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July 6, 2020

San Juan National Forest
15 Burnett Court
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U.S. Forest Service, Region 2
1617 Cole Boulevard
Lakewood, CO 80491

Re: Purgatory Resort Ice Creek Pod Proposal (57877)

San Juan National Forest and Region 2 Staff,

San Juan Citizens Alliance (SJCA) has been engaged on national forest issues and deeply involved in National Environmental Policy Act processes for more than thirty years on the San Juan National Forest including numerous issues involving the Hermosa Creek watershed and Purgatory Resort. In recent weeks we have reviewed the documents associated with the proposed Ice Creek Pod development, communicated with many people involved in the operations and proposed plans of Purgatory Report, and visited the location of the proposed lift and associated ski runs, roads and lift terminals. SJCA has also communicated with SJNF and USFS Region 2 staff regarding this NEPA with its Notice of Proposed Action (NOPA) process and particulars of the proposal.

Inadequacy of NEPA Process

SJCA finds the NOPA document and currently available associated documents to be inadequate and insufficient to bring forth at this time the Ice Creek Pod proposal for public review and comment. Our concerns are delineated below as well as comments on specific aspects of Purgatory Resort's proposed development.

SJNF staff communicated with SJCA regarding our input in proceeding with the Ice Creek Pod project as a NOPA project rather than that a more standard NEPA process and we appreciated their outreach. It was our understanding that the NOPA was being specifically "applied" to this process due to the previous analysis that had been engaged on the proposed project area during the development of Purgatory's (then Durango Mountain Resort/DMR) Improvement Plan (IP) and related Environmental Impact Statement (EIS) from 2008. While we agree that analysis was done of the Ice Creek Pod area during the 2008 process was extensive, we also understood and shared our interest that the current NOPA process would update all information regarding the project including its impact,

effects, etc. directly on the Hermosa Creek watershed as well in the larger context of climate change and other regional and global issues to 2020 status conditions.

As has been relayed verbally to SJNF and USFS Region 2 staff, it is clear to us that not all salient and critical issues have been adequately updated and addressed prior to the NOPA document being released to the public for comment in early June 2020. We find this shortfall of publicly available and current information to be a significant flaw in this NEPA process and are inclined to rigorously oppose any NEPA processes in the future that diminish the public's ability to fully comment on SJNF proposals that are brought forth with inadequate information and analysis. SJCA has observed an unfortunate trend within the release of inadequate NEPA documents from the SJNF in recent months, across all districts. To be clear in our observation, we will reference some of them: 1) the Lone Pine EA during which scoping comments were inadequately considered and the process evolved into a lengthy Objection phase, 2) the Valle Seco land exchange which failed to provide any alternatives and failed according to the direction of the Colorado Roadless Rule to initiate and EIS from the beginning of the process and 3) the Petrox Pipeline EA which was both lacking critical informational regarding the proposal elements and affects and also included mischaracterizations of various project components.

It is our observation that the Ice Creek Pod NOPA process should not have released to the public prior to the completion of the required input from the US Fish and Wildlife Service (USFWS) as to current status of lynx habitat and/or corridor use of the Ice Creek Pod and immediately adjacent areas. While we understand from federal agency staff that this process is either close to initiation or underway, it is a disservice to the public to not provide this critical information for the public to review and subsequently comment at the beginning of this truncated NEPA process. As noted above, it was SJCA's understanding that information critical to the decision making related to Purgatory's proposed development would be updated, yet the input from USFWS is not available at the key point in the NEPA timeline for the public to comment, the July 6 comment deadline. Minimally providing to the public the Biological Opinion from 2008 is not acceptable – the SJNF should have postponed the process until the USFWS latest findings were completed and handed over to the agency to be shared with the public.

The inaction of not providing the best available and latest science is particularly is dismissive of the public interest and particularly alarming as the SJNF should fully know that the Ice Creek development scheme was the standout controversial element in Purgatory's (then DMR) Improvement Plan and associated EIS from more than a decade ago. The lynx habitat/corridor issue was of such extreme significance that the finalization of the IP did not move forward until the Ice Creek Pod proposal was removed from the plan. See Appendix A (Mountain Master Development Plan Approved (Durango Mountain Resort and Colorado Wild joint press release – 2008) and Appendix B (Letter of Agreement (Letter of Agreement between Colorado Wild and Durango Mountain Resort – July 23, 2008) as documentation of communications and decisions regarding this historical context. The decision by the USFS Region 2 Office and SJNF staff to overlook this reality is frankly unacceptable and is suspect to be being categorized as an attempt to "slip something by" the public and public advocacy organizations such as SJCA. SJCA hasn't identified any plausible reasons for this NEPA process to be hurried towards finalization without the full

and current input from USFWS and therefore we suspect the process is being moved ahead quickly without concern for the possible diminishment of the ability of the public to comment fully. SJCA has gained some understanding of the USFS's reason behind the "fast-tracking" based on a statement from the Region 2 office that the process is being "streamlined." To be clear, from our perspective of advocating for transparency and thorough information disclosure within a NEPA process, it could better be described as "steamrolling", that is, steamrolling the public's interest in being provided the necessary and timely information to comment upon this proposal. We have heard what we consider to be a false excuse from the agency that the "streamlining" of the process won't affect possible public input negatively in explaining that the public can also participate in the Objection process, however, at that point in the process is simply too late in the process for the public to adequately comment on all germane issues. As well, the "bar of involvement" required by a member of the public to involve themselves in an Objection process is much higher than that of commenting upon a (for example) a Draft Environmental Assessment, therefore the public's likelihood to be involved in the NEPA process has been effectively curtailed.

Canada Lynx Issues

As previously noted in our comments above, serious concerns remain regarding the project's possible harm to Canada lynx during either their use of the area for habitat or as a travel corridor through the approximate 10,000 acres of proposed project disturbance (our rough calculation of size – unfortunately the NOPA document does not appear to disclose an area of disturbance for the project). However, the NOPA document does disclose that, "The 2008 FEIS determined that its alternative 2, which included the proposed action for this EA, is likely to adversely affect Canada lynx." (page 1) With the 2008 FEIS clearly outlining the adverse effects on lynx and with subsequent research as well as verified localized lynx sightings indicating lynx are still utilizing the area, it is critical to gain the input of USFWS and Colorado Parks and Wildlife (CPW) regarding the issue – indeed, <u>this information should have already been made available to the public.</u> We note that the 2011 published "Areas of high habitat use from 1999-2010 for radio-collared Canada lynx reintroduced to Colorado (see Appendix D) which includes data accumulated subsequent to the 2008 FEIS and Biological Opinion indicates lynx's association with the Ice Creek Pod as detailed in that document's text and map.

It is common knowledge, and I personally have observed through track identification, that Canada lynx frequent the Purgatory area, both within and outside the permit boundary. Though until we understand better from either (or both) USFWS and CPW, we won't fully know the status and use of the area by the lynx. However, we do know that in general lynx suffer from development incursions within their habitat and travel corridors. Compacted snow surfaces such as ski runs, ski terminal sites, snowcat operations and snowmobile trails offer unwelcome competition for prey by coyotes which diminishes the habitat value for lynx and provides yet another potential hurdle to their successful recovery in Colorado. This concern is highlighted in this research: "Our analysis suggests that snowmobile trail presence is a good predictor of coyote activity in deep snow areas. Over 90% of coyote tracks observed in our study areas associated with a snowmobile trail were within 350m of the trail. Snow depth and prey density estimates influenced whether a coyote returned to a snowmobile trail. Our results suggest that restrictions placed on snowmobiles in lynx conservation areas by land management agencies because of the potential impacts of coyotes may be appropriate."

(Bunnell, K.D., J.T. Flinders and M.L. Wolfe. 2006. Potential Impacts of Coyotes and Snowmobiles on Lynx Conservation in the Intermountain West Wild. Soc. Bull. 34(3):828-838)

As we noted above, the high level of concern, significance and controversy surrounding this issue indicate that minimally the USFWS's analysis and input should have been included from the start of the process and ideally CPW as well.

Climate Change Related Issues

Another issue related to the Ice Creek proposed development that was "brushed off" was that of climate-related issues. We understand that the relative urgency of this issue was less when the Ice Creek proposal was rolled out as a possible element of their Improvement Plan in 2008, however, due to the current context of climate change realities being an important element of the climate-impactful projects on the SJNF's Schedule of Proposed Actions, we are dismayed that the issue was not addressed in the NOPA document. Yes, the issue was brought forward as a topic, however, it was then summarily dismissed with terminology as "insignificant[1]." This entirely dismissive approach by USFS/SJNF is completely unacceptable and the answer I received to my inquiry per the issue during the June 22 virtual public meeting on the Ice Creek Pod was a complete sidestepping of the issue, too. Particularly framed in the reality that Purgatory admits its interest in developing a new ski pod is clearly related to climate change as explained on page 2 of the NOPA, "..warming temperatures continue to affect the ability of the Columbine beginner area to meet the learn-to-ski demands due to poor snow conditions at this lower elevation…" the issue of climate impacts of the proposed development should be analyzed, divulged and reckoned with through management actions.

The current reality is the proposed development's climate impacts are entirely measurable and such an analysis should have been included in the NOPA to make it available for review and comment. The carbon sequestration lost from clearcutting dozens of areas of the forest for ski runs, the power consumption of the new lift, the associated carbon footprint of infrastructure, the possible future desire for snow-making (due to the primarily western and southern aspects of the proposed ski runs), the possible decommission of the Columbine lift – all these, and other related GHG and carbon-related issues can be quantified and should be a part of the analysis. The USFS, and the SJNF with its relatively recent LRMP, should be taking the lead in insisting that climate related impacts are analyzed for all projects of significance on the SJNF. Purgatory acknowledges that climate change is a project related issue and certainly the agency does with its inclusion of Appendix G (CLIMATE CHANGE TRENDS AND MANAGEMENT STRATEGY FOR THE SAN JUAN NATIONAL FOREST) to the 2013 LRMP where, as exampled below, it describes the linkage between climate change and species habitat, "We do know there are many flora and fauna populations that are vulnerable because of their narrow range of habitat, small populations, or limited ability to adapt or tolerate change. (LRMP, Volume III, Appendix G, Page 1).

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[1] NOPA page 4 "…emissions are anticipated to be small and insignificant with regard to any impacts to climate change as a result of the proposed action."

The Strategy section in Appendix G provides specific direction within the Terrestrial Ecosystem, Desired Conditions section (page G- 3):

2.2.2 Non-climate ecosystem stresses (e.g., high road densities, water depletions, air and water pollution) are reduced to improve the resilience and resistance of ecosystems to the future dynamics of a changing climate.
2.2.3 Key ecosystems that are not functioning properly are realigned/restored/renovated to survive the near-future dynamics of changing climate.
2.2.4 Future biodiversity, especially for endangered, rare, or dwindling species, is protected in the face of a changing climate by safeguarding habitats, preserving genetic diversity, and cooperating with seed banking efforts that provide secure, long-term storage of plant genetic resources.
2.2.19 The SJNF and TRFO forested ecosystems provide net positive carbon storage.

All of these detailed Desired Conditions apply directly to the circumstances under review for the proposed Ice Creek Pod development and we insist that the SJNF "pull the document off the shelf" and apply the guidance to this NEPA process. Now is the time for all involved to follow through with appropriate analysis along with alternatives or full mitigation actions that might be available to possibly offset the project's carbon footprint including the possible rejection of the proposed development as now planned.

We are impelled to remind the USFS to heed the message coming from the data accumulated by Rocky Mountain Research Station's Jim Worrall per the very significant and over-arching issues of the changes in our forests due to climate change. Though Dr. Worrall's presentation to the Dolores Watershed and Resilient Forest (DWRF) Collaborative in Cortez in 2017 (http://dwrfcollaborative.org/wp/wp-content/uploads/2018/06/projected-impacts-of-climate-change-on-forests-of-the-dolores-watershed.pdf focused primarily on Ponderosa pine forests, there was ample information within his presentation (and amidst his other work) that all forest types on the San Juan are undergoing multiple disturbance stressors, most of them rooted in climate change. Those familiar with the spruce forest in the Purgatory Resort know that in recent years there has been significant budworm damage to spruce (including mortality) and that the spruce bark beetle could very well sweep from its current affected areas into the Hermosa Creek watershed in a robust manner. These realities must be considered in light of the Ice Creek Pod's possible dismemberment of additional acreage in the spruce/fir forest, that is, at the direct hand of intentional disturbance which would certainly further diminish the forest resource including related wildlife habitat and the overall ecological function in the upper Hermosa Creek watershed. We strongly recommend that these climate-induced impacts be analyzed as a part of this process as they are currently underway and therefore represent cumulative impacts on the watershed when in conjunction with the direct impacts of our species. The proposed Ice Creek Pod forested acreage is already undergoing impacts from climate-induced change and this project would be definitely be an "add on" to those impacts.

We also reference another DWRF Collaborative presentation that reviews climate change as related to trout mortality just over the hill in the Dolores River and is therefore helpful

scientific input to this proposed project. The Dolores River watershed research presented by TU's Duncan Rose in 2019 http://dwrfcollaborative.org/wp/wp-content/uploads/2019/01/dwrf.camf-climate-change.pdf both provide relevant data and suggested an integrated management scheme to deal with climate induced stress on aquatic species. This study clearly indicates that climate change is an extremely serious stressor on trout populations, even in areas with minimal or no development activity, as related to climate change. These findings are entirely applicable to the aquatic species issues as related to any proposed further human incursions into the Hermosa Creek watershed.

With the significant process shortcomings related to climate change within this NEPA process, SJCA has substantial questions as to who is making the decisions regarding the adequacy of the environmental analysis for the Ice Creek Pod process. There is an appearance to us that SJNF has given their authority to the USFS Regional Office for the project oversight being that the project lead is based at the Region 2 office – is that correct? It also appears that neither Region 2 or SJNF staff have fully reviewed the Ice Creek Pod proposal in the historical context of significant and controversial issues due to ignoring the importance of the lynx issue – is that correct? The complete disavowal of analyzing green house gas (GHG), emissions, carbon footprint and or climate change issues could appear to be the intent any one (or more) of the involved parties . Is it Purgatory's seeming and continued disinterest in examining climate-related issue? Is it NEPA contractor SE Group's sidestepping the issue at Purgatory's direction even though knowing that climate change issues are very much a part of the NEPA landscape in 2020? Is the SJNF or Columbine District's succumbing to the direction of the Region 2 office and ignoring both the historical context of the proposed development and the direction in their 2013 Land and Resource Management Plan (LRMP)? Certainly, we don't know the chain of command and oversight per releasing an inadequate initial document, but we alarmed that the SJNF "let out the gate" another NEPA document that is substandard to what NEPA requires and to which our communities should be honored and respected to receive and review.

Colorado River Cutthroat Trout (CRCT) Issues

As many in our community are aware, focused actions have been underway for decades by the San Juan National Forest, Colorado Parks and Wildlife and Trout Unlimited (TU) to reestablish the regionally diminished cutthroat population, a state Species of Special Concern. These noteworthy collaborative and continuous efforts have involved finding the necessary financing and person-power to focus on reinvigorating the cutthroat population utilizing the high quality waters of the Hermosa Creek watershed (which includes Ice Creek which by-the-way doesn't seem to be identified such on USGS maps). The aim of the reintroduction effort is to strengthen the trout's wellbeing across the American West – it is a very significant and laudable effort. To its credit, the NOPA document notes significant concern per the future of the trout where it states: "However, the direct and indirect effects of implementing the proposed action are likely to negatively impact the occupied aquatic habitat of CRCT in the East Fork of Hermosa Creek" (NOPA, Page 1). It also states that "Implementation of the proposed action, including Project Design Criteria, is anticipated to result in a determination of may impact individuals, but is not likely to result in a loss of viability on the planning area, nor cause a trend to federal listing or a loss of species viability rangewide" (NOPA, Page 2).

It is apparent to us that any increase in the sediment load is a burden on the trout, therefore both construction activities and permanent infrastructure such as roads, lift pads, structures, etc. are ill-conceived additional impacts to the watershed. We are in disbelief that the SJNF, who according to a Durango Herald report, has invested both decades of time as well as over $1,000,000 into the project in partnership with CPW and TU seems to be willing to give an "proceed to Go pass" to a proposed development that will bring harm to the reintroduction effort in general and specifically to the CRCT in Hermosa Creek watershed. We fail to see that a project that would "impact individual" (cutthroat trout) is in anyway acceptable to the SJNF. We strongly doubt it would be acceptable to their TU and CPW partners, and we would surmise that public opinion would be **strongly against** harming a reintroduced species that tax dollars and local volunteerism has been to date successful in reestablishing. Really, is the Forest Service incapable of drawing the line ahead of capitulation that any project is okay, even if the mitigations won't correct the negative impacts of said project? We're unclear as to who is "driving the bus", but we have no doubt that the SJNF and the USFS Region 2 should never approve a project to harm the reintroduction of a species of which they have had such a key role in supporting. Our guess is that the Columbine District's Interdisciplinary Team (IDT) for this project would have parallel concerns to SJCA's on this issue.

Lack of Alternatives

As we have witnessed all too often in recent SJNF spawned NEPA processes, there are only two alternatives proposed to the public, the No Action and the Proposed Action. Yes, we fully understand that the midpoint or outcome of the NEPA process could very involve an alternative that is not detailed within the NOPA or scoping document, however, the lack of alternatives presented to the public once again does not support the public commenting on the possibilities that might exist per alternatives to the Proposed Action. In this NOPA process we once again see the "this way or no way" approach to project review and selection that negates the possible input of outside perspectives or expertise that could be generative to a possible way forward of greater benefit and acceptability to all concerned while still tracking the social, economic and ecological considerations. As I noted in a recent blog I wrote on the issue (see Appendix C - Proposed Purgatory Resort Expansion – At What Environmental Cost?) alternatives to the Ice Creek Pod have been brought forward both prior to and after the Ice Creek Pod was ditched by the resort in 2008 due to the controversy surrounding the threatened lynx population so it seems entirely possible that there are alternatives to share with the public, even if they aren't the Resort's first choice.

We understand that Purgatory Resort is the permit holder and is paying the specific bill for any possible project, but it should not be overlooked that the thousands of acres being proposed for the pod are entirely within the national forest owned by the American citizenry and stewarded by numerous governmental agencies including the SJNF and Colorado Parks and Wildlife. From our viewpoint it is foundationally inappropriate for the USFS/SJNF to "pass through" a NEPA document for public review that was written by the proponent's NEPA contractor with only No Action and Proposed Action alternatives. We note we have seen this similar and distasteful approach recently within NEPA processes either written by third party contractors or financed by project proponents on the SJNF and find them lacking to the intent and letter of the National Environmental Policy Act.

Conclusion
Thank you for your consideration of our suggestions and recommendations. Please contact me if you have questions regarding our comments and/or specific feedback or rebuttal to any of our assertions per details of this proposal. We are supportive of further communication related to the lawful and sound stewardship of our publicly owned national forests.

In closing, we remind all readers that the Hermosa Creek watershed is an amazing and unique watershed and a wondrous natural asset to our community as recognized by the U.S. Congress in 2014 when the Hermosa Creek Watershed Protection Area was created. It is true that the Act clearly provides for commercial operations such as Purgatory Resort, but the we believe the overarching message from the Act that gained widespread support in our local communities is one of wise stewardship and resource protection.

Sincerely,

Jimbo Buickerood
Program Manager
Lands and Forest Protection Program

Cc: Mark Lambert
James Simino

ATTACHMENTS

Appendix A Mountain Master Development Plan Approved (Durango Mountain Resort and Colorado Wild joint press release – 2008)

Appendix B Letter of Agreement (Letter of Agreement between Colorado Wild and Durango Mountain Resort – July 23, 2008)

Appendix C Proposed Purgatory Resort Expansion – At What Environmental Cost? (SJCA Blog - July 2, 2020) https://www.sanjuancitizens.org/lands-protection/proposed-purgatory-resort-expansion-at-what-environmental-cost

Appendix D Areas of high habitat use from 1999-2010 for radio-collared Canada lynx reintroduced to Colorado. David M. Theobald, Tanya M. Shenk 2011