplies or equipment. The term "outfitter" includes the permit holder's employees and agents.

Permit Holder – An individual or entity that holds a special use permit authorizing outfitting or guiding activities on NFS lands

Priority Use – Authorization of use for up to 10-years, based on the permit holder's past use and performance and applicable programmatic or project decisions to allocate use. Except as provided in 36 CFR Part 251, Subpart E, authorizations providing for priority use are subject to renewal.

Service Day – An allocation of use constituting a day or any part of a day on NFS lands for which an outfitter or guide provides services to an individual client.

Special Use Permit/Special Use Authorization – These terms, used interchangeably, refer to the documentation that provides permission, without conveying an interest in land, to occupy and use NFS land or facilities for specified purposes, and which is both revocable and terminable. A Special Use Permit/Authorization is not saleable, transferable or assignable in whole or in part. Special Use Permits/Authorizations contain terms, conditions, approved operating plans, stipulations on use and are enforceable under 36 CFR 261. See Sample Special Use Permit, Attachments 2.0 to 2.5.

III. Project Area Description and Maps

The Chugach National Forest is in southcentral Alaska and situated the farthest north and west of all national forests in the National Forest System (NFS) (Figure 1). The Chugach is one of the largest in the NFS, at approximately 5.4 million acres. Over half the population of Alaska lives near the Chugach National Forest, with about 890,000 acres of the national forest within a day's drive of Anchorage. Two national parks, one wildlife refuge, and Bureau of Land Management lands comprise federal lands adjacent to the national forest. Within the national forest's boundary, lands of other ownership include Alaska Native Corporations, State of Alaska, and private landowners including those in small communities.

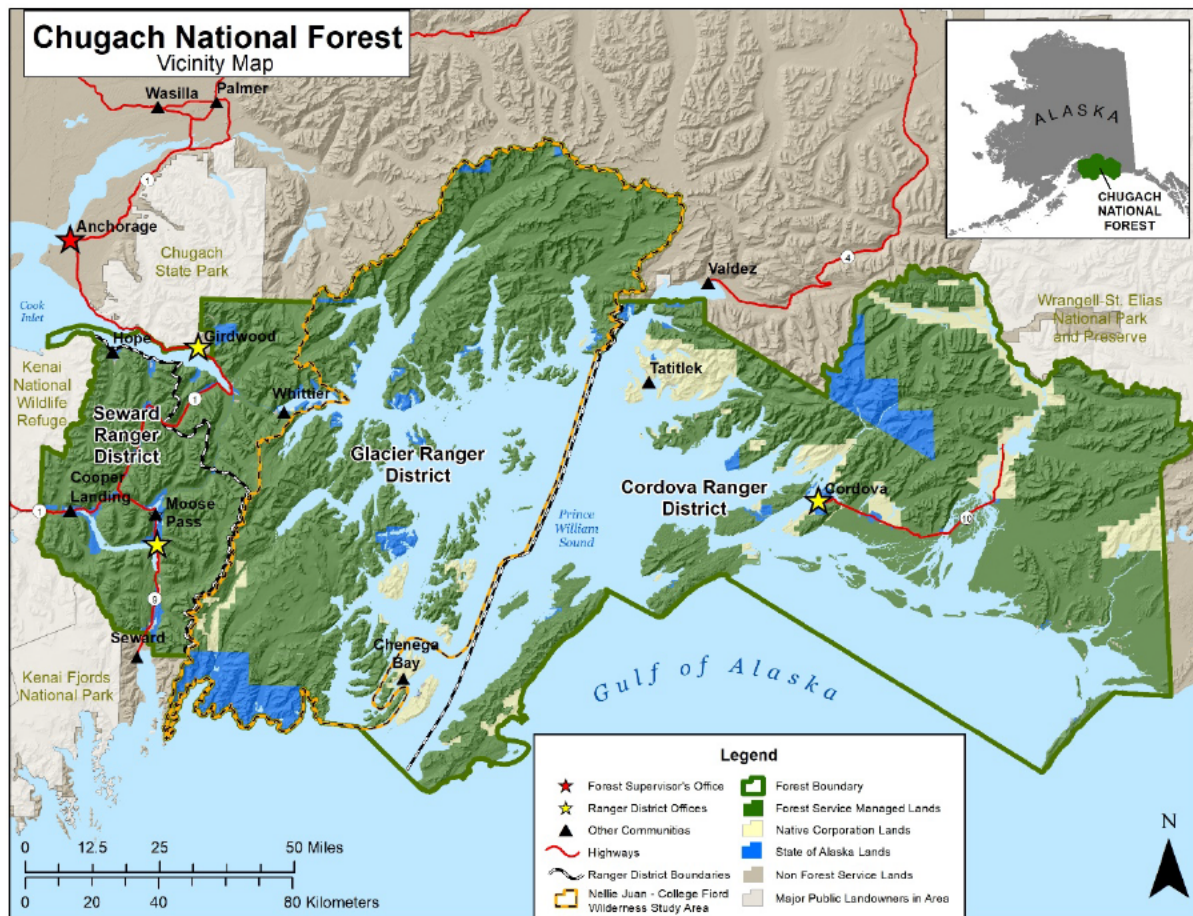


FIGURE 1. VICINITY MAP AND ADMINISTRATIVE UNITS OF THE CHUGACH NATIONAL FOREST

A. Prospectus project area

The prospectus project area is situated on the Cordova Ranger District and comprises a portion of the Chugach Mountain Range. The Chugach Mountains provide many winter recreation opportunities including snow-machining, cross-country skiing, ski touring, fixed-winged supported skiing, and helicopter supported skiing, also known as heli-skiing. The Chugach Mountains have many areas with excellent physical characteristics (terrain and snow conditions) for heli-skiing. This area offers qualities sought by heli-skiing service providers, including untracked powder snow, several vertical runs per day, and a backcountry experience.

The specific area proposed for guided helicopter skiing services is shown in Figure 2. The area comprises approximately 590,000 acres and is described as the NFS lands:

- between Marshall Pass and the Copper River, bounded by Allen Glacier (south) and the BLM/Forest boundary (north) on the north side of Cleave Creek,
- south of the Allen Glacier, bounded by the Copper River (east) and the State of Alaska (west), and
- south of the State of Alaska boundary in the Scott-Sheridan Glacier and Nelson Bay area.

The actual area to be used for guided helicopter skiing services will be determined through the National Environmental Policy Act (NEPA) process. The project area is subdivided into smaller areas for the purpose of assessing level of interest from service providers. Proposals submitted under this prospectus will be used to develop the proposed action for environmental analysis. The outcome of the environmental analysis may result in a smaller land area for guided helicopter skiing services.

In addition, the Forest Service expects to authorize one or more service providers to conduct guided helicopter skiing services in the project area. The Forest Service may also authorize other outfitting and guiding services in the project area, including snow machine tours, hunting, hiking, ski touring, and commercial film or still photography. Proponents should not expect exclusive use of the project area. Proponents must commit to work together with other service providers to share the public space.

Use authorized through this prospectus will be specific to NFS lands only. Lands adjacent to the project area comprise a mixture of land ownerships. Forest Service permits do not authorize activities on non-NFS lands. It is the permit holder's responsibility to ensure that field operations take place on NFS lands as described in the special use permit. Permission to operate on lands under other ownership is at the discretion of the landowner.

B. Historical and current guided helicopter skiing activity within or near the project area

On NFS lands within the project area, one business was authorized by the Forest Service for 17 years to conduct guided helicopter skiing activities in the Tasnuna Area. For the 2019 season, one business was authorized a temporary permit for the Scott-Sheridan Glacier area. For the 2020 and 2021 seasons, three businesses were (are) authorized for both the Tasnuna and Scott-Sheridan Glacier areas. On lands adjacent to the project area, guided helicopter skiing is authorized on both State of Alaska and Bureau of Land Management lands.

C. Additional Area Information

The following documents contain additional information about the Chugach National Forest, including the prospectus project area:

- [Chugach National Forest Land Management Plan \(2020\)](#)
- [Assessment of Ecological and Socio-Economic Conditions and Trends, Chugach National Forest \(2014\)](#)

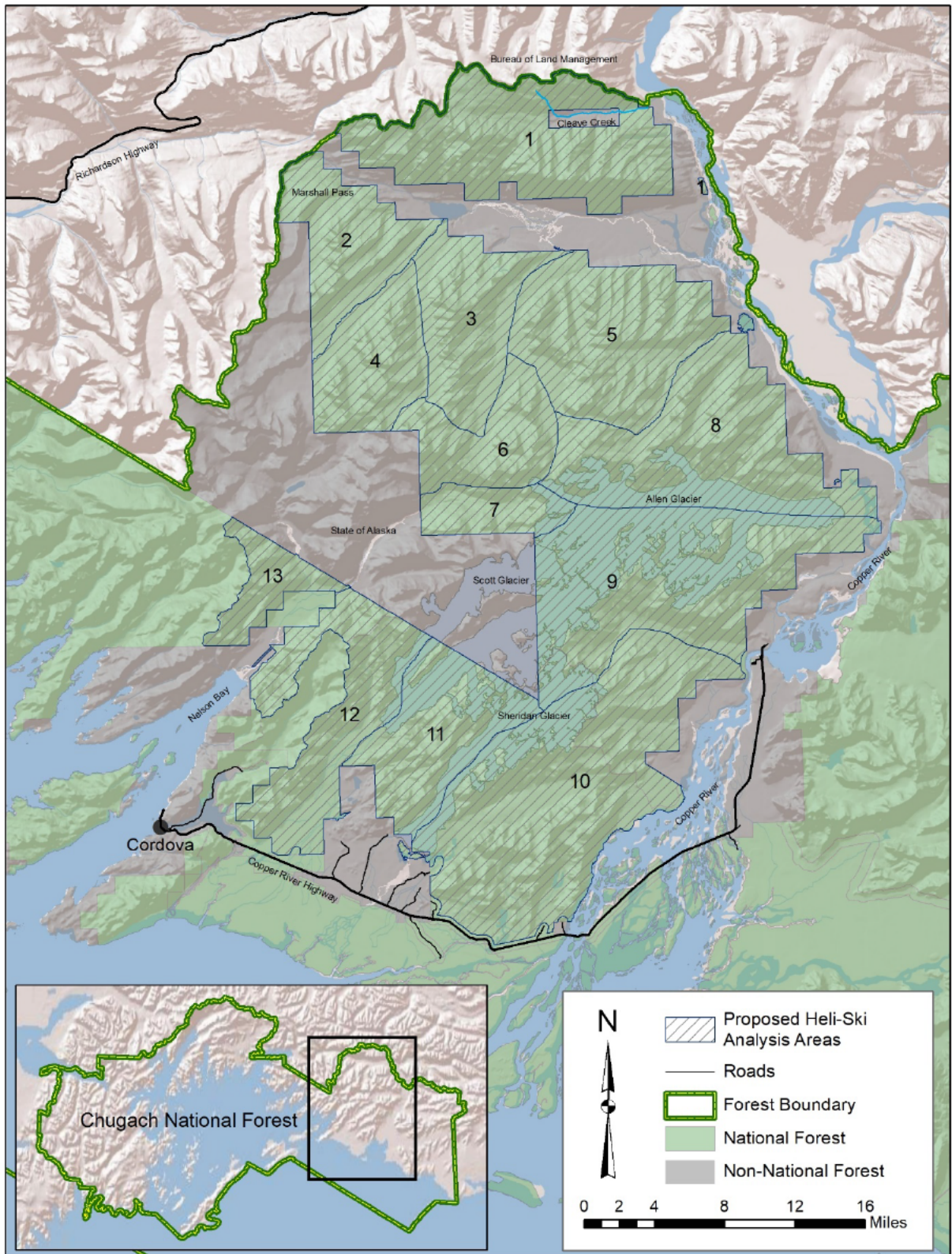


FIGURE 2. PROSPECTUS PROJECT AREA, CORDOVA RANGER DISTRICT.

IV. Offering

This prospectus offers an opportunity to conduct guided helicopter skiing services within the project area described in the preceding pages. There is no set amount of service days offered. This prospectus will identify the level of interest from service providers. Proposals received in response to this prospectus will help form the proposed action for environmental analysis.

The anticipated operating season for this opportunity is December 15 through April 30 annually. This may be adjusted based on the outcome of the environmental analysis process. No facilities, developments, or other concessions are being authorized through this prospectus. However, temporary uses that do not involve ground disturbance will be considered with this prospectus (e.g., equipment storage, temporary camp, etc.).

As stated previously, the Forest Service expects to allow one or more service providers to conduct guided helicopter skiing services in the project area. Proponents should not expect exclusive use of the project area. As such, this prospectus is focused on identifying service providers who demonstrate a high standard of professionalism and cooperative spirit. Proponents must commit to work together with other service providers to share the public space, and set a good example regarding ethical behavior, compliance with regulations, low impact practices, and caring for the land.

Additionally, special use permit holders are expected to go beyond simply helping clients ski and act as a partner with the Forest Service to care for the land and its resources and help broaden the constituency for public lands. Successful proponents will demonstrate their ability and commitment to meet the following Forest Service objectives:

- **provide high quality visitor experiences** that helps people improve their skills,
- **promote visitor safety** using proper equipment and practices in the backcountry,
- **advance resource stewardship** by increasing visitor understanding and appreciation of public lands and their stewardship, and reducing disturbance to or harassment of wildlife, and
- **reduce illegal outfitting/guiding and resource violations** through active monitoring and reporting of observations

Proponents must summarize the number of service days and locations being requested by completing the proposal package cover sheet (Attachment 1.1). A detailed description of services must be provided in a proposed operating plan and other applicable proposal package documents. See Attachments 1.1 to 1.5 – Proposal Package, which contains all forms, templates, and criteria for preparing a proposal package.

V. Fees

The following fees are associated with this prospectus opportunity. **There is no guarantee of receiving a special use authorization. Proponents should weigh the economic considerations associated with submitting a proposal for this prospectus.**

A. Cost recovery

The Forest Service is required to charge cost recovery fees to recover the agency's processing costs for special use applications and monitoring costs for special use authorizations (36 CFR 251.58, Forest

Service Handbook 2709.11, Chapter 20). The fees for processing and monitoring will be specified in a cost recovery agreement sent to applicants for review and signature at the end of the solicitation period (Attachment 3.0 – Sample Cost Recovery Agreement).

1. Processing

The processing fee is based upon the costs the Forest Service incurs in reviewing the application, conducting environmental analyses of the effects of the proposed use, reviewing any applicant-generated environmental documents and studies, conducting site visits, evaluating an applicant's technical and financial qualifications, making a decision on whether to issue the authorization, and preparing documentation of analyses, decisions, and authorizations for each application.

The processing fee is split into two parts: 1) application evaluation and selection under the prospectus, and 2) environmental analysis and authorization.

a) Application evaluation and selection

The total cost recovery fee for processing applications accepted under this prospectus is estimated to be \$24,869.60. **This fee will be divided and assess in equal shares to those with applications accepted under this prospectus.** For example, the following table illustrates the cost per applicant based on the number of applicants.

# of applicants	Total cost / # of applicants	Equal share cost per applicant
1	$\$24,869.60 / 1 =$	\$24,869.60
2	$\$24,869.60 / 2 =$	\$12,434.80
3	$\$24,869.60 / 3 =$	\$8,289.87
4	$\$24,869.60 / 4 =$	\$6,217.40
5	$\$24,869.60 / 5 =$	\$4,973.92
6	$\$24,869.60 / 6 =$	\$4,144.93
7	$\$24,869.60 / 7 =$	\$3,552.80
Etc.		

This fee covers costs such as printing and mailing the prospectus, reviewing and evaluating applications, establishing a case file, recording data, and conducting financial reviews. This fee will be billed at the end of the solicitation period. Applicants must sign a cost recovery agreement (Attachment 3.0 – Sample Cost Recovery Agreement). Once the agreement is signed and received by the Forest Service, a bill will be issued to each applicant. Bills must be paid within 30 days of bill issuance for the application to be evaluated. Processing will not continue until each payment is received.

b) Environmental analysis and authorization

The total cost recovery fee for environmental analysis and authorization is estimated to be \$51,166.36. **This cost will be paid on a proportional basis by selected applicants pursuant to this prospectus.** The following example is provided to illustrate the proportionate calculation of fees per applicant.

EXAMPLE: If five applications are accepted.

Applicant	Maximum service days proposed (per Applicant's Cover Sheet submission)	Cost per service day*	Cost per applicant
1	1,500	X \$12.79/service day =	\$19,187.39
2	1,000	X \$12.79/service day =	\$12,791.59
3	750	X \$12.79/service day =	\$9,593.68
4	500	X \$12.79/service day =	\$6,395.80
5	250	X \$12.79/service day =	\$3,197.90
Total	4,000		\$51,166.36

*Total cost (\$51,166.36) divided by total service days proposed in this example (4,000) = \$12.79 per service day for proportionate cost recovery fee calculation purposes.

This fee covers the costs the Forest Service incurs for environmental analysis required in connection with the applications, and for preparing documentation of analyses, decisions, and authorizations for each application. This fee will be billed after selections have been made under the prospectus and the administrative appeal process is completed. A bill will be issued to each applicant in proportion to the amount of service days requested in their application. Bills must be paid within 30 days of bill issuance for the application to be processed.

2. Monitoring

Monitoring fees are based upon the Forest Service's estimated costs to ensure compliance with the terms and conditions of the authorization during all phases of its term. Billing and payment will be in accordance with the payment schedule specified in the cost recovery agreement (see Attachment 3.0 – Sample Cost Recovery Agreement).

B. Service day fee

This is the land use fee (Alaska Region "flat fee") required for providing outfitting and guiding services within the Chugach National Forest. This fee is paid annually prior to the operating season and is based on authorized use and pre-season estimates. Fees are reconciled post-season based on actual use. Excess payment is either refunded or credited to the next season. Underpayment of fees are billed post-season and must be paid within 30 days.

Per Forest Service Handbook 2709.11 R-10 Supplement, the fee for 2021 is \$11.77 per service day. Fees are annually adjusted by index and may increase over time. In 2021, the minimum annual land use fee for outfitting and guiding on NFS lands in the Alaska Region is \$117.54. The minimum annual fee is required and is not refundable but will be credited against the total calculated annual land use fee. See Attachment 2.0 – Sample Special Use Permit, Section V for more details.

C. Assigned site fee

This is a fee for the use and occupancy of NFS lands for sites assigned to the holder. This fee is paid annually prior to the operating season; it is not refundable. The fee for 2021 is \$230.00 per site. Assigned site fees are periodically adjusted and may increase over time.

VI. Evaluation Process and Selection Criteria

Proposals will be reviewed for completeness before accepting as an application for further processing. **Incomplete proposal packages will not be considered.**

Proposals accepted as applications will be evaluated by a review panel with experience in special use permits and helicopter skiing operations. The panel will evaluate information submitted in the proposal package. During the evaluation process, the panel may contact references listed by the applicant, including local, state or Federal entities that have permitted the applicant. In addition, the panel may consider past performance information associated with Forest Service permits or from other sources.

The panel will rate each application based on the criteria listed below and fully described in Attachment 1.3 – Selection Criteria. Applications will be ranked according to the score assigned by the panel.

A. Selection criteria

Selection criteria categories are listed below. Full explanation and scoring of the selection criteria are in Attachment 1.3. Provide thorough and detailed responses for each criterion. Failure to provide adequate information for each of the selection criteria will result in a lower rating.

- Business model
- Client experience
- Workplace practices
- Operations
- Resource protection
- Local community benefits

The panel will make a recommendation to the Authorized Officer indicating the applicant(s) that offer the best service to the public, partnership with the Forest Service, protection of resources, and local community benefits. The Authorized Officer will make all selection decisions.

All applicants will be notified of the decision by certified mail. The Forest Service reserves the right to reject any or all applications if the applications do not best serve the needs of the public.

VII. Post-Selection

A. Environmental analysis

Upon notification of selection, applicants will receive a cost recovery bill for environmental analysis and authorization processing (see this document, section V.A. Cost Recovery). The bill must be paid within 30 days of bill issuance.

The Forest Service will conduct the environmental analysis, which is estimated to take 7 months to complete.

B. Confirmation of service days awarded and additional requirements

After environmental analysis is completed, the Forest Service will notify applicants of their final service day amounts awarded for authorization based on the environmental analysis decision, as well as any permit holder mitigation and monitoring requirements specified by the environmental analysis decision.

Applicants must submit the following items within 30 days of the date of the confirmation letter:

- Final operating plan
- Documentation of liability insurance
- State of Alaska business license and any other required federal, state, or local certifications

If these items are not received by the Forest Service within the 30-day period, a special use permit will not be issued. The applicant who received the next-highest rating may then be selected for the special use permit, subject to the same requirements.

1. Insurance requirements

Insurance coverage for outfitting and guiding activities shall be Comprehensive General Liability. The minimum coverage for outfitter and guide activities (per Forest Service Manual 2713.1, Exhibit 01) shall be \$300,000 combined single limit (CSL) per occurrence with the following exception: If the authorized activity involves transportation by aircraft, the minimum coverage shall be \$2,000,000 CSL. If helicopter transportation services are provided by a contractor, then either the permit holder's or contractor's insurance policy must meet this coverage requirement.

Permit holder's liability insurance policy must name the United States of America as "additional insured". The policy must also contain a specific provision or rider to the effect that the policy shall not be cancelled, or its provisions changed or deleted before 30 days written notice to the Authorized Officer. The permit holder must provide an authenticated copy of the insurance policy to the Forest Service (see clause III.K of Attachment 2.0 – Sample Special Use Permit for more details).

Note that future analysis of risk for outfitting and guiding activities may result in increased minimum insurance coverage amounts for permit holders.

C. Issuance of special use permit

Special use permits will be issued as follows (see Sample Special Use Permit, Attachments 2.0 to 2.5):

- Applicants with existing special use permits on the Chugach National Forest may receive a permit amendment or may be issued a new priority use permit.
- Applicants who are not currently authorized to provide outfitting and guiding services on the Chugach National Forest will be issued a priority use permit for a two-year term. Satisfactory performance at the completion of the initial 2-year period may result in the permit term extended up to an additional eight years. With continued satisfactory performance, future priority use permits may be issued for a 10-year term.

If a permit is terminated or revoked, other existing permit holders will be eligible to apply for additional service days in proportion to the original award for the remainder of the permit term. For example, a business who receives 10% of the initial total allocation would be eligible for 10% of service

days available. Any remaining days would become part of a use pool. This reallocation is at the sole discretion of the Authorized Officer.

VIII. Instructions for Submitting Proposals

Prior to submitting a proposal, interested parties are strongly encouraged to visit the prospectus project area and thoroughly review maps and other information regarding the area.

A. Submission requirements

Proposal packages must be:

- Received by the Forest Service by 4:30 pm Alaska Time Zone on January 11, 2021
- Electronic format, less than 5-megabyte file size per email (proposal package components may be submitted in multiple emails if needed)
- Typed, not hand-written (except for signatures)
- Emailed to **cnfheli@usda.gov** with subject line indicating proposal for guided helicopter skiing prospectus. If multiple emails are needed due to file size, label each consecutive email (e.g., “1 of 4,” “2 of 4,” etc.)

Fax or paper copy submissions will not be accepted. Proposals received after the date and time specified will not be considered.

B. Proposal package requirements

All proposals must include and address each of the following:

- Cover sheet completed and signed (see Attachment 1.1)
- Proposed operating plan that addresses all items specified in the outline (see Attachment 1.2)
- Selection criteria responses, including any supplemental materials that support responses (see Attachment 1.3)
- Financial statement form FS-6500-24 (see Attachment 1.4). Financial statements and plans for financing are secured in confidence and are not public information.
- Three professional/business reference letters including the reference name, address, telephone number, and email address. Do not submit client “testimonials” or letters. (see Attachment 1.5)

See Attachments 1.1 to 1.5 – Proposal Package, which contains all forms, templates, and criteria to prepare a proposal package.

IX. General Terms, Qualifications, and Reservations

All proponents have an equal opportunity to apply. Except for members of Congress, Resident Commissioners and current Forest Service employees, any individual or entity may apply.

The Forest Service does not guarantee a profitable operation. Rather, proponents are responsible for reviewing the prospectus and making their own determination concerning business viability.

The furnishing of public services at reasonable rates is a major objective of this prospectus. The Forest Service will not allow excessive prices.

The Forest Service reserves the right to select the successful applicant(s) based solely on the initial application, without written or verbal discussions.

The Forest Service reserves the right to reject any or all applications and to rescind the prospectus at any time before a special use permit is issued.

Any oral statements made by a representative of the Forest Service shall not modify the requirements of this prospectus. If it is determined that an error or omission has been made or additional information is required, a written amendment will be made available.

Both the prospectus and the proposal submitted by the successful applicant(s) become part of the special use permit.

If there is a conflict between the terms of the prospectus and the special use permit, the terms of the permit will control.

Each applicant warrants that no person or selling agency has been employed or retained to solicit or secure acceptance of their proposal under this invitation upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except a bona fide employee or bona fide established commercial selling agency maintained by this applicant for the purpose of doing business. For breach of warranty, the Government shall have the right to annul any award under this invitation without liability, or at its option to recover from the applicant the amount of such commission, percentage, brokerage or contingent fee in addition to the consideration herein set forth.

All costs incurred by the proponents for the items submitted for this offering shall be the sole responsibility of the proponent.

The information contained in the applications will be kept confidential to the extent permitted under the Freedom of Information Act (5 USC 552) and the Privacy Act (5 USC 552a).

Regarding COVID-19, the special use permit requires compliance with all applicable federal, state, and local requirements. The permit holder assumes the responsibility for the safety of guests and employees as well as the risks and indemnification of the United States for injury, loss, or damage arising in connection with the authorized use and occupancy of National Forest System lands. Accordingly, the permit holder assumes any risks associated with the decision to operate their business and must ensure their operations are consistent with the applicable Centers for Disease Control and Prevention guidelines and for complying with applicable state and local requirements.

X. Attachments

1. Proposal Package
 - 1.1. Checklist and cover sheet
 - 1.2. Operating plan outline
 - 1.3. Selection criteria
 - 1.4. Financial statement form FS-6500-24
 - 1.5. Professional/business references
2. Sample Special Use Permit
 - 2.1. Sample Actual Use Report Format
 - 2.2. Alaska Region Outfitter and Guide Performance Evaluation Form
 - 2.3. Sample Stipulations
 - 2.4. Sample GPS Permit Protocol
 - 2.5. Sample Communications and Dispute Resolution Plan
3. Sample Cost Recovery Agreement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, this information is available in languages other than English.

To file a complaint alleging discrimination, please complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992.

Submit your completed form or letter to USDA by:

- *mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410;*
- *fax: (202) 690-7442; or*
- *email: program.intake@usda.gov*

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Date: June 27, 2022

The enjoyment of the outdoors through recreational activities acts as a significant vector in the establishments of one's land ethic. This land ethic is formed and molded over time through experiences and outcomes. It is this process, based in many cases on recreational experiences, that provide our communities with individuals and groups that are passionate about the conservation and protections of their public lands. This is the path that I took over three decades ago that led me to a series of jobs, college, and eventually a career in natural resource management. My land ethic started through my experiences in outdoor recreation, and it is now a cornerstone of who I am.

Helping fuel the establishment of land conservation-based values are the women and men that make up our Outfitter and Guiding (O&G) community. I have had direct experience with this focus on O&G sharing the value of land conservation – on a guided horseback trip over two decades ago in Southern Utah, on a guided trip into the Lee-Metcalf wilderness early in my Forest Service career, and over the last seven years in my many conversations with local O&G on the Sawtooth NRA. I know it to be true that our O&G community play a critical role in shaping and strengthening their clients' land ethic. I value the partnership with these women and men. We work together in preserving the Sawtooth NRA. I am also keenly aware of the critical role that outdoor recreation plays in our local and regional economy. It is in many ways the foundation or driving force that keeps our community vibrant. And it is in fact why many of us, including me, have chosen to live here.

Through my time as the Area Ranger, I've tried to uphold Public Law 92-400, which established the Sawtooth NRA, and provides the Forest Service with direction on how this area is managed. P.L. 92-400 is our foundation, it is specific on the values for which the Sawtooth NRA was created to protect and preserve, and it is a document that was born out of the driving and unrelenting passion by those that hold this area dear. With this direction, it is my duty to find a balance between providing outdoor recreation opportunities and the protection and preservation of the historic, pastoral, scenic, natural, wildlife and fisheries values of the Sawtooth NRA. This includes the consideration of impacts to wildlife such as bighorn sheep, wolverine, mountain goats and peregrine falcons. It includes finding that balance that helps protect sensitive species like our White Bark Pine populations. It also includes striking a balance amongst recreationists. The Sawtooth NRA provides plentiful recreation opportunities, and this is a large part of our role as agency staff. With that I seek to find a balance between developed and dispersed opportunities and guided and unguided experiences, and I try to preserve the character of those special locations that many have a strong attachment to. This includes our three congressionally designated wilderness areas. A large part of my focus must be based on the preservation of the wilderness character for the Sawtooth, Cecil D. Andrus White Clouds, and Hemingway-Boulders. It is my role to help ensure that the character of these three-wilderness area is maintained and improved from the day of designation into the future.



Lastly, I want to acknowledge that our management of O&G permits has been inconsistent over the last few decades. We have worked well outside of policy and regulation, provided inconsistent rationale as to why we have approved or not approved proposals, and have likely contradicted ourselves on numerous occasions. This plan is a way to correct that. This plan will provide O&G with the information they need to best manage their businesses into the future. Secondly, we have been slow to respond to the public's growing demand associated with the services provided for by our O&G community. We have tried to meet these demands with short term authorizations and have fell short. This plan will give me the tools to provide for more flexibility and increase opportunities for existing O&G and new ones alike.

Though this plan is not perfect, I believe it meets the needs for a majority of our O&G. Just as important, I think it strikes a balance between outdoor recreation use and the protection and preservation of the historic, pastoral, scenic, natural, wildlife and fisheries values for which the Sawtooth NRA was established. I also believe this plan strikes the balance needed for those seeking guided and unguided opportunities, a balance that helps preserve sense of place and limits conflict among user groups. Finally, I know this plan will allow our O&G community the ability to continue to instill those strong land conservation-based values in their clients well into the future.

Sincerely,



KIRK FLANNIGAN
Area Ranger