

**DIRECTOR'S DECISION**  
**THOMPSON PASS**  
**SPECIAL USE AREA DESIGNATION**  
**ADL 226446**

**Location:** All state lands within townships depicted on the enclosed maps labeled attachment A.

**Proposed Action:** Creation of a special use area for the purpose of requiring land use permits for all special events and commercial transporters of back country skiers within the previously referenced area. This proposed action has no effect on public user's of the state lands depicted on attachment A.

**Authority:** AS 38.05.020 & AS 38.05.035 & 11 AAC 96.010(b)

**Background Information:** State lands in the Thompson Pass area are experiencing increasing use by the public for backcountry (non-lift served) downhill and cross country skiing. These same lands are also being used for special events sponsored by local snowmachine and skiing organizations. Chief among these is the World Extreme Skiing Championships (WESC) which have been held in the spring at the Pass for the last 4 years. Much of the increased public use of these state lands is related to publicity about WESC. Word about the quality of skiing in the pass has circulated via word of mouth and in outdoor/skiing publications around the world. The area has also been featured on television and in ski movies. This attention has resulted in increased use by the public and attracted the attention of commercial transporters who provide a service by moving people to the slopes. In the past these services have been provided by aircraft based from the Thompson Pass airstrip. This airstrip is currently managed by the Bureau of Land Management. It is anticipated the eighty acres surrounding the airstrip will be conveyed to the State prior to the end of 1994. This acreage will be managed by the airport leasing staff in the Alaska Dept. of Transportation and Public Facilities.

As a result of this increasing use of the Pass the Division of Land has received inquiries about permitting requirements for base facilities and related uses by commercial transporters. At this time a permit is not required to transport skiers to state lands in the Pass. This policy is consistent with the policy on all state lands except for legislatively designated areas and other special use areas such as Hatcher Pass and the Winner Creek parcel near Girdwood. It has been suggested that due to the unique nature of backcountry skiing, the increased presence of other winter recreation activities and concerns about snow and public safety issues this policy should be reconsidered for the Thompson Pass area and that a special use area be created.

As previously stated interest in the area by the skiing public is increasing annually. Thompson Pass commercial operators (guides and air taxi's) receive more inquiries each year from skiers interested in visiting Valdez. Hotel and restaurant operators in Valdez have recognized significant increases in the number of winter visitors. There is every reason to believe use will continue to increase. Management pressures are likely to increase as the various users compete for space during the winter season. Organizations such as WESC invest a great deal of money to stage events appealing to a world-wide

audience and would benefit from a higher level of management presence by the state, i.e., a permit system. Under a "special use" designation the department would initiate a limited form of direct management to achieve certain objectives such as that all commercial operators are qualified, properly insured and that adequate operational safeguards are followed. Working with the affected commercial operators and other agencies around the country having experience in this field the Division will develop specific stipulations designed to meet these objectives.

A public meeting was held on August 9th in Valdez to discuss this proposal and to obtain public comment. Over 50 people attended this meeting. Many of the attendees were opposed to any permitting requirements expressing concern that the unique nature of the Thompson Pass experience should not be changed. People felt that there was no benefit to issuing permits in the area and that commercial operators could coordinate among themselves and regulate themselves. Initially it was not clear that commercial operators present shared this sentiment as none commented during this discussion. However, an informal poll was taken towards the end of the meeting to gauge the level of support for the proposal. The majority of commercial operators present indicated support for regulation of skiing transporters within the pass.

Following is a summary of concerns expressed during the meeting.

1. The attraction of the pass is the unregulated skiing. Fear was expressed that by actively managing the area, user's will become disenchanted and be driven away from the pass. Many of the attendees felt that there was no need to regulate commercial transporters and that the business would regulate themselves. Concern was expressed that the special features of the Pass would be compromised and the area would become just another over regulated area where their freedom to ski was restricted.
2. It was also expressed that this was the first step and that more onerous restrictions would soon follow.
3. A statement was made that fears about potential liability were unfounded and that existing state law adequately protected the state from liability lawsuits. Further that creation of a special use area could actually increase liability by putting ADNR in the position of approving operations plans, thereby increasing ADNR's potential liability.
4. A suggestion was made that if regulation was necessary it should be initiated by a citizens advisory committee as suggested in the Copper Basin Area Plan completed in 1986.
5. There was support for the proposal. A comment was made we need to anticipate further expansion of the use of the pass and that we should prepare for this expansion and not wait until a problem develops before addressing snow safety related issues. It was also mentioned that an operational plan and insurance were

standard procedure for most air taxi's and that it should not be a burden to commercial operators.

6. Another issue that was discussed is the impact of a special use designation on WESC. There was a fear that regulation would conflict with their event which has provided a big boost to winter tourism and the Valdez economy.

7. One comment was made in support of a non-motorized area for people who wanted an experience free from interference by transporters.

8. Concern was also expressed about enforcement and did the Division of Land have the resources and expertise to actively manage the area in this period of government belt tightening.

**Decision:** A special use area designation will be adopted at this time. However commercial use permits for guides, transporters and special events will be voluntary for the 1994-95 season. Permits are advisable for special events to ensure the availability of public lands, to establish site control, and to provide a basis for restricting activities which are incompatible with permitted uses.

Adoption of a special use designation will serve to focus attention on affected state lands for their unique winter recreation values. Winter time use of the area will be reviewed and monitored by Division of Land staff to better evaluate the need for more active management. Annual public meetings should be held to provide the public opportunity to comment on existing uses and to participate in future management actions.

The exact boundaries of the special use area will be adjusted from what was originally suggested as a result of additional information received from commercial users. It is our intent to include state owned and state selected land identified by commercial operators in the special use lands designation. Because of the existence of mixed land ownership patterns in the area surrounding the Pass, it is likely areas of non-state lands will be included in the final boundaries. Only state lands will be affected by this action. The inclusion of non-state lands will only be done to preclude complicated land descriptions. Again, this special use designation is only applicable on state owned lands managed by the Division of Land.

Public uses, including Generally Allowed Uses (11 AAC 96), will continue to be allowed in the special use area. The special use area will not affect public access, nor will it preclude any future land management action deemed to be in the public interest, including issuing authorization for transportation and utility corridors. Any changes or modifications to the special use area will be subject to public review and comment.

Under 11 AAC 96.010(a)(2) and 11 AAC 96.010(b), the lands described herein and shown on the attached map are hereby designated as special use lands for recreational purposes. The area will be known as the Thompson Pass Special Use Area. I find that this

Thompson Pass Special Use Area  
ADL 226466  
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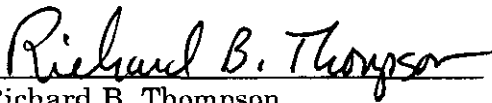
designation is consistent with the Department of Natural Resources management authority and that it is in the best interest of the state.

In ninety (90) days or by written notice of the designation before the end of the ninety day period, the activities described herein will be managed according to the terms of this special use land designation.

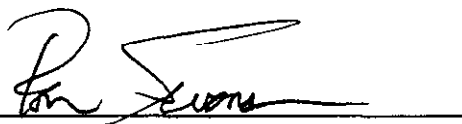
A person adversely affected by this decision may appeal this decision, in accordance with 11 AAC 02 to:

Harry Noah, Commissioner  
Department of Natural Resources  
400 Willoughby Avenue  
Juneau, Alaska 99801

Any appeal must be received at the above address within 30 calendar days after the date of "delivery" of the decision, as defined in 11 AAC 02.040. A copy of 11 AAC 02 may be obtained from any Department of Natural Resources office. If no appeal is filed before the end of the period specified, this decision becomes final and goes into effect.

  
Richard B. Thompson  
Southcentral Region Manager

12/2/94  
Date

  
Ron Swanson  
Director, Division of Land

12/2/94  
Date

## APPENDIX A

**Rationale for Decision:** At the present time the division is experiencing a consolidation of the workforce making it impractical to commit the human resources necessary to fully administer a commercial use permit program in the Thompson Pass area. However, it is obvious that the popularity of this area is growing swiftly and the resulting impact to state resources and other outdoor recreationalists cannot be ignored. Therefore it is appropriate to create the Special Use Area at this time and not be forced to respond when the negative impacts of intense use and competition for the resources is more apparent. When weighing the budget related staffing deficiencies of this agency against the facts which link the unique natural resources in the Thompson Pass area, and their increased use and enjoyment by outdoor recreationalists, a prudent course of action is to proceed with a limited management action that can be supported with current staffing levels. As budget support is secured we can increase management levels thereby allowing this program to develop at a comfortable pace.

At the full program level we anticipate the demarkation of specific units of operation where one operator will gain the right to operate exclusively. Other operators will be allowed if they provide a commercial service not yet provided. If more than one operator is interested in providing the same service a competitive situation exists and the division will conduct a competitive offering.

Regarding comments made at the public meeting, as summarized above, they were considered before reaching this decision. It is recognized and understood that people engaging in the sport of "extreme skiing" enjoy the experience of skiing where and when they want. Furthermore they enjoy the challenge of becoming knowledgeable on snow safety issues and keeping themselves safe. Some of them have become very good at it and might be considered expert survivalist. However, the sport is arguably growing rapidly and is drawing many people who may be excellent skiers in their own right, but have little or no experience skiing extreme slopes. Responding to the increased demand, air taxi operators will come into the market and supply the service. When our permit program is in place the skier should not notice a change. Permits will be issued to operators who will have to meet certain safety standards, but will retain day to day operational decision authority.

In light of current knowledge and expectations over increasing use patterns and possible safety issues on public lands this limited management approach seems prudent. Whether it increases or decreases the state's liability is not the issue. Taking positive steps to increase our knowledge and understanding of winter activities in the area and setting the stage for the imposition of certain operational safety standards in the future is the right thing to do.

A request for exclusive non-motorized areas was heard. This request seems reasonable and is typical of the kinds of considerations that accompany any attempt to manage a variety of uses within certain geographic boundaries. The Division will consider this and other similar requests in the future and will work with all user groups and the public before making any such designations.

At this time the Division does not support the creation of an advisory board, or citizen's advisory committee. Our inability to commit to the administration of such a board is one reason. Another is we have an excellent opportunity to encourage and accommodate input and involvement from a broad representation of the current and future users. The public meeting held in August was a good example. Virtually all user groups were represented and a good deal of information was exchanged. The Division will conduct these meetings as necessary to let all interested parties participate in the management process. As mentioned above, at a minimum an annual meeting should be held to ensure communication between the users and the agency is maintained. This meeting will be scheduled to gain the widest possible participation.

Some comments were received regarding the staff qualifications and the ability of this agency to commit the necessary resources to effectively manage the Thompson Pass area. It is impossible to predict future funding levels, and the ability of DOL to directly manage expanding uses at the Pass is tied to the level of funding. However just as fears about liability should not preclude taking the correct course of action neither should concerns about future funding. In regards to staff qualifications, the Division of Lands has an experienced staff of land managers who have the necessary skills and knowledge to implement active management of winter recreational uses at Thompson Pass.

A map of the affected lands is available upon request. Anyone seeking more information about this decision or who would like to discuss management of state lands at Thompson Pass in more detail should contact Mike Sullivan or Jim Renkert at the Southcentral Regional Office at 762-2270.