



July 11, 2022

USDA Forest Service
Rochester Ranger District
c/o Phil MacAskill, District Recreation Program Manager
99 Ranger Road
Rochester, VT 05767

Dear District Recreation Program Manager MacAskill,

Standing Trees respectfully submits the following comments in response to the United States Forest Service ("Forest Service") May 26, 2022 invitation to comment regarding the Silver Lake Hut Construction and Operation Project (SLHCOP).

In addition to the comments below, Standing Trees supports and incorporates herein by reference the comments of Vermonters for a Clean Environment, available for download at: https://vce.org/VCE_SilverLakeHutProposalComments_11July2022_FINAL.pdf

The SLHCOP is a major federal project that significantly affects the human environment and impacts Silver Lake in the Moosalamoo National Recreation Area, a treasured part of Vermont's Green Mountain National Forest (GMNF). NEPA requires that before undertaking such a project, the Forest Service must gather sufficient information to make an informed decision, and provides for public involvement in this decision-making process. The GMNF violated NEPA when it decided to move the SLHCOP forward with a Categorical Exclusion instead of an Environmental Assessment or Environmental Impact Statement, and the project is inconsistent with FSH 2309.13-2018 13.3 Recreation Rental Cabins. Equally important, we are deeply concerned about the lack of due public process, collaboration, and transparency that has been demonstrated to date through this project.

Standing Trees is a grassroots community nonprofit founded by volunteers in 2020 for the purpose of advancing policy and legal solutions that protect and restore New England's native forests, with a focus on Vermont and New Hampshire. The organization came together, in part, as a response to a rapid increase in proposed and approved logging on the Green Mountain National Forest ("GMNF"). Standing Trees works, *inter alia*, to ensure that New England's public lands are managed using just and equitable policies and practice to support the region's citizens and natural ecosystems, alike. This includes managing public lands and waters to maximize carbon storage and protect clean water, clean air, public health, and intact habitat for the region's native biodiversity. Standing Trees has many members who regularly visit and recreate throughout GMNF, including in the areas that would be impacted by the SLHCOP.

The SLHCOP does not meet the criteria for Categorical Exclusion

36 C.F.R. § 220.6 Categorical Exclusions (CatEx) reads as follows (with emphases added in yellow):

(a) *General.* A proposed action may be categorically excluded from further analysis and documentation in an EIS or EA only if there are no extraordinary circumstances related to the proposed action and if:

(1) The proposed action is within one of the categories established by the Secretary at [7 CFR part 1b.3](#); or

(2) The proposed action is within a category listed in [§ 220.6\(d\) and \(e\)](#).

(b) *Resource conditions.*

(1) Resource conditions that should be considered in determining whether extraordinary circumstances related to a proposed action warrant further analysis and documentation in an EA or an EIS are:

(i) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;

(ii) Flood plains, wetlands, or municipal watersheds;

(iii) Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;

(iv) Inventoried roadless area or potential wilderness area;

(v) Research natural areas;

(vi) American Indians and Alaska Native religious or cultural sites; and

(vii) Archaeological sites, or historic properties or areas.

(2) The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist.

The highlighted text above indicates that a CatEx is inappropriate based on a) the possible presence of Indiana Bats, a federally listed Endangered Species, b) a Congressionally-designated National Recreation Area, c) the likely and at least unknown presence of American

Indian cultural sites, and d) the likely and at least unknown presence of other archaeological sites or historic areas.

In addition, 36 C.F.R. § 220.6(e)(22) notes that a CatEx is only appropriate when “Reconstructing or expanding a recreation rental cabin,” and *does not pertain to new construction*, in contrast to assertions made by the GMNF on page one of its SLHCOP Scoping Letter.

SLHCOP does not meet criteria for Recreation Rental Cabins in FSH 2309.13-2018 13.3

The US Forest Service maintains a large number of rental facilities, nationwide, but – to the best of our knowledge – these sites are all rented through Recreation.gov and provide generally *low-cost* use of *existing and historic* cabins, fire lookouts, ranger stations, and similar facilities. The US Forest Service handbook does not even consider the construction of new rental cabins, much less the construction of new rental cabins by private parties for private financial benefit, where the cost of a night’s stay is little or no different from a standard rental house offered via a private service like Airbnb or VRBO.

Forest Service Handbook 2309.13-2018 13.3 states:

13.3 - Recreation Rental Cabins

1. Identify opportunities to preserve and maintain historic buildings under the recreation rental cabin program. Preserve the historic character of recreation rental cabins by selecting appropriate furnishings, restoration materials such as paint color, flooring, and landscaping.
2. Complete a recreation rental cabin feasibility plan for the administrative unit or ranger district.
3. Complete an analysis to address demand, needed capital improvements, and long-term maintenance for recreation rental cabins.
4. Select potential recreation rental cabins that will meet the national quality standards (FSH 2309.13, sec. 53.1- 53.14).
5. Recreation rental cabins must comply with ABAAS.

In the case of the SLHCOP, a new structure is proposed within a National Recreation Area for rental via a private organization. Members of this private organization could have preferential benefits for reserving the cabin. The SLHCOP proposes a new cabin on a site where no similar structures exist; it represents an entirely new use for Silver Lake. No information has been provided as to how hut rental income will be distributed, or what (if any) funds will go to

the public as payment for use of public lands. Is this a lease? If so, what is the length of the lease? What happens to the hut when the lease runs out or the special use permit is not renewed?

SLHCOP made no attempt to solicit meaningful public feedback

To the best of our knowledge, the Vermont Huts Association and Moosalamoo Association did not hold a single public meeting to build a vision for the Silver Lake region of the Moosalamoo National Recreation Area or solicit feedback prior to applying for a permit to construct a hut. After a special use permit application was submitted, the GMNF's choice to employ a Categorical Exclusion allowed the forest to avoid holding any public meetings. On June 8th, after the comment period had already begun, the Vermont Huts Association and Moosalamoo Association jointly held an unofficial public meeting in Brandon, VT. The public expressed overwhelming opposition to the project at the meeting, but none of the feedback or comments were entered into the record because it was not a GMNF public meeting. To date, no indication has been made that any changes will be made to the application or proposal as a result of public concerns. Unfortunately, the time for meaningful public feedback would have been prior to the special use permit application, when feedback could have easily been incorporated into the proposal. As it stands, the CatEx comment period comes across as a final box to check before this hut is approved and constructed.

In sum, there has been an abysmal public process for this hut construction project. Standing Trees expects better of the GMNF and those entities that seek to benefit from the use of public lands.

Cumulative Impacts

The GMNF has already approved several Vermont Hut Association huts. The Vermont Huts Association has indicated a clear desire to construct additional huts in a variety of settings across the GMNF to create a system or network. A Vermont Sports article, dated November 13, 2020, suggests a Vermont Hut Association vision of "30-45 Vermont Huts" (<https://vtsports.com/vermont-hut-and-trail-system-wins-526k-grant/>). The Vermont Hut Association website reads:

"Working with representatives from Green Mountain National Forest, Vermont Forests, Parks, and Rec., Rochester/Randolph Area Sports Trail Alliance, Vermont Mountain Bike Association, Green Mountain Club, and the Catamount Trail Association, we will begin to identify approximately 20-30 zones across the state which may host a new hut. Priority will be given to backcountry zones hosting multi-use trails (hiking/mountain biking/skiing) or where trails closely parallel one another and could be connected via a spur trail with the hut located in the middle." (Available for viewing at: <https://vermonthuts.org/mapping-our-future/>)

These huts should be reviewed for their cumulative impact in addition to their local impact. So far, each project has been treated as an isolated event. This level of analysis is insufficient under the National Environmental Policy Act. How many of their huts will be built on the GMNF? How many will be proposed for construction in campgrounds? How many in backcountry settings?

Inconsistent with the 2006 GMNF Forest Plan

The 2006 GMNF Forest Plan makes no mention of the possibility of or desire for hut construction. There has been no analysis of whether new huts priced at \$75 to \$155 per night (based on the price of the Chittenden Brook hut: <https://vermonthuts.org/huts/chittenden-brook-hut/>) is a reasonable or equitable use of public lands; whether the huts are appropriate within the Moosalamoo National Recreation Area or any other management area on the GMNF; whether huts are appropriate away from developed frontcountry (car-accessible) recreation areas; etc. A decision to construct a hut also commits the GMNF to a management regime that extends beyond the life of the current Forest Plan. Such a weighty decision requires additional analysis in an Environmental Assessment or Environmental Impact Statement since it was never considered in the Forest Plan. Rather than allowing private interests to dictate public land management, a better course of action would involve a transparent and collaborative planning process, facilitated by a third party, where the GMNF determines whether and where a hut system is appropriate.

Recommendation

We request that the GMNF cancel this project and deny the special use permit. If the project is not canceled, an Environmental Assessment or Environmental Impact Statement should be prepared, as required by law, that considers a full range of alternatives (including a No Action alternative and alternatives that propose sites located outside of backcountry settings).

Going forward, any construction of a permanent structure, especially in a backcountry setting, should receive early public notification during project development and as long before scoping as possible. Public meetings early in the process should seek to build public awareness, solicit feedback, and – whenever possible – create a shared vision through collaboration.

Conclusion

We are extremely disappointed that this hut proposal moved forward with minimal public input and transparency. We are concerned that the GMNF is on a path towards privatizing recreational opportunities across the forest that should be under public ownership and management. We hope future proposals for similar special uses will be given greater scrutiny, and that the public will have a meaningful say in shaping management decisions for their public lands.

Sincerely,

A handwritten signature in black ink, appearing to read "Zack Porter". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Zack Porter
Executive Director, Standing Trees
Montpelier, VT
zporter@standingtrees.org
(802) 552-0160