



## **Friends of Lolo Peak Concerns about the Bitterroot Resort proposal for a Special Use Permit, May 2008**

We understand that Bitterroot Trails LLC, under the signature of Jim Gill COO, has applied for a special use permit for 99 years to develop the facilities and implement the recreational activities of glade skiing adjacent to the Maclay property, for Nordic skiing west from there, and for guided snowcat skiing in the basin to the west of the RNA. **We have three principal concerns with this proposal.**

**CONCERN #1:** This proposal must be considered in the context of the Bitterroot Resort's publicly-stated goals, which include a 4-season resort operating a full downhill ski operation on Lolo Peak and Carlton Ridge.

Issues:

A. Has the Bitterroot Resort abandoned earlier hopes for skiing on Carlton Ridge and Lolo Peak? This is clearly not the case. The Bitterroot Resort has posted on their website their updated comments on the draft Forest Plans. This September 6, 2006 document makes their intentions absolutely clear. Note in Part II of those comments the following:

- Paragraph B. "This designation [Management Area 6.1] is specifically to allow future consideration of a ski area that combines the identified National Forest System lands on the Bitterroot National Forest with the adjacent private lands on the Maclay Ranch.
- Paragraph D. "The Bitterroot Resort specifically proposes Management Area 4.1 as identified on Exhibit A to allow for developed Nordic skiing, and to allow for future consideration of a proposal for developed skiing and snowboarding on Carlton Ridge and Lolo Peak."
- Paragraph E. "The Bitterroot Resort requests the Forest Service to state in both the Bitterroot and the Lolo Forest Plans that the Management Area 4.1 and 5.1 designations for the lands identified on Exhibit A, and any land management designations ultimately adopted for Carlton Ridge and Lolo Peak, allow the Lolo and Bitterroot National Forests to consider a future proposal to open Carlton Ridge and Lolo Peak to developed alpine skiing and snowboarding."
- Paragraph G. "We specifically request the Forest Service to change that desired condition statement [in the draft management plan] to allow for the consideration of a proposal for downhill ski opportunities on the Bitterroot National Forest on Carlton Ridge and Lolo Peak.

The strength and fervor with which these comments are written, and that much of the lands for which developed skiing is requested appear to coincide with those requested in the Special Use Permit, obligate the Forest Service to consider the Special Use Permit request **ONLY** in the context of the larger commitment of the Bitterroot Resort.

B. Is Bitterroot Trails LLC the same organization as Bitterroot Resort? The Special Use Permit applicant is Bitterroot Trails LLC. In answer to Question 12 on the Special Use Permit application regarding the applicant's technical and financial capability, the Resort says "The Bitterroot Resort management team has more than 30 years professional experience developing and maintaining..." **Plainly, Bitterroot Trails LLC is, for all intents and purposes, an operation of the Bitterroot Resort.**

**CONCERN #2:** The proposed activities in the Special Use Permit application do not meet the requirements of the Initial Screening Criterion 4: "Does not create an exclusive or perpetual right of use or occupancy."

Please consider:

A. The Bitterroot Trails LLC application requests a 99-year period. This, for all intents and purposes, is perpetual.

B. The extent of use proposed would create significant and important changes in the landscape. The elaborate tree cutting proposed for the glade skiing would be, in effect, permanent. Carving in the dramatic new trails, and clearing old trails would be, in effect, permanent. These actions are not revocable – once done, they will remain for a very long time. Many of the old roads have started to heal; the restoration process has begun with trees growing again. The applicant proposes to undo this work. In all, **actions proposed would not be temporary special uses; by the dramatic impact on the landscape, they would be permanent.**

**Would the proposed uses create an exclusive right of use?** First the elaborate uses proposed, including guided snowcat skiing in the upper basin, would create a de facto "exclusivity." No signs would be needed to alert non-Bitterroot Resort mountain users that this entire mountain is now claimed by the Resort. Even though no one would be officially excluded from using the mountain, the well groomed and maintained ski trails across a wide spectrum of the mountain, and the very presence of the snow cats up in the basin would be very clear messages to other users. **Yes, this proposal would, in practical effect, result in the mountain becoming exclusively the Bitterroot Resort's.**

Second, the Bitterroot Trails LLC proposal carefully selects 2438 acres from the total of approximately 12,000 they have indicated they want for the full ski resort. One need only look at a map to see that if they have use of these 2438 acres, they would pretty much have exclusive control over the remainder.

**CONCERN #3:** Of great concern is jeopardy to the Research Natural Area. The Special Use Permit application appears to propose encroachment within the RNA. Uses proposed very near the RNA include glade skiing very nearby on the east, an extensive trail system to the east and north, and the guided downhill skiing just to the southwest. Snow coach use is proposed along the ridge itself, which would mean extraordinary mechanized travel along Carlton Ridge and through the south portion of the Carlton Ridge Research Natural Area. This level of motorized travel through the RNA is unacceptable to the underlying premises of the RNA. Further, this snow coach route would invite skiers to hop off and enjoy skiing through the RNA. It seems very improbable that skiers and other users will avoid the RNA unless it is physically fenced off. **It is entirely reasonable to anticipate behavior which would threaten compliance with the Initial Screening Criterion 1 ("Use consistent with laws, regulations, orders, policies of NFS lands, other federal laws and applicable with state and local health and sanitation laws.")**

Beyond these three main concerns, we have 3 others.

**CONCERN #4:** We feel considerable concern about the integrity of the process in one specific regard. Maclay cut timber and created roads, was sued by the Forest Service and reached a settlement about the matter, and then turned around with a proposal to use these very same roads for which he paid a hefty fine for having created. If his action was unacceptable in the first place, why would it be worthy of consideration a couple years later in his Special Use Permit application? Should he not be required to recontour and revegetate those roads, rather than being permitted to now ask to use them for ski trails? Although most of the proposed trails would follow roads previously used for logging but now closed, these roads have for the most part healed up with trees and shrubs and are now stable and release little, if any, sediment into Mormon Creek.

**CONCERN #5:** Much of the special use permit application submitted by the Bitterroot Trails LLC is inconsistent with the current management practices as designated in the 1988 plan, under which the Special Use Permit application will be evaluated.

- Motorized access to Carlton Lake is now permitted only for maintenance of the dam, and then only on the basis of asking each time access is needed. This degree of restriction is appropriate to protect the public resource. Why would we consider reversing this important restriction, and now consider an application for motorized snow coaches?
- The area proposed for Nordic activities encroaches into prime wildlife habitat which is already being managed by the Forest Service for that purpose.
- Forest-wide Standards in the Forest Plan call for "Maintain 60% or higher elk habitat effectiveness in drainages where less than 25% of the roads have been built. 50% in currently roaded third order drainages." (Motor vehicles (grooming, tours, etc.) will defeat this objective.)
- The Forest Plan standard (Page III-39) "visually sensitive areas along the Bitterroot mountain face will be protected" would not seem to be satisfied.
- Regarding visual management standards in the forest Plan MA 5, the quality standard in the Bitterroot Forest Plan is for "retention." This would not be satisfied.
- Another standard is "Management activities will not be evident to the casual observer." (Forest Plan ROD Page 7 and Forest Plan page III-38; MA 3A calls for "partial retention"). This too would not appear to be satisfied.

**CONCERN #6:** Finally, Items 13 and 15 of the Special Use Permit ask about considering or developing alternatives, to which the applicant has indicated that no alternatives have been considered. We believe there are substantial alternatives on Maclay's private land to be considered and, if Bitterroot Trails LLC would choose, developed.

We do not believe any public land is necessary for Bitterroot Resort to provide a fine outdoor snow experience to their guests.