

**DECISION MEMO**  
Springs Valley Special Use Trail

USDA Forest Service, Eastern Region  
Hoosier National Forest  
Tell City Ranger District  
Orange County, Indiana  
(T 1N, R 1W)

**I. DECISION**

**A. Description of Decision**

I have decided to grant a special use permit to Mane Trails, Inc. to construct a trail on National Forest System (NFS) land to access the Springs Valley Trail. The owners of the Manes Trails Inc. commercial horse camp will pay a special use fee for the trail segment. Manes Trails will be responsible for construction and maintenance of this trail, which is to be approximately 1250 feet long. Mitigation measures for this project include the requirement to construct and maintain the special use permit trail to meet Hoosier National Forest (HNF) special use trail standards.

The attached map displays the location of the trail, which is described as being in Township 1 North, Range 1 West, NE ¼, NW ¼, Section 33.

The HNF will issue a special use authorization that meets the requirements of the decision and USDA Forest Service regulations. USDA Forest Service regulations require the applicant to: submit (or resubmit) an operation and maintenance plan that complies with the decision requirements, pay any necessary fees, post any necessary bonds, and secure any state or Federal permits or authorizations required by law.

It is also my decision that a special use fee will be charged for this special use permit because Mane Trails, Inc. does not qualify for a fee waiver in accordance with Code of Federal Regulations Title 36 part 251, section 57(b)(1) (CFR 251.57(b)(1)). Mane Trails, Inc. does not qualify for a fee waiver because the company charges a fee for services provided.

**B. Purpose of Decision**

My decision to authorize construction of the access trail through a special use authorization is in response to a special use application. The applicant is proposing to build a commercial horse camp known as the Mane Trails, Inc. on property adjacent to NFS land. The only other access to the Springs Valley Trail from the applicant's land is a county road. The applicant is seeking a safer and more convenient access for horse riders to use the Springs Valley Trail. The horse camp and special use trail will serve forest visitors by providing a camping opportunity adjacent to the trail system. This private businessperson has the resources to offer a recreational experience that otherwise would not be available.

**II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION**

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when (1) they are within one of the categories identified by the U.S.

Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the USDA Forest Service in USDA Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2 and (2) there are no extraordinary circumstances.

#### **A. Category of Exclusion**

The Federal action of issuing a special use authorization is within a category of exclusion from having to document an assessment in either an environmental assessment or environmental impact statement. This decision is within the category of exclusion found in Forest Service Handbook (FSH) 1909.15, Section 31.2(3), which is titled "Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land." Constructing a trail is within the category of exclusion FSH 1909.15, Section 31.2(1), which is titled "Construction and reconstruction of trails." FSH 1909.15 Chapter 30 lists the categories.

#### **B. Relationship to Extraordinary Circumstances**

##### **1. Threatened and Endangered Species or Their Critical Habitat -**

The Endangered Species Act requires that Federal activities do not jeopardize the continued existence of any species Federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. Potential effects of this decision on listed species have been analyzed and documented in a biological evaluation (Reynolds 2002 and 2002b). Forest Wildlife Biologist/Karst Coordinator Kelly Reynolds found no T&E species or their habitat in the project area. It was determined that this decision will have "no effect" on listed species or their critical habitats.

##### **2. Floodplains, Wetlands, or Municipal Watersheds -**

*Floodplains*: Executive Order 11988 requires us to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as ". . . the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent [100-year recurrence] or greater chance of flooding in any one year." The project is not located in or near floodplains. This has been validated by map and site-review (Merchant 2002).

*Wetlands*: Executive Order 11990 requires agencies to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as ". . . areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds." The project is not located in or near wetlands. Personnel have validated this by reviewing maps and the site (Merchant 2002). This decision will not affect wetlands.

*Municipal Watersheds*: Municipal watersheds are managed under multiple-use prescriptions in forest plans. There are two municipal watersheds on the HNF. One is the Patoka Reservoir and the other is Monroe Reservoir. The proposed trail is in the Lick Creek and Lower Lost River watersheds, which are not municipal watersheds. We validated this by reviewing the map and the site (Merchant 2002). This decision will not affect municipal watersheds.

3. Congressionally Designated Areas -

Wilderness:

This decision does not affect wilderness. The project is not in or near wilderness. Wilderness is identified on the HNF as Management Area 5.1 (*Forest Plan*, p.2-36). The project is located in Management Area 2.8 (*Forest Plan*, p. 2-31). The closest wilderness, the Charles Deam Wilderness, is 40 miles north of the project. This decision, with impacts limited to the immediate area of activity, will not affect the area.

Wilderness Study Areas:

There are no wilderness study areas on the (HNF). This decision will not affect wilderness study areas.

National Recreation Areas:

There are no national recreation areas on the HNF. This decision will not affect national recreation areas.

Wild and Scenic Rivers:

There are no Wild and Scenic rivers on the HNF. No impact on wild and scenic rivers will result from this decision.

4. Inventoried Roadless Areas -

There are no inventoried roadless areas (RARE II or *Forest Plan*) in the decision area. This decision will not affect inventoried roadless areas.

5. Research Natural Areas -

This decision does not affect Research Natural Areas. The project is not in or near a Research Natural Area. Research Natural Areas are identified on the HNF as Management Area 8.1 (*Forest Plan*, p.2-49). The project is located in Management Area 2.8 (*Forest Plan*, p. 2-31). The closest Research Natural Area, the Pioneer Mothers Memorial Forest, is six miles northeast of the project. This decision, with impacts limited to the immediate area of activity, will not affect the area.

6. American Indian religious or cultural sites

7. Archaeological sites or historic properties or areas

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires Federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in Federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in Federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through "in situ" preservation, but may encompass other actions to preserve these remains and items. This decision complies with the cited Acts. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas that may be affected by this decision. No historic or prehistoric sites were identified in this area. The project will have no effect on historic or prehistoric properties (Krieger 2002).

No other extraordinary circumstances related to the project were identified.

### **III. PUBLIC INVOLVEMENT**

Initial public involvement for the project consisted of direct mailings (February 4, 2002). The scoping letter was sent to 1,746 individuals and groups, including adjacent landowners and those on the Hoosier National Forest interested party list and the trails list. Fifty-three individual responses and one form postcard were received with comments applicable to the project. The comments were used to refine the project and help guide the analysis. The comments were also used to explore the possibility of extraordinary circumstances and potential effects to those resources. A summary of the results of public involvement is located in Appendix A. In addition, the project appeared in the spring 2002 edition of the Hoosier Hiking Council's newsletter Trails Advocate.

### **IV. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS**

My decision will comply with all applicable laws and regulations. I have summarized pertinent laws below.

Federal Land Policy and Management Act - This act allows the granting of rights-of-way across NFS lands. The regulations at 36 CFR 251 guide the issuance of permits, leases, and easements under this act. Permits, leases, and easements are granted across NFS lands when the need for such is consistent with planned uses and Forest Service policy and regulations. This decision is consistent with this act.

Forest Plan Consistency (National Forest Management Act) - This act requires the development of long-range land and resource management plans (forest plans). The Hoosier National Forest Land and Resource Management Plan (*Forest Plan*) was approved in 1985, as required by this act. It has since been amended six times. The amended plan provides for guidance for all natural resource management activities on the HNF. The act requires all projects and activities to be consistent with the *Forest Plan*. The *Forest Plan* has been reviewed in the development of this project. This decision is responsive to guiding direction contained in the *Forest Plan*, which states that trails on the HNF are to be designated as system trails or special use permit trails. The access trail lies in the 2.8 management area. Trail density will not exceed the *Forest Plan* maximum of an average density of 2.5 miles per square mile in management area 2.8.

The *Forest Plan* further states that special use-authorized trails are designed to link communities to system trails. Special use authorized trails to access NFS lands may be established in response to requests from neighboring landowners, clubs, and communities. Qualifications for a special use authorization shall be based on a case-by-case evaluation of ability to meet Forest Service criteria established in the Trail Program (USDA 1991b and c, 2002). In the case of Andy Mahler v. U.S. Forest Service et al. No. NA 95-0008 (U.S. District Court 1996a and by Federal Judge David F. Hamilton upheld the *Forest Plan*'s credibility in 1996. This decision is consistent with the standards and guidelines contained in the *Forest Plan*.

Sensitive Species (Forest Service Manual 2670) - Manual direction requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability as a concern. On February 29, 2000, the Regional Forester approved the sensitive species list available online at [http://fsweb/r9.fs.fed.us/tes\\_lists.htm](http://fsweb/r9.fs.fed.us/tes_lists.htm). Potential effects of this decision on sensitive species have been analyzed and documented in a biological evaluation (Reynolds 2002a and b). This decision will have "no impact" on sensitive species.

Federal Cave Resources Protection Act – The intent of this act is to secure, protect, preserve, and maintain significant caves, to the extent practical. Site features and field review substantiate that no caves are in the decision area. No known cave resources will be affected by this decision (Reynolds 2002c). Subsequently identified caves will be protected.

National Historic Preservation Act - See Section II, Item B7 of this document.

Archaeological Resources Protection Act - See Section II, Item B7 of this document.

National Environmental Policy Act - This act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this act. Past analysis on similar projects also supports compliance. Environmental assessments completed for three very similar trail projects on the HNF found no significant impacts (U.S. Department of Agriculture, Forest Service 1996a, 2001a and b). Also, on one of those similar projects, the US District Court, Southern District of Indiana stated that the Forest Service "...met all NEPA requirements"(National Environmental Policy Act) (U.S. District Court 2002).

## **V. ADMINISTRATIVE REVIEW OR APPEAL**

This decision is not subject to a higher level of administrative review or appeal pursuant to 36 CFR 215.8. This decision is subject to appeal pursuant to 36 CFR 251 by those who hold or, in certain instances, those who apply for written authorizations to occupy and use National Forest System lands. An appeal for initial review may be filed by those who hold or, in certain instances, those who apply for written authorizations to occupy and use National Forest System lands. To appeal this decision under 36 CFR 251, a written Notice of Appeal must be postmarked or received within 45 calendar days after the date the notice for this decision is published in the Perry County News newspaper of general circulation (Tell City, Indiana). However, when the 45-day filing period would end on a Saturday, Sunday, or Federal holiday, the filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to: USDA, Forest Service, Hoosier National Forest, ATTN: Forest Supervisor, Kenneth Day; 811 Constitution Ave.; Bedford IN 47421. The Notice of Appeal may alternatively be faxed to: USDA, Forest Service, ATTN: Forest Supervisor, Kenneth Day (812 279-3423). A copy of the appeal must simultaneously be sent to the District Ranger, Tell City Ranger District, 248 15<sup>th</sup> Street, Tell City IN 47586.

## **VI. IMPLEMENTATION DATE**

This decision may be implemented immediately.

## **VII. CONTACT PERSON**

Further information about this decision can be obtained from Nancy Myers at the Tell City Ranger District (Address: 248 15<sup>th</sup> Street, Tell City, IN 47586; Voice: 812-547-7051; Fax: 812-547-6144; e-mail: nmyers@fs.fed.us).

## **VIII. SIGNATURE AND DATE**

I have concluded that this decision may be categorically excluded from documentation in an environmental impact statement or environmental assessment because it is within one of the

categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.1b or 31.2, and there are no extraordinary circumstances present. My conclusion is based on information presented in this document and the entirety of the planning record.

/s/ **Gary Dinkle**  
JIM DENONCOUR  
District Ranger

11/14/02  
Date

## **REFERENCES CITED**

Christensen, Russell. 2001. Unpublished field notes on the Midwest Trail Ride's trail review of Trail 80. On file with: Nancy Myers, Hoosier National Forest, 248 15<sup>th</sup> Street, Tell City, IN 47586

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Day, Kenneth G. 2001. Trail workshop summary and updates and suggested changes to the Hoosier National Forest trail program. Letter to trail users dated January 12, 2001 (file code 2350). Hoosier National Forest, Bedford, IN. 8 p.

Hoosier Hikers Council, Inc. Potemkin Trail? 84 HHC members question Springs Valley Trail. Trails Advocate. 8(2): 1.

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Reynolds, K.A. 2002a. Biological evaluation for the Springs Valley Trail Commercial Horse Camp Access Project. USDA Forest Service, Hoosier National Forest, Bedford, IN 9pp.

Reynolds, K.A. 2002b. Karst memo for the Springs Valley Trail Commercial Horse Camp Access Project. USDA Forest Service, Hoosier National Forest, Bedford, IN 1 p.

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U.S. Department of Agriculture, Forest Service. 1991c. Land and Resource Management Plan, Plan Amendment, Hoosier National Forest. 90 p.

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U.S. Department of Agriculture, Forest Service. 1995. Trail program for the Hoosier National Forest, under cover letter dated February 17, 1995 (file code 2300) from Kenneth G. Day to Forest users. Hoosier National Forest, Bedford, IN. 9 p.

U.S. Department of Agriculture, Forest Service. 1996a. Environmental Assessment, Midwest Trail Ride, Inc. special use application, Brownstown Ranger District, Hoosier National Forest, Lawrence and Monroe Counties, Indiana. March 14, 1996. Hoosier National Forest, Bedford, IN 85 p.

U.S. Department of Agriculture, Forest Service. 1996b. Standard drawings for construction and maintenance of trails. EM-7720-104. Washington, DC: U.S. Department of Agriculture, Forest Service, Engineering Staff 52 p.

U.S. Department of Agriculture, Forest Service. 1996c. Standard specifications for construction and maintenance of trails. EM-7720-103. Washington, DC: U.S. Department of Agriculture, Forest Service, Engineering Staff 108 p.

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U. S. Department of Agriculture, Forest Service, 2001c. National Environmental Policy Act documentation needed for certain special use authorizations, Federal Register, Volume 66, September 20, 2001.

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U.S. District Court, Southern District of Indiana, New Albany Division. 1996b. Andy Mahler v. U.S. Forest Service et al. No. NA 95-0008-C H/H. Judge David F. Hamilton, Entry on Plaintiff's Motion to Alter or Amend Judgment, June 7, 1996. 22 p.

U.S. District Court, Southern District of Indiana, Indianapolis Division. 2002. Suzanne Mittehthal and Hoosier Hikers, Inc. v U.S. Forest Service et al. No. IP 01-1882-C-Y/S, Judge Richard L. Young, Entry on Plaintiffs' Motion for Preliminary Injunction, February 19, 2002. 33 p.

Wadzinski, Les. 2002a. Calendar Year 2001 recreation fee demonstration program Financial Report. Memorandum to file dated January 10, 2002 (file code 2300). Hoosier National Forest, Bedford, IN. 3 p.

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Wadzinski, Les. 2002c. Analysis of trail use by adjacent camps on the Hickory Ridge Trail. Memorandum to file dated April 3, 2002 (file code 2350). Hoosier National Forest, Bedford, IN. 4 p.

## APPENDIX A

### PUBLIC COMMENTS FROM INITIAL SCOPING

We requested comments from the public concerning this project in a scoping letter sent to 1,746 individuals and organizations on February 4, 2002. Fifty-three individual responses and one form postcard were received with comments applicable to the project. In addition, the project appeared in the spring 2002 edition of the Hoosier Hiking Council's newsletter Trails Advocate.

Each response was examined to identify specific concerns and issues, which were then grouped into categories. Most responses contained several issues or concerns. Each response was assigned an identification number to identify the respondent and track the comments. A summary of the comments is presented by category. In the following summary, "C" indicates a comment and "R" indicates the USDA Forest Service response. Direct quotes appear in quotation marks, and paraphrased comments have no quotation marks. The source of the comment is indicated by the first response number in parentheses. The Forest Service believes the comment fairly represents the views of the additional commenters within that parentheses.

The following list identifies those who commented on the February 4, 2001 Scoping Letter

<b>Name/organization represented</b>	<b>Response #</b>
Adams, Dan, Perry County Parks & Recreation	13
Allman, Larry, Indiana Deerhunter Assn.	11
Anderson, Francis, Hoosier Horsemen member	34
Ash, Paul	15
Bain, Eddie	18
Booth, Elizabeth	8
Brown, Denzyl, Shirley Creek Trail Riders Club	44
Cochran, Charles	2
Collins, Dennis	17
Dafforn, Lynn	10
Dawes, Karen, Hoosier Horsemen	48
Earles, Sara, Hoosier Horsemen	21
Eickleberry, Christine	20
Fleming, Clark	19
Form Postcard	45
Garab, Joyce	29
Gilliat, Lynn	39
Gries, Jim	52
Hammond, Don	25
Hollars, Ralph	9
Hopkins, Art	14
Howell, Irene, Indiana Trail Riders	4
Hubbard, Phyl	35
Hunt, Nancy, Environmental Impact	7
Jackson, R.C.	16
Keith, Sue	33
Levingston, Randy	38
Lutz, Annette	36

Maier, John, Protect Our Woods	53
Maley, Jody	31
Marbach, Terry	41
Melchior, Jeanne, Protect Our Woods	54
Miller, Susan, Hoosier Horsemen, IN Trail Riders, IN Horse Council	49
Mittenthal, Suzanne, Hoosier Hiking Council	3
Pate, Nathan	6
Pletzer, Arden	43
Quebbeman, Kena	28
Racine, Ann	42
Ransom, Teddy	5
Rekers, Jennifer	26
Revelee, Shaaron, Hoosier Horsemen	30
Robbins, Mary Jane and Dave	1
Rumsnake, Kathy	23
Shearer, James	12
Spencer, Irene and Jon	46
Sturgeon, Jack and Suemma	24
Taylor, Ann	50
Tomlinson, Susan	22
Vartanian, Don, Indiana Volkssport Association	37
Wales, Martha	32
Weldy, Jody	40
Wilcoxson, Bonnie	27
Wilkinson, Lou	51
Wyand, Lyn	47

General Comments

C. Some respondents voiced their general support of the special use trail, such as “vote for it”, “okay with me”, “great idea” (4, 5, 6, 9, 10, 22, 23, 24, 25, 29, 30, 34, 36, 37, 39, 40, 44, 48)

R. Comments noted

Benefits

C. Many respondents pointed out the benefits of the special use trail (1, 2, 8, 13, 16, 18, 20, 21, 22, 26, 30, 31, 33, 35, 46, 47, 48, 49, 50). Several respondents were supportive of the special use trail and liked the idea of being able to connect to USDA Forest Service trails. Other respondents were in favor of more horse trails and access for horses, particularly safe access. One respondent felt that the special use permit “may contribute significantly to improving tourism in Southern Indiana.” Another respondent was concerned that all landowners have access to any trail systems as long as the connecting trail is open to the public and built to Forest Service standards.

R. Aware of the recreational benefits of trails, the recreation staff officer is also concerned with all visitors having safe access to trails. The HNF has recently released an updated trail program document, which lists possible future trail projects (U.S. Department of Agriculture, Forest Service 2002).

## Resource Concerns and Trail Maintenance

C. Some respondents are concerned with the impact of horses on trails, such as trails “that have just been torn up with horse hooves,” horses “damaging the forest,” and “serious mudholes, braided trails, erosion already developing on the trail”. One respondent does not hike on the Hoosier National Forest and sees no evidence that “stone, rock, etc. added to the trail can prevent such damage.” Several comments related to trail design and maintenance. One commenter was concerned that the trail be designed right. Other respondents were concerned about funding for trail maintenance. (3, 7, 11, 12, 15, 27, 28, 32, 33, 41, 42, 43, 45, 53).

R. The special use applicants will be responsible for constructing and maintaining the 1250-foot connector trail to the USDA Forest Service standards found in the Trail Management Handbook and Engineering Management publications (U.S. Department of Agriculture, Forest Service 1996b and c). The USDA Forest Service will inspect the trail annually and advise the applicant of any maintenance concerns. The applicants are required to comply with the USDA Forest Service inspection findings and perform mitigation determined to be necessary. Forest monitoring reports indicate that gravel can prevent tread damage (U.S. Department of Agriculture, Forest Service 1993-2000). A similar special use permit trail was constructed by Midwest Trail Rides to connect to the Hickory Ridge Trail, and recent monitoring indicates conditions are acceptable (Christensen 2001, 2002).

## Multiple Use

C: Some respondents believe that it is difficult or impossible to have multi-use trails (7, 15, 27, 32, 41, 43, 51, 52).

R: The Springs Valley Special Use Trail will connect with a 10.7-mile trail designated as a multi-use trail. It would not be very practical to have a 1250-foot single-use trail connecting with the multi-use Springs Valley Trail. The decision to designate the Springs Valley Trail a multi-use trail has already been made in the Springs Valley Environmental Assessment and Decision Notice (USDA 2001). A trailhead is provided for all users, and the trail is open for horse, hiker, and bike use. The Forest Service trail policy based on public input since 1992 has led to the conclusion that the HNF can serve most uses through the multiple-use trail concept. Given that only 4% of Indiana is in public land, the opportunity for long distance trails is extremely limited. To provide trail opportunities to all user groups, users need to share this limited resource.

## Environmental Assessment Process

C: There were questions about the level of analysis when EAs are used and who pays (27, 45, 53). One commenter asked, “What analysis has been done on this proposal?” Another respondent asked for information regarding plans concerning an EA for this access trail and wanted to know how the EA would be funded. Another comment stated, “When hikers press for trails that are not shared with horse riders, we are told that the cost of Environmental Assessments precludes opening new trails, and that EAs are required even for repairing old trails. Yet we have been informed that EAs for private concessionaires to allow horse trail access from private land to public forestland trails have in the recent past been funded by the Hoosier National Forest”.

R: The analysis for this project consisted of scoping for public input, formal resource analysis by specialists (a soils scientist, an archeologist, and a wildlife biologist), a use analysis, and site inspections. A project file was compiled and a Decision Memo was developed to document the results of the analysis and decision.

A brief overview of the analysis process follows. The National Environmental Policy Act (NEPA) requires Federal agencies to consider the environmental impact of proposed actions. The law provides that the level of analysis be commensurate with the complexity of the action. For example, something as simple as mowing the lawn at a ranger station requires very little analysis, but a major action such as constructing a large dam and reservoir would likely require the complex analysis of an environmental impact statement (EIS). Other levels of analysis and documentation are in between, such as are commonly used for trail projects.

One of these processes is known as an environmental assessment (EA). The purpose of an EA is to conduct an analysis that will determine whether or not there is significant impact. If there is no significant impact, the project may proceed, depending on the decision of the authorized decision maker; if there is significant impact, the project may not proceed until the agency completes an EIS.

Another process is that of a categorical exclusion (CE). A project fitting within one of the categories established by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the USDA Forest Service and having no extraordinary circumstance that would lead to significant environmental damage may proceed with a lesser degree of analysis. Construction and reconstruction of trails is specifically cited in a CE category, as is the Federal action to issue a special use authorization (see Decision Memo page 2). This means that the project is excluded from the more complex analysis of an EA as long as there are no extraordinary circumstances present. The USDA Forest Service Handbook 1909.15-Environmental Policies and Procedures handbook, as recently revised, states that it is the degree of the potential effect of a proposed action on seven resource conditions that determines whether extraordinary circumstances exist. The seven resource conditions are listed and the relationship of each to this project is discussed in detail on pages 2-4 of the Decision Memo. Because there are no extraordinary circumstances present, an EA is not required.

Prior to 1998, most trail projects were completed as a CE based on an interpretation of the handbook to mean that as long as an extraordinary circumstance was not *affected*, the project could proceed. However, in 1998 the Seventh District Court concluded that the *presence* of an extraordinary circumstance, and not just the effect, precluded the use of a categorical exclusion (U.S. Court of Appeals 1998). For this reason, most trails of any length at all would most likely at some point be in area where an extraordinary circumstance was present. Therefore, since 1998, almost all trail projects have been analyzed with an EA. Since budgets were tight, hikers were told that an EA was likely needed. The Forest Service Handbook was recently revised, and now it includes the following sentences: “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.” It is noted that the HNF recently released an updated trail program based on public input, and it includes the provision for two new hiking trails. (U.S. Department of Agriculture, Forest Service 2002).

The HNF generally conducts and absorbs the costs of the analysis for permit applications for special uses such as trails, roads, and power lines. The permit holder is then responsible for all construction and maintenance costs. At the national level, the Forest Service is investigating legal interpretations and authorities under existing law to determine if cost recovery for such analysis is possible.

As a point of clarification, adjacent camps are not Forest Service concessionaires, because they are located on private property, and as such, they are not subject to Forest Service jurisdiction.

#### Private Landowners’ Use of Public Land

C: There were several comments received regarding the concept of a private business being able to profit from the use of public land (3, 12, 14, 15, 17, 19, 28, 38, 41, 43, 54). One respondent stated, “A formula

derived from their revenue should be paid to NFS.” One commenter was concerned there will be no land left for public use if private companies are allowed to build on NFS land. Others were unclear as to who was to pay for construction and maintenance and did not want the government to incur the costs. One respondent wanted to know if anyone could get such access, and another was concerned about setting a precedent for future requests. One respondent felt adjacent property owners were being afforded greater rights than other citizens. Other commenters felt the safety issue should have been considered by the adjacent landowner as part of their business planning process and stated, ”We do not feel it is incumbent upon the public to subsidize his poor planning decisions.” Another stated “it is not the responsibility of the NFS to provide a commercial user with access to forest trails....”.

R: By law and under certain restrictions, for-profit companies may use NFS land. Although we recognize that some people do not agree with this concept, it is permitted and we are required to respond to applications for such use. Common examples across the country include pipeline companies, marinas, ski resorts, and campground concessionaires. A special use of NFS land can benefit the public. In this case, the Forest Service does not have the resources to build and maintain a camp. This private businessperson does have the resources, and therefore can offer a recreational experience that otherwise would not be available.

In regard to the cost question, the permit holder is responsible for construction and maintenance of the 1250-foot section of trail.

The suggestion regarding a formula to recover a portion of the permit holder’s profit is appreciated. Currently, the permit holder’s fee for such use of public land is based only on the amount of land used and is considered by some to be low. Forest Service guidance on this issue is not specific, and the HNF is investigating whether legal authority exists to recover a portion of the profits. In the meantime, impact costs are offset by user fees recently introduced under the special authority of a pilot program known as the Recreation Fee Demonstration Program. Under this program, all riders, regardless of whether they access the trail from a private adjacent camp or a Forest Service trailhead, are required to purchase a trail permit. In this manner all users pay for part of their impacts, and most of the proceeds from the fee program are required to be put directly back into the HNF trail system.

In regard to the comment about setting a precedent, this policy has been in place since 1995 (U.S. Department of Agriculture, Forest Service 1995). The HNF has issued seven such permits since the program started for a total of 15.2 miles. So far, the demand for special use permit trails has been manageable, but the commenter does bring up a good point. We plan to investigate methodologies that might provide a sound basis on which to limit special use trails for commercial operations, and then we would evaluate our policies accordingly.

In response to the comment about adjacent landowners having greater rights, it is noted that all citizens have equal use of the trails. One or more trailheads are provided at each trail on the forest, and anyone may use them to access the trails. Adjacent landowners, by the mere fact of location, have much more convenient access for all forest activities than someone who lives miles away. In addition, any adjacent landowner, or any person able to obtain legal right-of-way from an adjacent landowner, is eligible to apply for such a trail. This process was initiated in 1995 when the HNF restricted horse and bike riders to only designated trails and adjacent landowners had no means of legal access.

Only two options exist for nearby landowners to access an official trail system--down a road or through the woods. From a safety perspective, a well-planned operation would include an access route that does not require the use of a road.

Effects on the Springs Valley Trail

C: Two commenters were concerned about overcrowding and impacts on the Springs Valley Trail and asked what type of analysis was conducted. One person was concerned about the increased costs to maintain the Springs Valley Trail and how they will be funded (27, 45, 53).

R: The Springs Valley trail is designed to withstand heavy use, and it employs the same design and construction features as other high use trails on the HNF (U.S. Department of Agriculture, Forest Service 2001). For example, the 47-mile Hickory Ridge Trail system is used by three large private adjacent horse camps. A review of trail permit sales indicates that approximately 6,312 riders used the trail system from those camps in 2001 (Wadzinski 2001a, b, and c). Trail inspections indicate that the trail system can withstand that type of use (Day 2001 and U.S. Department of Agriculture, Forest Service 1993-2000). The Manes Trail camp is expected to serve fewer customers because they will only provide 30 permanent campsites compared with the 100 sites at Midwest Trails Rides on the Hickory Ridge Trail. Based on these facts, we are confident the design of the trail is adequate to accommodate the expected use. In addition, trail users originating from the camp will be required to purchase USDA Forest Service trail permits, and they will therefore contribute toward maintenance costs of the Springs Valley Trail.

#### Parking

C. One person asked if the public would be able to park at the special use applicant's facility since the trail will be open to public use (53).

R. The USDA Forest Service will provide parking at the Springs Valley Trailhead. If someone desires to park on the applicant's facility (on private land), they will have to receive permission from the applicant.

#### Miscellaneous Comments

C. One respondent commented that all landowners should have access to any trail system as long as the connecting trail is open to the public and built to USDA Forest Service standards. Another respondent was concerned that the trail be open to hikers. Another respondent would object to use of the trail by mechanical vehicle. Two people questioned why the trail is shaped as a "y". Two people would like to see more trails developed in Springs Valley area as well as Young's Creek, German Ridge, and Oriole (6, 18, 25, 29, 37, 46, 48, 50).

R. A process exists for the consideration of trails to connect with USDA Forest Service trails. The Mane Trails, Inc. used the special use permit system to apply for a permit to construct the connector trail. Mane Trails, Inc. is required to construct and maintain the trail to USDA Forest Service standards referenced in the Trail Management Handbook and Engineering Management publications (USDA, Forest Service 1991, 1996a and b). The special use trail will be open to hikers. The trail is designated as a multiple-use trail and will also be open to bicycle use, and bicycles are considered mechanical vehicles. Based on public input since 1992, the Forest Service has concluded that the HNF can serve most uses through the multiple-use trail concept. Given that only 4 percent of Indiana is in public land, the opportunity for long distance trails is extremely limited. For that reason, users need to share this limited resource. Forest monitoring reports indicate that gravel can prevent tread damage (U.S. Department of Agriculture, Forest Service 1993-2000). With respect to the question regarding the "y" shape, the end the trail is shaped as a "y" to better accommodate users going in and out. The southern section of the trail is on an old road and will intersect the Springs Valley Trail currently under construction approximately 500 feet north of the trailhead. The north section will intersect the Springs Valley Trail approximately 750 feet north of the trailhead. The comment regarding more trail development is addressed in the recently released Hoosier National Forest Trails Program (USDA 2002).

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