

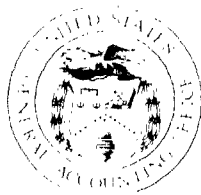
GAO

Report to the Honorable  
Conrad Burns, U.S. Senate

August 1990

# NATIONAL FORESTS

## Administration of Outfitter and Guide Policies at the Gallatin Forest



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August 22, 1990

The Honorable Conrad Burns  
United States Senate

Dear Senator Burns:

In your May 12, 1989, letter, you requested that we review allegations made by a number of outfitters/guides (hereinafter referred to as outfitters) operating in Montana national forests, that the Department of Agriculture's Forest Service has acted in an arbitrary manner in deciding the number of service days outfitters are permitted to use the forests.<sup>1</sup> You also requested that we review allegations that the Forest Service has favored some outfitters over others. In further discussions with your office, we agreed to limit our review to the Gallatin National Forest since that is where the allegations primarily occurred.

## Results in Brief

The Forest Service and outfitters operating in the Gallatin have been involved in a controversy since 1988 when the Forest Service began requiring outfitters to have permits for day-use operations. (Day use refers to outfitter-guided trips that do not involve overnight stays in the forest.) The Forest Service contends that too many outfitters are operating in the Gallatin during the hunting season and, as a result, outfitter-guided parties are having an adverse impact on other forest recreation visitors (hikers, campers, horseback riders, etc.). Consequently, the Forest Service wants to limit outfitters' use of the forest. The standard used by the Forest Service to set allowable outfitter service days under the new day-use permit program is historical use levels. The outfitters contend that historical use is not an acceptable standard and that the forest can sustain higher levels of use.

The Forest Service does not now know, nor does it have plans to determine, the level of outfitter or other recreation use the forest can sustain. Until such an assessment is completed, any limits to outfitter use imposed by the Forest Service will be subject to challenge and the controversy at the Gallatin will, in all likelihood, continue.

We believe problems similar to those at the Gallatin could also develop at other forests because historical use has traditionally been the basis

<sup>1</sup>Service days are a day or a part of a day for each individual accompanied or provided services by an outfitter; for example, 10 clients on a 1-day trip would equal 10 service days.

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for determining outfitter service-day levels throughout the Forest Service. Should this occur the Forest Service would again lack knowledge of the forest's capability to sustain various levels of recreational use because it does not believe such information is necessary to carry out federal policy to maximize forest recreation opportunities.

Regarding alleged favoritism, some outfitters operating in the Gallatin believe that other outfitters have received improper favorable treatment in the forest's management of the outfitter permitting program. Most complaints appear to have originated in one of the Gallatin ranger districts where two Forest Service employees had relatives who operated as outfitters in the district. The question of whether favoritism has actually occurred could not be resolved from information we reviewed. However, we did find that Forest Service procedures do not provide adequate internal safeguards to ensure that such acts, or the appearance of such acts, do not occur.

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## Background

Forest Service policy requires permits for commercial activities (including outfitter operations) on national forest lands. Regarding outfitters, before 1984 the Gallatin forest had generally applied the requirement only to outfitter overnight trips. However, in a national policy review completed in 1984, the Forest Service re-emphasized that the requirement applied to all outfitter trips, whether the duration of the trip was a few hours (day use) or several days (overnight). In 1988, following several delays, day-use permitting was implemented at the Gallatin for the first time.

Outfitters provide a wide range of guided recreational experiences for forest visitors and typically provide all necessary equipment, food, and transportation required for a trip. At the Gallatin most outfitter trips are to guide hunters. The demand for day-use outfitter hunting permits at the Gallatin is higher than at other Montana forests, primarily because large elk herds reside in the forest and other herds from the Yellowstone National Park annually migrate across the forest. During the 1989 fall hunting season, a total of 78 outfitters were authorized about 6,770 service days in the Gallatin. This compares to about 10,000 days authorized in 1988.

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## Service-Day Limitations Are Based on Historical Data

Limits on outfitter service days in the Gallatin, under the new day-use permitting program, have generally been set on the basis of historical use levels. Outfitters have disputed the use of this criterion and maintained that the Forest Service has no valid basis to determine the limits.

In January 1988 the Gallatin issued permitting procedures that limited service days allowed for day-use permits to about 4,000 on the basis of 1981 data. According to Forest Service representatives, 1981 was selected on the basis of a recommendation from the Montana Outfitters and Guides Association that it represented a year of relatively high outfitter use and therefore would accommodate most historical users. However, the procedures were appealed by outfitters for various reasons, including the selection of 1981 as a representative year and the methodology used in calculating the 4,000 service days. The Forest Service stayed action on the appeals in mid-1988, pending the Gallatin's reconsideration of its procedures.

In the fall of 1988, the Gallatin on a one-time basis authorized outfitters as many service days as they needed to cover the actual number of clients each outfitter had booked. About 10,000 total day-use service days were authorized in 1988.

In 1989 the Forest Service rewrote the day-use permit procedures. These new procedures allocated day-use service days to individual outfitters on the basis of the average of their 2 best operating years from 1983 through 1987. Authorized fall-hunting day-use service days totalled about 6,770 in 1989. Again, some outfitters considered the new procedures to be flawed and appealed the number of service days allocated to them. Generally, those appealing believed the Forest Service had once again applied procedures that were inappropriate and that unnecessarily limited forest use.

The Forest Service plans to continue using the 1989 procedures until new criteria for determining available service days are established by a task force involving outfitters. However, the task force study, which is to be completed in 1990, will not determine the level of outfitter and other types of recreation activity the forest is capable of sustaining. The Forest Service also plans to form outfitter resource associations that will be authorized to allocate the new day-use service-day level to association members and to regulate the number of outfitters operating in the associations' assigned areas. A Forest Service official at the Gallatin estimated that full implementation of the procedures will take about 5 years after the new service-day criteria are finalized.

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## Historical Data Are Not Adequate to Establish Service-Day Limits

The use of historical data as the primary criterion limiting the number of available use days for any forest recreation activity does not provide the Forest Service with an adequate basis to manage the forest in accordance with federal policy. Historical use data tell only what prior use has been, not whether the forest can sustain a higher level of use or whether the historical level should be maintained or reduced to protect resources. Federal policy requires the Forest Service to meet the public demand for recreation opportunities on the forest at a level that realizes the capabilities of the resource. The Forest Service currently provides approximately 40 percent of all recreation days spent on federal lands each year, and the public demand for recreational opportunities on federal lands is increasing.

An analogy to needing information to regulate forest use for outfitter-guided visits and other recreational activities would be the Forest Service's grazing program. For this program the Forest Service conducts grazing capacity assessments to set use levels.<sup>2</sup> The capacity assessments consider such factors as resource capability and adverse resource impacts, as well as the amount, type, location, and season of use. However, Forest Service officials told us they are not convinced similar assessments of forest capacities for recreational activities, which may be difficult to design and perform, are warranted.

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## Allegations of Favoritism

Regarding your concern about whether the Forest Service favored some outfitters over others, a few instances involving possible favoritism were cited to us. The incidents cited generally pertained to one forest district in the Gallatin and generally concerned two employees whose relatives operated as outfitters in the district. The two employees held positions in the forest district that might have afforded them the opportunity to influence decisions on outfitter permits. The documents we reviewed did not resolve whether favoritism had actually taken place.

The Forest Service told us that because employees at the forest and district levels often live in the local communities for many years, it would not be uncommon for them to have relatives or social acquaintances involved in commercial activities in the forest. Because of this closeness to their communities, Forest Service employees may be particularly vulnerable to situations wherein they are suspected of awarding preferential treatment in their official duties. The Forest Service also pointed out

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<sup>2</sup>See *Rangeland Management: More Emphasis Needed on Declining and Overstocked Grazing Allotments* (GAO/RCED-88-80, June 10, 1988).

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that the relatively small number of staff assigned to each forest district makes it difficult to realign duties among the staff to avoid potential conflict-of-interest situations.

Acts of preferential treatment are specifically prohibited under the Forest Service's employee code of conduct, but internal control procedures to specifically identify and avoid situations likely to involve or give an appearance of preferential treatment have not been established at either the forest or regional level. We believe that formal internal controls need to be established that will (1) clearly define prohibited acts of favoritism, (2) provide criteria for avoiding conflict-of-interest situations, (3) instruct employees to bring possible conflict situations to their supervisor's attention, and (4) provide procedures for investigation and resolution when acts of favoritism are alleged to have occurred.

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## Recommendations to the Secretary of Agriculture

In order to ensure that the public demand for recreation opportunities in the Gallatin forest, including outfitter-guided visits, is met within the forest's capabilities, we recommend that the Secretary of Agriculture direct the Chief of the Forest Service to conduct such studies as may be necessary to determine the level of recreational activities the forest can sustain. Further, because the Forest Service has no plan to establish a procedure for assessing forests' capabilities to sustain recreational activities even though the public demand for those activities is increasing, we recommend that the Secretary direct the Chief to identify those forests where recreational activity is substantial and to conduct any additional studies that may be needed at those forests to adequately determine their recreational capabilities. The Forest Service should then be better prepared to manage recreational use to meet public demand and to avoid lengthy, controversial disputes such as the one now occurring at the Gallatin.

In order to ensure that acts of preferential treatment, or the appearance of such acts, do not occur in the administration of the outfitter permitting program, we recommend that the Secretary of Agriculture direct the Chief of the Forest Service to develop internal control procedures for use at all national forests to routinely identify and remedy possible conflict-of-interest situations at the forest and ranger district levels.

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In performing this review, we contacted officials at Forest Service headquarters and regional offices, as well as officials from the Gallatin and Bitterroot forests who have responsibility over the outfitter program.

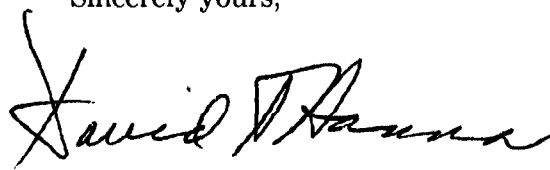
We also contacted individual outfitters who both supported and opposed the day-use permitting procedures; officers of the Montana Outfitters and Guides Association; representatives of the Montana outfitter licensing board, the Montana Department of Fish, Wildlife and Parks, the Montana Wildlife Federation, and the Public Lands Access Association. Our review was conducted from June 1989 through March 1990, in accordance with generally accepted government accounting standards. Appendix I contains the details of our review. Appendixes II and III provide additional information on formal appeals filed by outfitters.

We discussed the contents of this report with Forest Service headquarters, regional, and forest officials on April 13 and May 1, 1990. While regional and forest officials generally believe that the current procedures for determining available outfitter service days are adequate, headquarters officials said they agree that an improved procedure is needed. On the issue of favoritism, headquarters, regional, and forest officials generally believe that the individual district ranger in charge at each forest district can adequately control potential conflict-of-interest situations without formalizing specific new internal controls for the program; therefore, the corrective action recommended is not necessary. We continue to believe that these improvements are needed. As requested, we did not obtain formal written agency comments on this report.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of Agriculture, the Chief of the Forest Service, and other interested parties and make copies available to others upon request.

Major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David A. Hanna". The signature is written in a cursive, flowing style with a large initial "D".

David A. Hanna  
Regional Manager



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## Abbreviations

MOGA	Montana Outfitters and Guides Association
ORA	outfitter resource area



# Implementation of Day-Use Permitting for Outfitters at the Gallatin National Forest

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## Background

Forest Service policy has historically required permits for commercial activities such as outfitting, timber cutting, and grazing on national forest lands. The Forest Service has grouped the national forests into nine separate Forest Service regions, each managed by a regional forester. Individual forests, which are managed by a forest supervisor, are further subdivided into two or more forest districts, each of which is managed by a district ranger. Permits to conduct commercial activities in the forest are generally issued by a district ranger.

While the requirement historically has been that all outfitters have a permit to operate on Forest Service lands, before 1984 the Gallatin forest had generally applied the requirement only to outfitter overnight trips. In a national policy review completed in 1984, the Forest Service re-emphasized that the requirement applied to all outfitter trips, whether the duration of the trip was a few hours (day use) or several days (overnight). In 1988, after several delays, day-use permitting was implemented at the Gallatin Forest for the first time.

Overnight permits are valid for 5 years and are updated annually to include the outfitter's current-year operating plan. Day-use permits are renewed annually. Both permit types authorize the outfitters a specific number of service days to operate in designated areas of the forest during a specific time of the year (e.g., a portion of the authorized days may be allocated for use during the spring hunting season and the remainder for the fall hunting season). Outfitters obtain their permit from the district ranger at the forest district in which they will primarily operate,<sup>1</sup> but the permit can authorize operations in other forest districts as well. Outfitters operating in the Gallatin and in other national forests in Montana must also be licensed by the state.

Outfitters offer a wide range of guided recreational experiences for forest visitors, typically providing all necessary equipment, food, and transportation required for a trip. At the Gallatin most outfitters' trips are to guide hunters pursuing elk and other big game animals. The demand for day-use outfitter permits at the Gallatin is higher than at other Montana forests, primarily because of elk hunting. Large herds reside in the forest and on adjacent private land. In addition, two elk herds from Yellowstone National Park annually migrate across the Gallatin. During the 1989 fall hunting season, 42 outfitters held only day-

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<sup>1</sup>The Gallatin forest is divided into five separate forest districts for management purposes.

use hunting permits at the Gallatin, 14 held only overnight hunting permits, and 22 held both. During 1989, 12 other outfitters held permits for nonhunting recreational activities.

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## **Objectives, Scope, and Methodology**

Because of recent problems between outfitters and officials at the Gallatin National Forest, Senator Conrad Burns of Montana requested that we review recent Forest Service actions affecting outfitters. This report addresses allegations of (1) arbitrary actions by the Forest Service in allocating available service days to outfitters and (2) possible favoritism shown to some outfitters.

To aid our review, Senator Burns provided a list of individuals we could contact who represented a cross-section of views on the issues. We contacted most of these individuals, who were generally outfitters at the Gallatin, either by telephone or in person. To obtain other relevant views, we also spoke with present and past officers of the Montana Outfitters and Guides Association (MOGA). In addition, at the requester's suggestion we contacted two interested local organizations: the Public Land Access Association and the Montana Wildlife Federation.

At the Forest Service we spoke with headquarters, regional, forest, and district officials involved in outfitter management. There we obtained detailed information on management policies and procedures and documented historical information about the forest's capacity to support commercial outfitter activities. We also obtained specific information on outfitter permit administration and reviewed specific outfitter permit and correspondence files to determine if they contained indications of improper Forest Service actions.

To obtain background information on state outfitter licensing procedures and state records of historical outfitter activity, we spoke with representatives of the State Board of Outfitters and the Montana Department of Fish, Wildlife and Parks. These officials also provided background information on other recreational matters on which they work closely with the Forest Service, including wildlife herd management and game violations.

We found that serious controversies concerning day-use permits existed primarily at the Gallatin. Similar controversies had not occurred at the Bitterroot forest because fewer outfitters operate there, and requests for outfitter day-use permits had generally been accommodated. For this

reason our review and report concentrates on disputes associated with day-use permitting at the Gallatin.

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## Service-Day Limitations

Much of the controversy that occurred at the Gallatin related to the number of operating days outfitters were allocated or the area of the forest in which they were authorized to operate under the day-use permit requirement implemented in 1988. Generally, outfitters granted permits under this requirement had previously conducted day-use operations in the Gallatin without restriction, in some cases for many years. Under the requirement some outfitters' business was reduced because they either were authorized fewer operating days or were allotted a smaller area of the forest in which to operate. Some outfitters had to discontinue day-use operations because they did not qualify for a permit under the new procedures. Some outfitters viewed the reduction or elimination of their historic day-use activity as inequitable and, in some cases, as causing a significant economic burden for the affected outfitter.

The Forest Service does not know how much outfitter day-use activity the Gallatin can actually sustain without adversely affecting the resource, and we believe that uncertainty lies at the heart of the controversy. Generally, the Forest Service believes that too many outfitters are operating in the Gallatin for both day-use and overnight hunting activity and, as a result, outfitter-guided parties are having an adverse impact on other recreational visitors. For that reason, Gallatin officials decided that day-use permits would not exceed historic use patterns. Many outfitters, however, hold the view that the Gallatin could actually sustain a significantly higher level of outfitter hunting activity without adverse impact on the forest. They cite low overall public-use levels in certain areas and increasing elk herd sizes in support of their position. These outfitters generally believe that imposing procedures which limit outfitters to the use level of some historical period, without first determining what level of outfitter activity the forest is capable of sustaining, constitutes arbitrary action by the Forest Service.

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## Initial Steps to Implement the Day-Use Permit Requirement

In 1985 the Forest Service took initial steps to begin implementing the national policy requirement for outfitter day-use hunting permits at the Gallatin. At that time it was decided, in consultation with representatives from the state outfitters' association, that the permitted day-use activity would initially be implemented at the 1981 outfitter use level.

According to the Forest Service, 1981 was selected on the basis of a recommendation from MOGA that it represented a year of relatively high outfitter use and therefore would accommodate most historical users.

In September 1985 the Forest Service initiated a survey to identify outfitters with day-use operations at the Gallatin. A general news release was published and an inquiry was sent to all area outfitters asking them to provide data on their operations. A total of 95 outfitters responded; 37 reported day-use hunting activity in the forest. After reconciling the reported use with outfitter records submitted to the state, the Forest Service concluded that there had been 4,013 service days of outfitter day-use hunting activity in the Gallatin in 1981.<sup>2</sup>

Day-use permitting was not implemented in 1986 because of reduced staffing at the Gallatin caused by a decrease in the forest's recreation budget. In May 1987 the Gallatin Forest Supervisor contacted all parties who responded to the 1985 survey, existing overnight permittees, and other various interest and user groups to help identify criteria to consider in evaluating permit applications and allocating available service days. Later, an ad hoc advisory group, which included outfitters, assisted in the final development of implementation procedures and guidelines to be used by district rangers in evaluating day-use applications for permits.

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### **Allocation Procedures for the 1988 Season**

The initial controversy over outfitter day-use permitting at the Gallatin forest arose when permitting guidelines for the new program were issued on January 29, 1988. Essentially, the guidelines provided that (1) day use would be authorized only in specific forest areas, (2) a maximum of 4,013 service days would be permitted, (3) applicants would be required to have a qualifying base of operations within a "reasonable" distance of the planned operating area, (4) day use would be considered only in areas of reasonable and uncontested public access to the forest, and (5) applicants had to have a viable business that had been in operation since 1985. The guidelines also established an order of preference for qualified applicants that gave priority to nearby outfitters with economically sound, year-long business operations.

In March 1988 four separate appeals involving a total of 31 outfitters were filed contesting the new guidelines. MOGA filed one of the appeals

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<sup>2</sup>This total 1981 use level was subsequently included in the 1987 Gallatin National Forest Plan as the limit on days available for day-use hunting permits in the forest.

on behalf of 22 of its members; 7 other outfitters filed a second group appeal; and individual outfitters filed the remaining two appeals, each on his own behalf. Overall, the four appeals addressed a range of issues that are summarized in appendix II. Generally the appellants challenged the need for a day-use permit system, the overall limit set on outfitter service days, public access requirements in the permit guidelines, and protested the anticipated adverse economic impact the permit requirement would have on affected outfitters.

In a May 2, 1988, decision, the Regional Forester dismissed the appeals on the basis that the guidelines did not constitute formalized Forest Service policy and, as such, could not be appealed. The Regional Forester ruled that the outfitters would still have the opportunity to appeal any later decision related to their individual applications for a permit. The decision to dismiss was subsequently appealed, and that appeal was later placed on hold to give the Forest Service and the outfitters an opportunity to work out a settlement.

Since permit issuance guidelines for day-use hunting were still incomplete at the time of the 1988 fall hunting season, the State Board of Outfitters asked the Forest Service at the Gallatin to honor all firm outfitter client bookings for 1988 by issuing permits with sufficient outfitter days to cover those bookings. Permitting at that level was requested on a one-time only basis to allow a phase-in of the permitting requirement. The Gallatin Forest Supervisor granted the request. Under this arrangement 67 outfitters applied for and received a total of about 10,000 permitted day-use service days for that 1 year, of which about 9,200 were for fall hunting. Actual use data for the full year were not available but, according to the Gallatin's recreation staff officer, the outfitters actually used about 7,000 of the permitted fall-hunting days. This use level is about 75 percent above the 4,013 historical use-day demand the Forest Service calculated on the basis of 1981 data. In our opinion, the significant difference in use days between what the Forest Service proposed to allocate and the outfitters' client bookings provides insight into why the Forest Service's proposal was controversial and unacceptable to some outfitters.

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### **Allocation Procedures for the 1989 Season**

In June 1989 agreement was reached with MOGA on revised procedures for awarding permits and allocating service days available for day-use outfitting. In a final step prior to Forest Service implementation, the State Board of Outfitters asked 86 outfitters in the Gallatin area to vote on the acceptability of the new procedures. According to MOGA the 86



outfitters surveyed were those believed most likely to be affected by the new procedures. MOGA informed the Forest Service that the surveyed outfitters had approved the procedures 37 to 16 (1 abstained, 1 was ruled invalid, and 31 did not respond). Following MOGA's notification of approval, the Forest Service issued the new procedures effective for the fall 1989 hunting season. Once implemented, the new procedures had the effect of closing out any further action on the stayed 1988 appeal cases.

The new procedures provided for a two-phased approach to day-use permitting. Phase one involved interim procedures that were used to issue permits in 1989 and that will continue in effect until phase two is implemented. Phase two will provide permanent day-use permit procedures.

Under the interim phase-one procedures, only the following applicants are eligible for Gallatin day-use permits:

- Those who had previously applied by the March 11, 1988, application deadline set under the original January 1988 procedures.
- Those who, as of March 11, 1988, held, and currently hold, an active state outfitter license and who provided evidence of historic Gallatin use prior to March 11, 1988.
- Those who have a qualifying base of operation within a 50-mile distance of their operating area in the Gallatin and who have adequate equipment.

During phase one the authorized use level is based on the average of the individual outfitter's actual highest use days during 2 of 5 years from 1983 to 1987 as determined from state outfitter records. Authorizations are for the specific area of predominant historical use, and outfitters with different seasons or types of use (e.g., spring bear hunting and fall elk hunting) can be assigned to more than one use area. Seventy-eight outfitters received day-use permits totaling about 6,770 authorized fall-hunting service days in 1989.<sup>3</sup>

A second round of controversy arose following the issuance of 1989 permits. Again some outfitters considered the methodology and implementation flawed as it applied to their particular situations and appealed

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<sup>3</sup>The Forest Service could not provide data on the total spring-hunting service days the 1989 permits authorized. In 1988, however, fall-hunting service days represented 91.5 percent of the annual total permitted that year.

the number of service days allocated to them. In all, 13 appeals were filed with the Forest Service, and those appeals were still unresolved at the time our field work was completed in March 1990. (The specific issues addressed in the 1989 appeals are summarized in app. III.) Generally, the appellants challenged individual reductions in their authorized service days or geographic operating area and objected to the negative economic impact of those reductions on their businesses.

### **Current Status of Day-Use Implementation**

The Forest Service plans to use the interim phase-one permit procedures until the permanent phase-two procedures are completed and installed. In phase two outfitters will be assigned to separate outfitter resource areas (ORAs) within the Gallatin. Outfitters in each ORA will form an outfitter's association for their particular area and each association will design the rules of operation for managing use levels and outfitter numbers in its area. Once established, each individual outfitter association would determine for its own members the method or methods for

- allocating increases and decreases in use among association members,
- managing temporary use allocated to the association, and
- managing an increase or decrease in the number of outfitters in the ORA.

Service days will be transferrable to other association members under certain conditions, and reassignment of unused service days among members would be permissible without compensation.

In preparing for phase two the Forest Service established a cross-section task force to design and recommend criteria to the Forest Service for use in establishing available outfitter service days at the Gallatin. That task force met initially in February and is scheduled to complete its work in 1990. The task force, chaired by the Forest Service, consists of one outfitter from the state licensing board, two outfitters from the state outfitters association, one representative from the State Department of Fish, Wildlife and Parks, one representative from each of two public interest groups, and one member of the public at large.

Some outfitters we spoke with were skeptical about the workability of the phase-two procedures, which the Forest Service does not expect to be fully implemented for about 5 years. Others we spoke with were cautiously optimistic that the new procedures would represent an improved system for allocating available service days and would provide a mechanism for outfitter businesses to grow over time. A Forest Service official

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told us he expects that the new phase-two criteria for determining available service days will probably maintain available outfitter day-use service days at about the 1989 permitted level of 6,770.

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## Recreational Use

The controversy surrounding the implementation of outfitter day-use permits for the Gallatin has primarily centered on outfitters' attempts to maintain their proportional share of historical use under the new permit requirement; however, we believe that the controversy actually reflects an even larger problem. That is, the Gallatin has not determined the overall capability of the forest to support recreational visitors, including those that are outfitter-guided.<sup>4</sup> Further, the Forest Service generally has not conducted assessments of forests' recreational capabilities anywhere in the national forest system.

The nation relies heavily on the Forest Service to accommodate the national demand for recreational opportunities on federal lands. The Forest Service currently provides approximately 40 percent of all recreational days spent on federal lands each year, most of which is spent in undeveloped forest areas. Further, the public demand for recreational opportunities on federal lands is increasing. Outfitters offer guided recreational experiences in undeveloped areas to members of the public who choose not to go there unguided. In this sense, outfitters play an important role in making recreational opportunities on national forests available to that segment of the public.

The Forest Service contends there are too many outfitters and wants to limit their forest use. Outfitter-guided visitors comprise about 5 percent of recreational use in the Gallatin. No effort is being made to limit the other 95 percent of recreational use that comes from unguided forest visitors. The Forest Service cites the opinions of some outfitters, and several recent incidents of disputes in the Gallatin involving outfitters, as support for its view that too many outfitters already operate in the Gallatin. The Forest Service, however, has no other analysis or data to demonstrate that outfitter overuse actually is occurring.

While the Forest Service is attempting to limit outfitter use of the Gallatin, some outfitters want to expand usage either to increase the size of their businesses or just to remain economically viable. Also, a number of outfitters told us that they are unable to meet their client demand with

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<sup>4</sup>The Forest Service at the Gallatin defines the forest capacity for recreation-related activity as the amount of recreational use an area can sustain without deterioration of site quality.

the service days they currently have available. Regional and forest officials generally agree that if additional outfitter hunting service days were made available in the Gallatin, they would be applied for both by the outfitters currently holding permits and by others not now permitted.

Overall, current outfitter-permitting procedures at the Gallatin have the effect of preventing an increase in the public's use of outfitter-guided trips in the forest, without first determining if an increase could be accommodated. In our view this approach fails to satisfy current federal policy for management of recreation on the national forest lands. Federal policy requires the Forest Service to meet the public demand for recreational opportunities in the forest at a level that realizes the capabilities of the resource. We believe that before the Forest Service can comply with this policy requirement at the Gallatin, it must first determine the level of recreational activity the forest can sustain.

We also believe problems similar to those at the Gallatin could develop at other national forests. Forest Service policy has traditionally based outfitter service-day levels at national forests on historical use without systematically determining either the level of outfitter and other recreational activity that can be sustained or if there is an unmet demand for outfitter service days. A regional Forest Service official told us that comprehensive assessments of forest capabilities to support higher levels of recreational use, including those visitors who are outfitter-guided, have not been performed for any of the forests in the region and none are planned. Further, headquarters officials stated they did not know of any such assessments of overall recreational capabilities having been performed for forests in other regions.

The Forest Service also told us it is not convinced that assessments for outfitter and other recreational activities are warranted at the national forests, since no forests other than the Gallatin have experienced significant outfitter-related problems. They told us that assessment studies have historically been used only in their grazing program where use determinations are less complex.<sup>5</sup> They believe that it would be much more difficult to develop a methodology for measuring a forest's capability to sustain all types of recreational use, including commercial outfitter activity. For example, any method for assessing outfitter use would have to consider factors beyond just sustaining the resource base;

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<sup>5</sup>The capacity for grazing at the Gallatin is generally defined as the maximum stocking rate possible without damaging the vegetation or related resources.

social factors, such as the frequency of contact with other forest visitors, may prove to be equally important. While regional and forest officials generally believe that current program procedures are adequate for managing the outfitter program, headquarters officials told us that they agree that an improved procedure for determining available outfitter service days is needed.

We also believe that until such information is developed, and available outfitter service days are adjusted to reflect that resource capability, any limitations the Forest Service sets on outfitter service days will be subject to charges of being arbitrary.

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## **Favoritism**

Several of the outfitters we spoke with believed that favoritism had been shown to other outfitters who had relatives employed at one ranger district in the Gallatin forest. Specific incidents of alleged favoritism involved administration of the outfitter permitting program generally and included, but were not limited to, day-use activities. We found that the activities alleged, if they occurred, were prohibited under the Forest Service's employee code of conduct, but the accuracy of the allegations were neither proven nor disproven by information we reviewed. We believe, however, that Forest Service procedures do not provide adequate internal safeguards to ensure that such acts of favoritism do not occur. We were told that except for the code of conduct prohibition against granting favoritism, no other formal Forest Service policies or procedures have been established to routinely identify and avoid potential conflict-of-interest situations.

The allegations we received generally involved outfitter permit administration in the Gardiner District of the Gallatin forest, where two Forest Service employees were related to outfitters who operated in the district.<sup>6</sup> Both employees held positions that normally would involve periodically reporting on, or evaluating, the performance of outfitters. Unsatisfactory performance evaluations can result in administrative action being taken against the outfitter's permit, including probation or revocation.

It was also alleged that the employees might have been able to influence other decisions affecting outfitters. For example, in one case we were told that an outfitter related to a Forest Service employee was not cited

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<sup>6</sup>One of the two employees retired from the Forest Service in July 1989. The other employee still was assigned to the Gardiner District as of March 1990.

for violating the closure of one forest area during a fire, while another outfitter was cited for the same violation. The outfitter cited was placed on probation, but no action was taken against the related outfitter. Forest Service records we reviewed did not resolve whether the related outfitter had in fact violated the closure, nor did they contain any other indication of favoritism having occurred.

Another report we received was that certain Forest Service contracts that are available to outfitters from time to time to provide services, such as trail maintenance or packing-in supplies to a fire area, were being awarded disproportionately to the outfitters related to Forest Service employees. Information the Gardiner District provided to us on its contract awards from 1986 to 1988, however, did not support that this was occurring.

While we found no evidence that these and the other specific incidents had actually involved favoritism, many outfitters we spoke with believe that favoritism does occur in the administration of outfitter permits. In addition to cases involving relatives of Forest Service employees, there are concerns that certain other outfitters not related to Forest Service employees may also be receiving improper favorable treatment. For example, some outfitters we spoke to told us they believed that a particular outfitter was awarded more service days than he was entitled to. Again, however, we found no evidence to support that this was occurring.

The Forest Service told us that because employees at the forest and district levels often live in the local communities for many years, it would not be uncommon for them to have relatives or social acquaintances involved in commercial activities in the forest. Because of this closeness to their communities, Forest Service employees may be particularly vulnerable to situations wherein they are suspected of awarding preferential treatment in their official duties. We believe it is also likely that the Gallatin's general no-growth policy on available outfitter service days leads to an increased sensitivity among outfitters to possible Forest Service acts of favoritism.

We believe that better internal controls are needed to ensure that outfitter program decisions are made in a fair and impartial manner and to avoid public perceptions that certain outfitters may be receiving improper favorable treatment. The Forest Service code of conduct clearly requires employees to avoid any action that might create the appearance of giving preferential treatment, and employees certify

annually that they are familiar with all code of conduct requirements. No other formal management controls have been established, however, to prevent acts of favoritism from occurring.

Forest Service officials at both the Gallatin forest and regional headquarters told us that no specific, formal procedures have been established to ensure that employees are not involved in program administration matters involving their relatives or to protect against other possible preferential treatment situations. Forest Service headquarters officials we spoke with generally believe that the individual district ranger in charge at each forest district can adequately control potential conflict-of-interest situations without formalizing specific new internal controls for that purpose. They also point out that the relatively small number of staff assigned to each forest district makes it difficult to realign duties among the staff to avoid a potential conflict-of-interest situation. We believe however, that the frequent perception of favoritism that we found among outfitters and the controversy surrounding day-use permits provide strong evidence that improved internal controls are needed to avoid even the appearance of a conflict-of-interest on the part of Forest Service employees.

At the Gardiner District we were told that the informal policy there for more than 10 years has been to separate duties in such a way that employees do not deal directly with their relatives on program matters. In our opinion the existence of such an informal policy is helpful, but we found that the district had not documented what action, if any, it had taken in response to the informal policy. We believe the lack of documentation is largely attributable to the fact that the district's policy is not adequately detailed and has not been formalized. The lack of documentation that any district action was taken to avoid the conflicts of interest that have been alleged, however, demonstrates the need for improved management controls. If the current policy were more detailed in its guidance, and if it had been formalized and made a part of standard written operating procedures for the district, we believe it is more likely that any district actions taken to avoid a conflict-of-interest would have been documented. Further, with documentation the district could have better demonstrated to parties concerned about favoritism that its policy was followed. We do not believe that further defining and formalizing the existing informal policy, and documenting actions to implement the policy, would make forest district operations significantly more difficult.

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**Appendix I  
Implementation of Day-Use Permitting for  
Outfitters at the Gallatin National Forest**

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We believe the Forest Service itself, however, is the best qualified to identify and consider the range of specific internal controls that could be established, and to select those most appropriate to forest agency operations. At a minimum, however, we believe that the procedures finally selected should (1) clearly define what constitutes a prohibited act of favoritism, (2) establish criteria and procedures for identifying and avoiding potential conflict-of-interest situations before they occur, (3) instruct employees to bring possible conflict situations to their supervisor's attention, and (4) provide for followup investigation and resolution of the facts and appropriate documentation when allegations are raised that favoritism has occurred. We further believe that the internal controls should be standardized agency-wide as formal written operating procedures to avoid future situations of perceived favoritism, such as the one that currently exists at the Gallatin's Gardiner district.



# Principal Issues Raised in Four 1988 Outfitter Appeals of January 1988 Day-Use Permit Procedures

<b>Issue appealed</b>	<b>Appeal #1 (22 parties)</b>	<b>Appeal #2 (7 parties)</b>	<b>Appeal #3 (1 party)</b>	<b>Appeal #4 (1 party)</b>
Permit policy too vague	X	X	-	-
Outfitter policy linked to public access issue	X	-	X	-
Impact of policy on future sale value of outfitter's business	X	-	-	-
Restrictive limit on available service days	X	-	-	X
Conflicts with various laws and regulations	X	-	-	-
Inadequate public notice and comment	X	-	-	-
Lack of environmental assessment	X	-	-	-
Economic impact on outfitters and community	X	-	-	-
Permit requirement inappropriate if just crossing forest land	-	X	X	X
Need for day-use permits not demonstrated	-	-	X	-
Inadequate outfitter involvement in policy development	-	X	-	-
Opposition to base-of-operations requirement	-	-	-	X
Other eligibility criteria	-	-	-	X
Outfitter not granted tenure status for day-use permits <sup>a</sup>	-	-	-	X

<sup>a</sup>Permits are issued for a 5-year period rather than a 1-year period if tenure status is granted. Also, with tenure status, rights to the days permitted may usually be transferred to a new owner if the outfitter business is sold during the permit period.

# Principal Issues Raised in 13 Outfitter Appeals of 1989 Day-Use Permit Decisions

Issue appealed <sup>a</sup>	Number of outfitters appealing
The number of service days authorized for operation by the 1989 permit was fewer than the outfitters' historical annual operating days	6
The area of the Gallatin in which day-use operation was authorized by the 1989 permit was smaller than the outfitters' historical operating area	4
Ruling that the outfitter did not have a qualifying base of operation	3
The number of service days authorized were not sufficient for economic operation	2
Validity of Gallatin permit procedures	1
Denial of a day-use operation permit based on no qualifying historic use	1
Whether day-use implementation procedures discriminate against outfitters and the guided public	1

<sup>a</sup>Several of the outfitter appeals raised more than one issue.

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