

AAC | AORE | AMGA | TWS
Forest Service Engagement Project on Recreational Permitting
Summary of Findings
May 7, 2018

Introduction

The American Alpine Club (AAC), Association for Outdoor Recreation & Education (AORE), The Wilderness Society (TWS) and the American Mountain Guide Association (AMGA) recognize how challenging it is for our constituents to obtain outfitter-guide permits from our National Forests. We have heard from outdoor educators, climbers, guides and other outdoor recreation enthusiasts that the permitting system is overly complicated and can be a barrier to accessing our commonly-owned public lands. In June of 2016, Chief of the United States Forest Service (USFS) Thomas L. Tidwell issued guidance titled, *Modernization of Special Uses to Enhance Visitor and Community Benefits (the "Guidance")* to modernize the recreation special uses program. Following the issuance of the Guidance, our organizations partnered with Forest Service staff to better understand the extent to which the Guidance is being implemented on forests across the country.

Project Description and Methodology

In order to identify the successes and challenges associated with implementing the Chief's Guidance, we conducted 19 meetings with special uses staff, forest supervisors, district rangers, and permit administrators. 13 of these meetings were done by trained volunteers and six were done by staff from our organizations. The interviewers gathered responses to the following questions:

- Is the forest implementing the Guidance?
- If so, what is working well?
- If not, what is limiting the forest's ability to implement?
- What additional resources does the forest need?
- Are there aspects of the Guidance that need to be clarified?
- Is a more formal policy change needed?
- Are there other things that could be done to make permits easier to issue and administer?

Project Challenges

Establishing meetings with USFS staff was the primary challenge faced by the project team. Our interviewers often struggled to make contact, despite numerous emails and follow-up phone calls. A lack of response, or insufficient response, limited the data collected on the Guidance implementation. Here are several anecdotes:

One interviewer in the Intermountain Region called numerous times and was told that no one was available to answer his permitting questions, but that they would call him back once they found someone who knew what he was talking about. The volunteer wrote to us, saying, "Unfortunately I still haven't heard back yet...If it gives any indication, the people who I have talked to so far on the phone hadn't heard of the Guidance."

Another interviewer in the Pacific Northwest Region applied for a permit for a University-sponsored trip and the application was denied. When he requested a phone conversation to discuss the process and gain clarification on the denial, he did not get a response.

An interviewer in the Southern Region was told in a brief conversation with an unidentified USFS official that he only needed to pay the parking fee to take his group into the desired area, when in fact the interviewer knew a permit was required.

AAC/TWS/AMGA staff made numerous attempts to speak with District Rangers or Permit Administrators at Ranger Districts in Regions 1, 2, 3 and 8. After several weeks of trying, we abandoned efforts with those districts, limiting data points for this report.

These communication challenges may be indicative of the staffing and capacity limitations of the USFS. As forest administrators deal with shrinking budgets and greater demands on staff time, their ability to engage with the public is limited. For an improved permitting system, it is imperative that the relationship between the USFS and public is strong and that permit applicants have access to open and timely communication with USFS staff.

Findings

Together with volunteer interviewers and staff, our team collected 19 reports on implementation of the Chief's Guidance. The reports are geographically diverse, covering eight out of the nine USFS regions. Throughout our interviews, we found that implementation of the Guidance varies--some forests are successfully utilizing the Guidance to increase opportunities for facilitated access while others are doing so only to a limited degree.

This analysis is meant to provide a better understanding of the extent to which the Guidance is being implemented from the perspective of forest staff across the country. It captures the status of implementation nearly two years after the issuance of the Guidance and could be used as a benchmark to assess progress in the years to come. To ensure individual respondents are kept anonymous while retaining the value of their comments, all findings are categorized by National Forest unit or Region rather than individual Ranger Districts.

Status of Implementation

Of the 19 Forest Service staff interviewed, 4 representatives¹ indicated the Guidance was not being implemented, 4 representatives² indicated the Guidance was being implemented to a limited degree, and 11 representatives³ indicated the Guidance was being implemented to an extent that has successfully allowed new facilitated access opportunities.

¹ Arapaho and Roosevelt National Forests; Humboldt-Toiyabe National Forest; Deschutes National Forest; and Bankhead National Forest

² Wallowa-Whitman National Forest; Gifford Pinchot National Forest; Okanogan-Wenatchee National Forest; and Nantahala National Forest

³ Uinta-Wasatch-Cache National Forest; Lake Tahoe Basin Management Unit; Pacific Northwest Region; Southern Region; Chugach National Forest; San Juan National Forest; Uncompahgre National Forest; Rocky Mountain Region; Sierra National Forest; Green Mountain National Forest; Hoosier National Forest

Aspects Working Well in Implementation

In summary, the most useful aspects of the Guidance are:

- The indication the Forest Service is making a cultural shift away from regulating occupancy and use and toward enhancing facilitated recreation opportunities
- Nominal Effects Determinations are enabling new uses for select groups

Philosophical Shift

From our research, it was evident the greatest benefit of the Guidance is the way in which it demonstrates the Forest Service is making a cultural shift away from “saying no” to permit proposals and shifting toward “saying yes.” This encouragement of recreation special uses is allowing authorizing officers to issue new uses with a greater feeling of support from within the agency. A recreation specialist at one forest said, “the Guidance gives me a solid footing to manage permits well.” A district ranger in Region 2 said, “It’s very refreshing and encouraging to see ourselves not as enforcer but as partner. Fantastic message.”

Nominal Effects

Three forests/regions⁴ were implementing nominal effects determinations before the Guidance was issued and these forests stated the Guidance helps to validate their efforts. 7 additional forests/regions⁵ started issuing nominal effect determinations after the Guidance was issued. In one notable example, a Region 9 forest allowed “15 or 20” new uses by issuing nominal effects determinations in 2016 and 2017⁶. This indicates nominal effects determinations are being used to allow select new uses at many forests. However, it was noted by several respondents that nominal effects determinations serve only a limited, select population of user groups (school groups, etc.) and many respondents still desire additional clarification (see next section for additional detail).

Another set of national forests⁷ reported that the Guidance was helping them find a balance in particularly high-use forest areas between public and commercial uses. This set of forests also reported that they have already been utilizing multi-forest permitting to streamline the process and make it more accessible for the user, and that they are using nominal effects determinations with smaller groups and research groups, but not yet with commercial outfitters and guides.

Aspects Needing Clarification in Implementation

Nominal Effects

Questions about nominal effects made up almost all of the requests for clarification on the Guidance. Five administrators⁸ stated a definite need for further clarification on nominal effects determinations and many others indicated nominal effects was a “grey area.” Here are examples of comments related to the confusion around nominal effects:

⁴ Wallowa Whitman National Forest; Southern Region; Hoosier National Forest

⁵ Wallowa Whitman National Forest; Pacific Northwest Region; Uncompahgre National Forest; Rocky Mountain Region; Nantahala National Forest; Green Mountain National Forest; San Juan National Forest

⁶ Green Mountain National Forest

⁷ North Carolina National Forests

⁸ Rocky Mountain Region; Okanogan-Wenatchee National Forest; Deschutes National Forest; North Carolina National Forests; Chugach National Forest

“Nominal effects use to confuse everyone, even before the Guidance, and now the Guidance compounds that confusion. It feels contradictory to all my time within USFS that a commercial operation could have nominal effects.”

“I feel uncomfortable using nominal effects to allow a visiting outfitter to operate a trip (for no fee) when our long-time, trusted local outfitters are required to manage permits and pay fees.”

“District rangers and permit administrators have questions about nominal effects. They are often unclear whether a use qualifies or not and they have discomfort in making this determination. Many authorizing officers would prefer more clear policy directives – nominal effects determinations feel too “risky.”

Also of note, several respondents indicated that many outfitters and guides wanted a permit, even if their proposed use could be granted through a nominal effects determination. This request was based upon the outfitter/guides’ desire to have the “legitimacy” and security of a permit.

Additional Items for Clarification

One administrator⁹ specifically referred to issues of liability and indemnification, and stated that the Guidance did not provide them with information on those issues. Another administrator¹⁰ said “a clearer definition on partnership and service exchanges for land access may be useful,” as well as “a bit more information and detail on the flexibility of needs assessment and capacity analysis processes.”

Challenges to Implementation

Staff Capacity:

Almost every forest service staff member we spoke to stated that a lack of staff or limitations on staff capacity hindered or completely prohibited their implementation of the Guidance. This was summed up by a Regional representative who said, “we continue to say no to new applications and uses because we cannot take care of what we currently manage.” A recreation specialist in Region 8¹¹ said, “More personnel would be the quickest and most effective way for the forest to issue more permits.” Only one administrator¹² contradicted this trend in stating that they had the necessary staff capacity to implement the Guidance. These findings suggest the lack of human resources for special uses is a significant barrier to the implementation of the Guidance.

Budget Constraints:

Budget constraints were mainly noted in reference to limited staff capacity. Four administrators¹³ cited limited financial resources and budget constraints as challenges or barriers to implementation.

⁹ North Carolina National Forests

¹⁰ Wallowa Whitman National Forest

¹¹ Nantahala National Forest

¹² North Carolina National Forests

¹³ Arapaho and Roosevelt National Forests; Humboldt-Toiyabe National Forest; Wallowa Whitman National Forests; Lake Tahoe Basin Management Unit

Policy Change Needed:

Eight forests/regions¹⁴ insisted upon a need for a formal policy change in order to implement the Guidance effectively. Revisions to the environmental analysis and decision making process were cited as a preferred way to streamline the authorization process. With respect to this, one forest special uses staff¹⁵ said, “Having the ability to increase user days and add new activity for temporary permits without having to do an EA would be fantastic.” Another respondent¹⁶ stated, “improvements to EADM would be more impactful than nominal effects.” Related to this, one administrator said they are eagerly waiting for actual changes in policy to come down the grapevine. Another similar request¹⁷ was made for a more simplified permit application process for low-impact outfitter-guide permits.

Wilderness Areas:

Among those forests that are implementing the Guidance, three¹⁸ noted limitations on their ability to implement the Guidance due to the presence of Wilderness Areas within their forests or regions.

Culture/Mindset:

Two administrators in the same region¹⁹ spoke to a need for a cultural shift among Forest Service staff. One report noted “Many of the admins are by the book. There needs to be a cultural/mindset change where admins understand they have more discretion in decision making.”

High-Use Areas:

One administrator²⁰ stated that the capacity challenges of their high-use areas prohibited implementation of the Guidance (the interviewer noted that this particular administrator did not seem willing to explore possible solutions). In contrast, another administrator²¹ viewed the Guidance positively in light of their high-use areas, stating the Guidance would help strike a balance between uses in these areas.

Additional Needs

Public Engagement and Education:

One administrator²² stated a need for more advertising of national forest lands as publicly-available and inexpensive recreation areas, along with more public education on topics such as Leave No Trace. The interviewer noted the latter area is something our organizations could play a role in achieving. Another administrator²³ said that they wanted to help connect the public with national forest lands through outfitters and guides. This report stated “The Forests wish to introduce [the public] to the outdoors through guides, outfitters, and organized trips.”

¹⁴ Rocky Mountain Region; Arapaho and Roosevelt National Forests; Uncompahgre National Forest; Uinta-Wasatch-Cache National Forest; Okanogan-Wenatchee National Forest; Deschutes National Forest; Nantahala National Forest; Chugach National Forest

¹⁵ Okanogan-Wenatchee National Forest;

¹⁶ Rocky Mountain Region

¹⁷ Chugach National Forest

¹⁸ Wallowa Whitman National Forest, Gifford Pinchot National Forest; Pacific Northwest Region.

¹⁹ Pacific Northwest Region; Deschutes National Forest

²⁰ Arapaho and Roosevelt National Forests

²¹ North Carolina National Forests

²² Lake Tahoe Basin Management Unit

²³ Pacific Northwest Region

SUDS Modernization/E-permitting:

Five administrators²⁴ stated that they are looking forward to utilizing e-permitting as soon as it becomes available. However, one noted that an online system “has potential to help if it’s a good system. If it doesn’t work well (system crashes, blocked access, etc.) it could add time and complicate things further.”²⁵ Other administrators²⁶ spoke generally of a need to improve resource-sharing such as, “a better clearinghouse for permit managers to not reinvent the wheel with new permit paperwork.”

Engagement with Permit Applicants:

One administrator²⁷ acknowledged the need for the Forest Service to better understand the needs of permit applicants, suggesting more dialogue between USFS administrators and permit applicants through meetings or workshops. Another administrator²⁸ suggested that the Forest Service in Washington, D.C. needs to hear more from locals about the implementation of the Guidance, and that both regional and national offices had not been particularly responsive to requests for more input and support. We hope this report can help bridge that communication gap.

Conclusion

Overall, the majority of permit administrators viewed the Guidance positively, noting the ways in which it clarifies the tools available in the permitting process and seeks to increase connections between the public and national forest lands through recreation special uses. Notably, the cultural shift portrayed by the Guidance - moving away from restricting recreation special uses and instead seeking to enable them - is being recognized by forest staff at all levels and is facilitating a greater willingness to allow recreation special uses whenever possible.

When surveying Forest Service staff, we found that implementation of the June 2016 Guidance varies considerably from Forest to Forest. Forests that are actively implementing the Guidance are primarily doing so by issuing nominal effects determinations. There are some examples of forests utilizing the Guidance to increase permitted recreation activities, although these are limited. Forests that are not implementing the Guidance, or doing so in a limited capacity, cite a lack of staff and a lack of clarity in the Guidance as the primary roadblocks to implementation. The lack of staff was the number one stated challenge to implementing the Guidance. When additional clarity was needed, it was primarily for questions related to nominal effects.

Recommendations

To build upon the Chief’s Guidance and support a continued shift toward enabling recreation special uses, our study has identified three primary strategies. These include (1) increasing staff resources for recreation special uses, (2) providing additional clarification on how the Guidance is to be interpreted -

²⁴ Rocky Mountain Region; Uncompahgre National Forest; Green Mountain National Forest; Hoosier National Forest; North Carolina National Forests

²⁵ Green Mountain National Forest

²⁶ Wallowa Whitman National Forest; Pacific Northwest Region

²⁷ Pacific Northwest Region

²⁸ Humboldt Toiyabe National Forest

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particularly nominal effects, and (3) providing additional tools such as e-permitting and new categorical exclusions to streamline the recreation special use permitting process.

We are grateful to the Forest Service staff who shared their insights with our team. We hope their reflections and candor will be considered during future engagement and planning efforts. Our organizations stand by as ready partners to support the implementation of the Chief's Guidance and other advancements in special use permitting.