

# Decision Record — Memorandum

## Midnight Sun Council, BSA Special Recreation Permit FF096603

### Compliance

The proposed action is within the Steese Subunit of the Eastern Interior Field Office. Activities associated with Birch Creek and Special Recreation Permits are addressed in the Record of Decision, Resource Management Plan for the Steese National Conservation Area; February 6, 1986 (BLM-AK-PT-86-018-1610-028); Prescriptions Common to All Management Units, Recreation Management — Management Direction; Visitor Use Management and Information: Special Recreation Use Permits are required for commercial uses such as commercial outfitting and guiding and commercial river trips, etc. (Page 6). The River Management Plan, Birch Creek, A Component of the National Wild and Scenic Rivers System, December 1983 (BLM-AK-PT-83-003-1610-REP-87-080) also allows for Special Recreation Permits under Item 7 — Visitor Management; Action 7.3: Permits are required for all commercial river guides and outfitters operating within the river corridor (Page 31).

### Selected Action

The selected action is to issue a permit for a term of five years. The permittee, Midnight Sun Council, BSA, will be permitted to conduct activities as described in the proposed action section below and subject to stipulations for Special Recreation Permit #FF096603 (attached) and all applicable regulations.

### Proposed Action:

The applicant’s proposed action is to camp and conduct organized river operations utilizing various sites for overnight camping along Birch Creek National Wild and Scenic River. Access will be by vehicle to Upper Birch Creek Wayside at Steese Highway MP 94. The following sites, primarily gravel bars and associated adjacent uplands will be used (however use is not limited to these sites):

**Table . Proposed Camp Locations**

T 5 N	R 10 E	Sec. 4	FM	Harrington Creek	Circle B-4
T 5 N	R 12 E	Sec. 11	FM	Clums Fork	Circle B-3
T 6 N	R 15 E	Sec. 9	FM	Portage Creek	Circle B-2
T 6 N	R 17 E	Sec. 19	FM	River mile 73	Circle B-1
T 7 N	R 17 E	Sec. 21	FM	River mile 81	Circle B-2

Take-out at Lower Birch Creek Wayside, Steese Highway MP 140

The Midnight Sun Council is planning two trips per year with an average of nine scouts and three leaders for an average of eight days per trip within Birch Creek National Wild and Scenic River Corridor.

Midnight Sun Council practices minimum impact — Leave No Trace — camping techniques. All cooking will be on backpacking stoves with food storage in five gallon and/or backpack sized bear resistant containers. All drinking water will be filtered. Honey buckets will be used for all human waste. There will be incidental fishing with the practice of catch and release. One or two fish may be cooked per trip. Some hiking may take place at campsite locations if the terrain is suitable. No more than eight canoes will be used on any single trip.

The Midnight Sun Council has a trip emergency plan. There will be at least one person on each trip that has completed training in Wilderness First Aid, Advanced CPR for Rescuers, and completed a seven day BSA trekking certification program. Each trip leader will have a Satellite phone with emergency numbers and BSA has a doctor on call 24 hours a day. Trip leaders have completed at least three trips on Birch Creek prior to leading a trip. Each participant receives training in Leave-No-Trace camping ethics, animal awareness and bear spray use, and weather identification. Participants utilize the buddy system in that no-one goes out alone and have a set of maps for the river. The group carries two GPSs and a first aid kit appropriate for the group size.

A Determination of NEPA Adequacy has been completed for this action and it has been determined that the environmental effects of the proposed activity were adequately considered in EA AK-024-06-036 completed in 2007. The assessment required by NHPA Section 106, the findings required by ANILCA Section 810, and Essential Fish Habitat Clearance have been completed. The proposed activity does not impact lands with wilderness characteristics. No additional NEPA analysis is required.

### **Compliance with NEPA:**

A Determination of NEPA Adequacy has been completed for this action and it has been determined that the environmental effects of the proposed activity were adequately considered in EA AK-024-06-036 completed in 2007. The assessment required by NHPA Section 106, the findings required by ANILCA Section 810, and Essential Fish Habitat Clearance have been completed. The proposed activity does not impact lands with wilderness characteristics. No additional NEPA analysis is required. Stipulations pertaining to this permit are attached.

### **Public Involvement:**

The original EA was posted on the BLM NEPA register and no public comments were received.

### **Rationale:**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed action is in conformance with the approved land use plans and that no further environmental analysis is required. The issuance of this Special Recreation Permit is in support of the goal to Manage lands consistent with multiple use principles and maintenance of environmental quality and objectives to Improve access to recreation opportunities and the goal to Provide for quality hunting, trapping, fishing, and wildlife viewing found in the Record of Decision; Resource Management Plan for the Steese National Conservation Area. It is also in support of the management objectives to Provide high quality primitive recreational opportunities for present and future generations, Provide a variety of opportunities for interpretative, scientific, educational, and wildlands oriented uses, and Maintain and improve fish and wildlife habitat found in the River Management Plan — Birch Creek, A Component of the National Wild and Scenic Rivers System.

The evaluation and finding done to comply with Section 810 of ANILCA found no significant restrictions to subsistence use.

The evaluation and finding done to comply with Section 106 of the National Historic Preservation Act found no anticipated impacts to cultural resources and recommended that the undertaking proceed.

The evaluation and finding done to comply with the Magnuson-Stevens Act found that the proposed action will not affect essential fish habitat.

The evaluation and finding done to comply with Executive Orders 11998 and 11990 found that the proposed action will not cause harm to the floodplain or associated wetlands of the Birch Creek Wild and Scenic River.

The evaluation and finding done to assess potential impacts to lands with wilderness characteristics found that the proposed action will not significantly impair the size or naturalness of the area, or the opportunities for solitude and recreation of a primitive unconfined nature.

### **Appeal or Protest Opportunities:**

This decision shall take effect immediately upon the date it is signed by the authorized officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals (IBLA) issues a stay (43 CFR 2931.8(b)).

Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at the Eastern Interior Field Office, 1150 University Avenue, Fairbanks, Alaska 99709–3844. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quency Street, Suite 300, Arlington, Virginia 22203 within 30 days after the notice of appeal is filed with the authorized officer. If you wish to file a petition for stay of the effectiveness of this decision pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and must show sufficient justification based on the following standards: (1) The relative harm to the parties if the stay is granted or denied, (2) The likelihood of the appellant’s success on the merits, (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and (4) Whether the public interest favors granting the stay. If a petition for stay is submitted with the notice of appeal, a copy of the notice of the appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and the IBLA at the same time it is filed with the authorized officer. A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, U.S. Department of the Interior, 4230 University Drive Suite 300 Anchorage, Alaska 99508, not later than 15 days after filing the document with the authorized officer and/or IBLA. The DOI Form 1842–1, Information of Taking Appeals to the Interior board of Land Appeals may be used.

### **Authorizing Official:**

/s/ Michelle Ethun acting for  
Lenore Heppler  
Field Manager

6/4/13  
Date

### **Contact Person**

For additional information concerning this Finding, contact.

Holli McClain, Outdoor Recreation Planner  
Eastern Interior Field Office

1150 University Avenue  
Fairbanks, Alaska 99709-3844  
(907) 474.2378

## Stipulations for Special Recreation Permit FF096603

1. The permittee accepts responsibility for their campsite conditions and will be liable for identified rehabilitation activities. They will provide BLM with a detailed map of campsites and trails used for activities in and through the corridor located accurately on a USGS quadrangle map of the 1:63,360 scale and include a site sketch for each campsite on an additional 8 1/2 by 11 sheet of paper (one per page). On the bottom of the sketch maps, please include the dates of the trip and the number of people camped at each site. Please send this packet to Eastern Interior Field Office with the Post Use Report by 31 December each year of the permit.
2. This is a multi-year permit, up to 5 years. The permittee must provide the BLM with an operating plan and associated maps for trips planned for the current year by March. This permit may be revoked if annual fees, paperwork or insurance is not filed or kept current as needed, or if the permittee receives a less than acceptable rating when complying with the stated stipulations.
3. There is limited firewood along the river. Firewood collection will be limited to dead and down wood. It is required that gas stoves or U.S. Forest Service approved fire pans be used for cooking meals and any fires. All dead and out ashes and cinders will be scattered to the wind, preferably on the gravel bars. All left over wood will likewise be scattered around the area. The Federal government shall not be held responsible for protection of the permittee's personal property from wildland fire. Any gas powered equipment used shall be equipped with manufacturer approved and functional spark arrestors. The permittee will be held financially responsible for any actions or activities that results in a wildland fire. Costs associated with wildland fires include but are not limited to; damage to natural resources and costs associated with any suppression action taken on the fire.
4. Report to the BLM and the Alaska Department of Fish and Game, per Article 95 ACC 92.410 of the Alaska Game Regulations, the taking of bears or other wildlife in defense of life or property. If wildlife or avian carcasses are discovered in or near surface waters that are suspected of containing infectious or contagious tissues (for example, avian influenza), a GPS position of the carcass or detailed description of the location within the drainage shall be documented, and the Office of the State Veterinarian (907-745-3236) should be called; and notice given to the Authorized Officer's Representative (Holli McClain, 907-474-2378).
5. All operations shall be conducted in such a manner as to not cause damage or disturbance to any historical or archeological sites and artifacts. The Antiquities Act (9106), Archeological Resources Protection Act (1979), Federal Land Policy and Management Act (1976), and general United States property laws and regulations, all prohibit the appropriation, excavation, injury, or destruction of any historic or prehistoric ruin or monument, or any other object of antiquity situated on lands owned or controls by the United States. Such items include both prehistoric stone tools and sites, as well as historic log cabins, remnants of such structures, refuse dumps, and other such features. Should any such site be discovered, the permittee should avoid impacting such materials, and shall immediately notify BLM.
6. Avoid camping in areas that result in disturbance of birds of prey (raptors) such as peregrine falcons, bald eagle and redtail (Harlans) hawk. Nesting raptors will typically indicate disturbance by vocalizing loudly and often circle above people. Report to BLM any campsites where the disturbance of nesting peregrine falcons and other raptors has occurred.

7. Disposal of waste water will be done at least 200 feet from the ordinary high water mark and will be accomplished by digging individual small holes four to eight inches deep and four to six inches in diameter. A flap of "sod" containing roots, soil and above ground plant parts can be removed with careful digging and replaced without greatly impacting vegetation.
8. All campsites will be kept in a neat and sanitary condition at all times. There should be a central disposal site within each camp and a specific area designated for human waste. Specific written instructions will be provided by the authorized officer's representative should it be required. Human wastes will be deposited in a container (honey bucket) and removed from the river with disposal in an approved location. All toilet paper will be completely burned or packed out. Campsites should be located on hardened surfaces or previously disturbed areas. All non-canned food and refuse should be stored in plastic bags and all foods and refuse placed in secured coolers, dry boxes, or bear-proof containers to avoid attracting bears.
9. The permittee should not disturb migrating salmon or salmon spawning activity. The permittee should pay special attention to the mouths of Twelvemile Creek, Harrison Creek, and Sheep Creek and make special efforts not to disturb young salmon in these areas. No instream fishing can occur within 75 feet radius from the confluence of Twelvemile Creek, Harrison Creek, and Sheep Creek with Birch Creek. The permittee shall report any fishing activity including catch location, date, species, length as part of the annual Post Use Report. Felt-soled wading boots are not allowed for fishing per Alaska regulations.
10. All equipment, including tire and shoe treads, boats and tents should be cleaned to assure that they are free on non-native seeds and plant parts before scouts and leaders leave home. The permittee should avoid any non-native plants encountered to prevent the spread to other locations.