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April 29, 2015

Scott Fitzwilliams, Forest Supervisor  
c/o Matt Grove, Project Leader  
White River National Forest  
P.O. Box 190  
Minturn, CO 81645

Re: Scoping Comments on proposed Camp Hale Restoration and Enhancement Project

Dear Mr. Fitzwilliams:

This letter provides scoping comments of the Homestake Partners, comprising the cities of Colorado Springs and Aurora (the “Cities”), regarding the proposed Camp Hale Restoration and Enhancement Project (“Camp Hale Project”), in response to the notice of EIS published at 80 Fed. Reg. 13,515 (March 16, 2015). The Camp Hale Project as described in the scoping document proposes to: (1) create and/or enhance over 300 acres of wetland habitat; (2) alter the channel of the Eagle River by increasing sinuosity; (3) create an inset floodplain; (4) reconnect the upper Eagle River and its tributaries within the floodplain; (5) modify travel systems within the Camp Hale area; (6) improve infrastructure; (7) improve terrestrial habitat by reestablishing native vegetation; and (8) amend the Forest Plan to protect restored wetlands. *Id.*

The Cities are very concerned that the current scoping, though it refers to and attaches the Camp Hale Eagle River Headwaters Restoration Project master plan, fails to acknowledge and incorporate important elements of the plan, including development of Homestake Project water rights and of the joint use project contemplated by the 1998 Eagle River Memorandum of Understanding (“ERMOU”), and wetlands creation for mitigation of that project. The scoping thus suggests that the project the Forest Service seeks to construct is not the project that was developed by the Eagle River stakeholders in conjunction with the Forest Service. The Cities were actively involved in the collaborative process that led to the development of the Camp Hale Restoration and Enhancement Project master plan document, and actively support stream restoration and wetland enhancement in the Camp Hale area consonant with that plan. To that end, the Cities entered into Development Agreements with the Forest Service’s partner the National Forest Foundation for wetland mitigation in the Camp Hale area. In particular, the

Cities have advanced significant funds for studies required for Camp Hale wetlands restoration. The consideration for this funding was an option to acquire wetlands credits resulting from the Camp Hale Project. Since the scoping document doesn't even refer to the National Forest Foundation, or the creation of wetlands mitigation banks as part of the proposed project, the Cities are concerned that the Forest Service is minimizing the scope of the proposed project in a manner inconsistent with the shared vision and recommendations of the stakeholders that the Forest Service agreed to honor and accommodate in the NEPA process (see Master Plan p.5). The Cities concur with the statement in the master plan document that incorporating all elements of that plan into the proposed action is important to enhance chances of the Project's overall success.

Likewise, the scoping document makes no indication the Camp Hale Project will continue to take account of existing diversions and expected future depletions resulting from the exercise and development of water rights associated with the Homestake Project, or the ERMOU joint use project. The Homestake Project includes absolute and conditional water rights as well as facilities for water collection, storage, and transmission. The water rights associated with the Homestake Project, which have a priority date of 1952, were originally decreed in 1962 by the Eagle County District Court in Civil Action No. 1193. Legal descriptions of these rights have been corrected and changed by a subsequent decree entered in 1988 in Cases No. 85CW151, 85CW582, and 85CW583, as well as by the decree entered in 95CW272, described further below. These rights were decreed to the following structures: (1) Homestake Conduit (179.8 cfs absolute, 1,660.2 cfs conditional); (2) East Fork Conduit (70.8 cfs absolute, 189.2 cfs conditional); (3) Homestake Tunnel (300.0 cfs absolute, 10.0 cfs conditional); (4) Homestake Reservoir (43,504.7 AF absolute, 83,338.98 AF conditional); and (5) Eagle-Arkansas Ditch (530.0 cfs conditional). A finding of due diligence was last entered in Case No. 13CW3045. The decree entered in that case is attached as Exhibit 1.

In addition to the rights described above, the Homestake Project's rights also comprise conditional rights decreed in Case No. 95CW272, attached as Exhibit 2. These rights were decreed to the following structures: (1) Blodgett Reservoir (9,316 AF conditional storage right); (2) Homestake Creek Intake (400.0 cfs conditional surface diversion); (3) Turkey Creek Intake (200.0 cfs conditional surface diversion); and (4) Eagle-Cross Pump and Pipeline (300.0 cfs conditional surface diversion). These rights were decreed for the following uses: municipal, irrigation, commercial, domestic, industrial, snowmaking, recreation, fishery, wetland creation and irrigation, wildlife, exchange, augmentation, and aquifer recharge. This case also involved a plan for augmentation including exchange, and, as noted above, changes of the Homestake conditional diversion rights, and of the Homestake Reservoir conditional storage right.

Additional conditional surface water rights, conditional storage rights, conditional appropriative rights of exchange, a plan for augmentation including exchange, and a change involving additional uses and alternate places of use for existing rights were also decreed in 2002 in Case No. 88CW449. The decree entered in that case, attached as Exhibit 3, adjudicated rights for the following structures: (1) Resolution Creek Reservoir (5,000 AF conditional surface

storage right); (2) Lower East Fork Reservoir (2,500 AF conditional surface storage right); (3) Eagle Park Reservoir (3,500 AF conditional storage right); (4) Eagle Park Irrigation System (60.0 cfs conditional surface water right to be used to create and/or enhance wetland habitat); and (5) Underground wells (60.0 cfs not to exceed 5,000 AF per year, conditional).

Further, in 1998, the Cities entered into the ERMOU with the Colorado River Water Conservation District, the Upper Eagle Regional Water Authority, Cyprus - Climax Metals Company, the Eagle River Water and Sanitation District, and Vail Associates. A copy of this agreement is attached as Appendix A to the master plan document, and a short fact sheet is attached as Exhibit<sup>4</sup>. The ERMOU contemplates the development of a joint use water project to provide for the water supply needs of the parties, and for environmental and recreational purposes. Pursuant to the ERMOU, the Western Slope signatories are to receive up to 10,000 AF of firm dry year yield, while the Cities are to receive 20,000 AF of yield on a 25 year rolling average, with the possibility of receiving up to 3,500 AF of additional yield from the phased joint use project identified in the ERMOU. *See* MOU Paragraph IV(b)(1)-(2), IV(c)(3)(d). This joint use project has been identified in the Colorado River Basin Implementation Plan as one of the top three Eagle River development priorities, and the design of the Camp Hale Project, as set forth in the master plan document, clearly advocates consistency with the ERMOU Project (see p.p. 10, 19, 24). The environmental analysis must thus plan for, and take account of expected future depletions to stream flows from the development and exercise of the ERMOU joint use project and Homestake's decreed absolute and conditional rights that may affect delivery of water to the Camp Hale area.

The notice of intent to prepare an EIS for the project suggests that the draft EIS will be available by August of 2015 and the final EIS will be completed in the spring of 2016. We do not believe that all the studies required to evaluate the full Camp Hale Project can be completed by August of 2015, as the notice document suggests. Moreover, the Cities anticipate that they and their West Slope ERMOU partners will have identified options for the joint use development that will be suitable for NEPA review by the winter of 2015-2016. We suggest that it may be possible to achieve efficiencies in environmental review of both Eagle River-area projects; and further that the scoping for the Camp Hale Project should denominate an ERMOU Joint Use Project as a reasonably foreseeable action.

If you have any questions on how best to address the Homestake water rights and ERMOU in the scope of the NEPA analysis, we would be happy to discuss it with you. We look forward to working with you to address our concerns.

Sincerely,



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Joseph Stibrich, Chair  
Homestake Project Steering Committee  
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