

**DECISION MEMO**  
**Recreation Residence Special Use Term Permit Renewal**

**USDA Forest Service**  
**Gallatin National Forest**  
**Livingston Ranger District**  
**Park County, Montana**

**I. Introduction**

The recreation residence program was started by the Forest Service in the early 1900s as a way to encourage public use of the National Forests. Nationally, there are over 15,000 recreation residences, 197 on the Gallatin National Forest with 6 of those on the Livingston Ranger District. These are cabins or houses and their associated facilities on National Forest System (NFS) land that are privately owned and maintained and that operate under the authority of special use permits.

The existing permits will expire December 31, 2008 and the purpose of this decision is to renew permits to allow continued use of these recreation residences. As stated in the Forest Service Manual 2347.1, "Recreation residences are a valid use of National Forest System lands. They provide a unique recreation experience to a large number of owners of recreation residences, their families, and guests. To the maximum extent practicable, the recreation residence program shall be managed to preserve the opportunity it provides for individual and family-oriented recreation. It is Forest Service direction to continue recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of recreation residences."

**II. Proposed Action**

The Forest Service is proposing to renew 20 year term permits for the 6 recreation residence lots on the Livingston Ranger District along with an Operation & Maintenance Plan to be appended to permits. This action is not proposing any new lots, tracts, facilities or alterations of existing facilities.

**III. Decision to be Implemented**

I have decided to renew recreation residence use on the 6 recreation residence lots on the Livingston Ranger District, Gallatin National Forest (GNF) for a 20-year period beginning January 1, 2009. As a result of this decision, new Term Special Use Permits with standard terms and conditions, along with an Operations and Maintenance Plan (Appendix A) will be issued for each lot. Only currently approved improvements will be authorized. Existing recreation residence cabin owners will be eligible to renew their permits for a term of 20 years, provided they are in compliance with the terms and conditions of their permits.

The Operation and Maintenance (O & M) Plan incorporates considerations and requirements associated with the improvements and use. The information in the O&M Plan is consistent with the directives in the Forest Service Handbook (FSH), Gallatin National Forest Supplement 2709.11, Chapter 40, 2008-1 (Effective xx, 2008) that provides Gallatin-specific clarification for the administration of recreation residence special use permits. Application of the direction in these documents will ensure consistency with applicable law, policy and direction. My decision applies to the following lots that are located in the Mill Creek, Big Creek and Mission Creek drainages:

Tract Name and Lot Number	Location Description
<b>Mill Creek Group</b>	
Nardella, Lot 5	T6S, R9E, NE ¼ Section 13
Cochran	T6S, R9E, NE ¼ Section 13
Mogen	T6S, R10E, Section 30
<b>Big Creek Group</b>	
Williams, Lot A	T6S, R7E, SE ¼ Section 18
Fleming, Lots B, C, & D	T6S, R7E, Section 18
<b>Mission Creek Group</b>	
Miles	T3S, R11E, NW ¼ NW ¼ Section 4

A proposed action may be categorically excluded (CE) from further analysis and documentation in an Environmental Assessment (EA) or Environmental Impact Statement (EIS) if there are no extraordinary circumstances related to the proposed action and if the proposed action is within one of the categories identified in FSH 1909.15. My decision is categorically excluded pursuant to Forest Service Environmental Policy and Procedures Handbook 1909.15, Section 31.2 (15): *“Issuance of a new special use authorization for a new term to replace an existing or expired authorization when the only changes are administrative, there are no changes to the authorized facilities or increases in the scope or intensity of authorized facilities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization.”*

The permitted lots and associated improvements on the Livingston Ranger District have been inspected for compliance. Holders were notified if elements were out of compliance, along with actions necessary to bring those elements into compliance. Follow up inspections have shown that permittees brought their improvements into compliance. The correspondence is in permit folders.

In making my decision I determined that recreation residences are an appropriate use of NFS land, the residences have been in existence for decades and there are no environmental issues that lead me to believe that this use should not continue. The “use” is consistent or can be made to be consistent through permit administration with all applicable law, policy and direction, see Section V.

**IV. Findings Of No Extraordinary Circumstances**

The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. I have determined there are no extraordinary circumstances related to my decision to authorize continued recreation residence use on the 6 recreation residence lots on the Livingston Ranger District, Gallatin National Forest (GNF) for a 20-year period. I base this conclusion on the following:

1. Effects to federally listed threatened or endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat or Forest Service sensitive species.

There would be **no effect** on Canada Lynx or its habitat. There are no other threatened or endangered species on the Forest. (Biological Assessment for Canada Lynx, Cherry 4/2008). The gray wolf’s status has been in flux. It was reintroduced and listed as a threatened, experimental, nonessential population in the GYA in 1995. Then it was delisted and classed as sensitive for a short time in 2008. A court decision has recently returned its status back

threatened, experimental, nonessential. Therefore, determinations are given here for both classifications. For the listed GYA population, this project will not jeopardize the gray wolf. As a sensitive species, this project will have no impact to the gray wolf.

For sensitive species listed for the Gallatin National Forest, there would be **no impact** to Black-backed Woodpecker, Flammulated owl, Harlequin Duck, Wolverine, Trumpeter Swan or Northern Leopard Toad. Further, my decision **may impact individuals or habitat, but will not likely result in a trend toward federal listing or reduced viability for the population or species** for Grizzly Bear, Bald Eagle, Peregrine Falcon, Townsend's Big Eared Bat or Boreal Toad. Permit renewal will have **no impact** on sensitive plant species. (Biological Evaluation for Sensitive Species, Cherry 4/2008, Barndt, 2008)

2. Effects to Floodplains, wetlands, or municipal watersheds.

There would be no adverse impacts effects to water quality, wetlands, flood plains or municipal watersheds. (Water, Wetlands, Floodplains and Air Quality report, Story 2008) This decision does not authorize any modification of floodplains or wetlands. Any future modification of these resources would require analysis, permits and specific approval.

3. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas; inventoried roadless areas, potential wilderness areas or Research Natural Areas.

I reviewed the Forest Plan direction and allocation for these Congressionally designated areas. The authorizations included in my decision are not within areas with these "designations" so no adverse effect is expected.

4. American Indians and Alaska native Religious or cultural sites, and Archeological sites or historic properties or areas.

The Gallatin Forest Plan incorporates the requirements under the following statutes: the National Historic Preservation Act (NHPA) (1966) and the American Indian Religious Freedom Act (1978). Forest Plan standards applicable to this project reflect the mandates under the above statutes and includes inventory procedures, evaluation procedures, protection/preservation procedures, and coordination/consultation procedures (see FP II-14 and II-17). The recreation residences permitting policies and provisions are consistent with the laws, regulations, and Forest Plan direction.

My decision would not have an adverse effect on these resources for the following reasons. 1) this decision is to renew authorization for existing buildings and structures for a 20-year period with no changes or modifications; 2) this decision includes a condition that if permit holders propose any changes to the tracts, lots or structures, those proposed changes will be analyzed for potential impacts to the eligibility of the sites, buildings and structures for being listed on the National Register of Historic Places under NHPA. As part of the analysis process, information in the document "Region 1 Contextual Document for the History of Recreation Residences" will be used and incorporated and the State Historic Preservation Officer will be consulted when appropriate. (Allen, 2008) (Livingston District Consistency Review)

5. The expected effects from my decision are minor or non-existent. Since the direct and indirect effects of this decision are expected to be minor, the potential cumulative effect is also expected to be nonexistent or negligible. My conclusion is based on field review and inspections by the permit administrator and specialist input during the Consistency Review and associated analysis.

#### **V. Forest Plan Consistency and Findings Required by and/or Related to Other Laws**

The Livingston Ranger District conducted a “Consistency Review and Finding” of the lots and tracts on the District. Through that Review, I determined that all lots and tracts are consistent or can be made consistent with applicable law, policy and direction. The findings are documented in the “Livingston RD Consistency Review and Finding” in the project file.

The O&M Plan to be made part of the permit, incorporates actions identified during the Consistency Reviews and public input process to ensure that the authorizations are consistent with applicable direction. For example, the O&M Plan includes a requirement to adhere to the Forest-Wide Food Storage Order, as it pertains to recreation residences. The Operation and Maintenance Plan also emphasizes the requirement that the Permit Holders receive approval from the District Ranger before they undertake any alterations to their lots and its environs, their facilities or the exteriors of any of their buildings.

Gallatin National Forest Supplement 2709.11, Chapter 40, 2008-1 (October 15, 2008) provides clarification for the administration of recreation residence special use permits on the GNF. Application of the direction in the supplement combined with the requirements in the O&M plan will ensure consistency with applicable law, policy and direction.

Forest Plan Consistency (National Forest Management Act) – This Act requires the development of a long-range land and resource management plan (Plan). The Gallatin Forest Plan was approved in 1987, as required by this Act. The Forest Plan provides for guidance for all natural resource management activities. The Act requires all projects and activities to be consistent with the Plan. The Plan has been reviewed in consideration of these authorizations. My decision is responsive to guiding direction contained in the Plan as well as all applicable standards, guidelines, laws and direction listed in the Livingston District Consistency Review and Finding, 2008)

Gallatin National Forest Travel Management Plan – This decision is consistent with the Gallatin National Forest Travel Management Plan. My decision does not relate to public access management.

Endangered Species Act - A Biological Assessment was completed, see Section IV. Item 1.

Sensitive Species (Forest Service manual 2670) - A Biological Evaluation was completed, see Section IV. Item 1.

National Historic Preservation Act, Archeological Resources Protection Act, Native Graves Protection and Repatriation Act - See Section IV, Item 4.

Environmental Justice (Executive Order 12898) – This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with the Act. Public Involvement did not identify any local minority or low-income

populations that would be adversely affected by this decision. The decision is not expected to adversely effect these populations.

## **VI. Collaboration and Public Involvement**

The project has been listed in the Forest Service Schedule of Proposed Actions since July 2007. The proposed action and solicitation of public comments was also posted on the Gallatin NF website on the "Recreation Residences" webpage with a request for comments. The proposed action was also sent out by e-mail to the standard public contact list for the Gallatin NF, and was published by the Bozeman Daily Chronicle. Other newspapers may have printed the press release as well.

As part of the public involvement process, the Gallatin NF mailed letters to all recreation residence permit holders and other interested persons requesting comments on the proposal. In addition, all holders received certified return receipt letters inviting them to meetings that were held in Big Timber. The Forest received seven comments regarding the renewal of the 197 permits on the Forest. Responses to comments regarding the proposed reissuance are available of the Forest Webpage [http://www.fs.fed.us/r1/gallatin/?page=projects/recreation\\_residences](http://www.fs.fed.us/r1/gallatin/?page=projects/recreation_residences) .

## **VII. Appeal Opportunity, Implementation and Contact Person**

This decision is not subject to administrative appeal under 36 CFR 215. However, this decision is subject to appeal by **permit holders** pursuant to Department of Agriculture regulations 36 CFR 251.82(2). To appeal this decision under 36 CFR 251, a written Notice of Appeal, meeting the content requirements at 36 CFR 251.90 must be postmarked or received within 45 calendar days after the date of notice of decision in this letter

This decision will to be implemented in December 2008 through issuance of the Recreation Residence Term Special Use Permits for the lots / tracts listed above

For further information, please contact myself or Pamela Brown, Resource Assistant, at the Livingston District Office, Gallatin National Forest, 5242 Hwy 89 South, Livingston, MT 59047. The phone number is (406) 222-1892.

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**Ron J. Archuleta**  
**DISTRICT RANGER**

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**Date**

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## **Appendix A: Operation and Maintenance Plan**