

ATTACHMENT J



Sportsmen's Paradise

P.O. Box 383

Lake George, CO 80827

February 24, 2020

Ms. Diana Trujillo

Supervisor

Pike & San Isabel National Forests, Cimarron & Comanche National Grasslands

2840 Kachina Drive

Pueblo, CO 81008

Dear Ms. Trujillo,

We, the Board of Directors for Sportsmen's Paradise, a 501(c)(7) community association located in Park County a few miles outside of Lake George, Colorado, are writing to raise concerns and objections to the projected closure of Forest Service Road 274 ("FSR 274") approximately 600' or so east of our property boundary. As near as we can tell, this projected closure was communicated for the first time to the public as a sidebar in an email to one of our board members Eric Hendrickson dated December 18, 2019 from Josh Voorhis, District Ranger for South Park District of the Pike San Isabel National Forest ("PSINF"). (See Attachment A.) **As you will see below, there is something greatly amiss about this projected closure.**

BACKGROUND

Sportsmen's Paradise ("SP") is a community association that has been in existence since the late 1950s. Formed from what were originally two 19th century homesteads, SP consists of 160 tax-paying, privately-owned lots surrounding approximately 160 acres that are common to its membership. SP's stated mission is to "promote and foster the ultimate in a family-oriented fishing paradise."

SP is situated along approximately two miles of the South Platte River beginning at the end of Park County Road 112 and ending at the top of Wildcat Canyon, just past where Beaver Creek enters the South Platte from the east. It is surrounded on all four sides by the PSINF. SP has enjoyed amicable relationships with county, state, and federal agencies throughout its existence, working with each to ensure the safety, welfare and enjoyment of both private and public lands, particularly during the Hayman Fire in

2002 when SP was used as a staging point for firefighters to access Wildcat Canyon and after the fire when SP invested tens of thousands of dollars on mitigating the post-Hayman runoff effects along Beaver, Crystal, and Vermillion Creeks. These efforts continued in 2015 when SP partnered with the Coalition for the Upper South Platte to help fund and execute a comprehensive in-stream restoration of the South Platte River stretching from the PSINF boundary above Happy Meadows Campground to SP's northern property boundary at the mouth of Wildcat Canyon. In addition to a direct contribution of more than \$10,000 toward the project, SP's members also donated well over \$50,000 worth of man-hours of volunteer time toward its successful completion. In 2017, when a tornado downed trees across FSR 274 (the road at issue in this letter), members of SP cleared a ¼ mile section of the road on their own time, using their own equipment. And such efforts continue to this day.

SP AND THE HISTORY OF FSR 274

For more than 60 years, our members have enjoyed access to a network of Forest Service Roads to the east of SP via FSR 274 which has always adjoined our eastern property boundary. In fact, after fishing, access to the PSINF via FSR 274 is probably one of the most unique aspects of SP that serves to enhance its overall use and enjoyment by our members and guests.

As near as we can determine, FSR 274 has always connected to our eastern property boundary near the convergence of sections 4,5,8 and 9 of the quadrant in which SP sits. The oldest map we are currently aware of demonstrating this is a USGS map from 1956. This map predates SP's incorporation and identifies the future FSR 274 as simply a "JEEP TRAIL." All of the following maps, **which have been published by PSINF**, show FSR 274 connecting to our eastern property boundary (See Attachment B):

1. 1984 Forest Plan
2. 1992 MVUM
3. 2010 MVUM (importantly, this map is the basis for the 2019 PSINF Public Motor Vehicle Use Draft Environmental Impact Statement...more on this later)

FSR 274 BOMBSHELL

In early December of 2019, SP board member Eric Hendrickson reached out to Josh Voorhis, District Ranger for the South Park District of the PSINF, regarding a special use road permit for a road that extends from SP's northeastern property boundary to some private lots above SP on Beaver Creek. SP's board was conducting some due diligence about a change in access to this road (which is neither in dispute, nor the

subject of this letter). You can imagine our surprise when we received Mr. Voorhis's reply on December 18, 2019 containing his assertion that FSR 274 "does not connect to Sportsmen's Paradise" and that "[t]his section of the road has been officially closed for over twenty years and was closed as part of a mineral withdrawal completed to protect the South Platte River." (See Attachment A.) To support his claim, he attached a map to his email entitled NoCadastral_LandStatusMap. (See Attachment C.) This map shows a dotted line that he alleges shows FSR 274 ending short of SP's property line and includes a label that reads "End of FSR 274." This map does not show the final northwesterly dogleg that shows FSR 274 ending at our property boundary which appears on the other maps. **This was the first time ANYONE had ever heard of such a claim.** (It is worth noting that this map looks unlike any map we have ever seen produced by the PSINF; to this day, we have no idea where this map came from, but it looks like something you can find on the website for the Bureau of Land Management ("BLM") showing where its mining roads start and stop).

At our request, Mr. Voorhis asked his colleague Amy Titterington to provide us with the coordinates that he claims show where FSR 274 ends. Ms. Titterington provided the following coordinates which we agree are located approximately 600' east of our property boundary - 39° 1'44.43"N, 105°20'40.98"W. However, neither Mr. Voorhis nor Ms. Titterington can tell us where these coordinates come from, nor can anyone tell us when or how these coordinates were determined to mark the end of FSR 274, nor when this change occurred. In subsequent communication, Mr. Voorhis confessed that he wasn't "sure if the mining withdrawal caused the road to close or if the road closure was directly related to protection of the South Platte river [sic]. During this time period of the mid-2000's there was considerable work completed around a Wild and Scenic designation for the South Platte river [sic]. I suspect that may be what caused the mining withdrawal."

Shockingly, he goes on to claim, "the 2010 MVUM does show the road as being closed prior to reaching sportsman [sic] property." He further states, "This office is simply implementing the existing closure that is shown on the 2010 MVUM. **See attached document** (emphasis added). This part of the equation is not confusing. The why of the closure is where the confusion comes in. However, the cause of the closure does not effect the closure now being in place. Since the MVUM is our legal document regarding motorized travel management, I am obligated to enforce this closure."

The attached document he refers to in this subsequent communication is the same mystery map that he emailed Eric Hendrickson in December. (See Attachment C.) Again, this map looks nothing like any other PSINF map we have seen, but appears

very much like a map one can find on the BLM's website showing where mining roads start and stop.

In our board president's reply to Mr. Voorhis, Matt Walter pointed out that "the actual paper version of the 2010 MVUM **that was printed and distributed by the NFS** (emphasis added)...shows the final dogleg on 274 leading to our property boundary" (See Attachment E.) He further noted that the PSINF's own Public Motor Vehicle Use Draft Environmental Impact Statement ("DEIS") shows that the 2010 MVUM has FSR 274 extending all the way to SP's boundary. Mr. Walter also respectfully requested that Mr. Voorhis forward his emails to your office and copy him on that email so that he knew your office was aware of this situation. (See Attachment C.) As of this writing, we have not received a response from Mr. Voorhis so we feel it is necessary and appropriate to bring this matter to you directly.

As previously stated, something is greatly amiss here. It just doesn't add up. We will attempt to address the issues raised with and by Mr. Voorhis regarding the confusion around his assertion that FRS 274 ends prior to our boundary, but feel that it is ultimately the responsibility of the PSINF to demonstrate when, how, and why the change was allegedly made and that all requirements of due process and public notice were met. Absent this, we respectfully assert our position that FSR 274 still extends all the way to our property boundary.

PSINF PUBLIC MOTOR VEHICLE USE DRAFT ENVIRONMENTAL IMPACT STATEMENT

It is our position that the 2010 MVUM published and disseminated to the public by the National Forest Service and the DEIS clearly show FSR 274 connecting to SP's property boundary.

On November 13, 2015, the USFS entered into a Stipulated Settlement Agreement in which it agreed to undertake "motorized travel management planning to designate roads, trails and areas open to public motorized vehicle use on the six districts of the Pike and San Isabel National Forests." This effort has culminated in the "DEIS" dated August 2019. Under the terms of the settlement agreement, PSINF is to use certain Motor Vehicle Use Maps for each of its districts as the basis for the Environmental Impact Statement. For the South Park District, the 2010 MVUM is to be used (see page 2-14 of the DEIS).

The DEIS proposes five alternative motorized travel management plans for the PSINF, Alternatives A through E. Alternative A proposes "no action" or no changes to the

current system of roads. As stated on page 2-14 of the DEIS and reaffirmed on the legend for the map for Alternative A (see page 349 of the DEIS), Alternative A is based on the 2010 MVUM. **Both the 2010 MVUM that was published and disseminated to the public by the National Forest Service (See Attachment E) and the map for Alternative A (see page 349 of the DEIS) clearly show the final northwesterly dogleg for FSR 274 connecting to SP's eastern property boundary.**

Of the five alternatives in the DEIS, PSINF is recommending Alternative C (see page S-5 of the DEIS). While Alternative C does recommend changes to some of the roads within the South Park District of the PSINF, it recommends no changes to FSR 274 and the roads surrounding it (see legend on page 359 of the DEIS), meaning that FSR 274 should look the same on Alternative C as it does on Alternative A. But it doesn't! For some unknown reason Alternative C does not include the final dogleg for FSR 274 connecting it to SP. It is worth noting that FSR 274 is not mentioned specifically ANYWHERE in the DEIS or in the comments. The final dogleg for FSR 274 just disappears!

It is our position that this conflict should be resolved in favor of the published 2010 MVUM and Alternative A, both of which categorically show FSR 274 connecting to SP's property boundary.

MINING WITHDRAWAL

It is our position that the mining withdrawal is a red herring for two reasons: 1) according to Jayson Barangan, Acting Director of Communications for the Colorado State Office of the BLM, a mining withdrawal, including the one at issue here, is subject to existing surface rights, including a pre-existing recreational Forest Service Road, and the BLM would not and cannot require the NFS to close a pre-existing road traversing a withdrawal area, and 2) the mining withdrawal expired in April of 2011.

Because Mr. Voorhis's original email had said that FSR 274 was closed as part of mineral withdrawal, we have researched this issue as well. In April of 1991, the BLM issued Public Land Order 6846 (this order can be found at 56 Federal Register 14865, via this link - <http://cdn.loc.gov/service/ll/fedreg/fr056/fr056071/fr056071.pdf>, and is included in Attachment F to this letter). This PLO withdrew "4,584 acres of National Forest System lands from mining for a period of 10 years...to protect the South Platte River pending a final decision on Wild and Scenic River designation." It further stated that "this withdrawal will expire 10 years from the effective date of this order unless...the Secretary determines that the withdrawal shall be extended." PLO 6846 was extended in 2001 by PLO 7485 which also included a 10 year expiration timeline (this order can be found at 66 CFR 23949, via this link -

<https://www.govinfo.gov/content/pkg/FR-2001-05-10/pdf/01-11739.pdf>, and is also included to this letter Attachment F). We have confirmed through Jayson Barangan, Acting Director of Communications for the Colorado State Office of the BLM, that PLO 7485 was not extended and the mining withdrawal at issue here expired as of April 12, 2011.

While it is certainly understandable that the BLM might “close” *its* mining roads at the withdrawal boundary and this looks to be the case here based on the BLM maps on its website, according to Mr. Barangan, the BLM maintains its own travel management plan that would never trump or be dispositive over National Forest Service roads on Forest Service lands. In fact, the 1992 map for PSINF **published and disseminated to the public by the National Forest Service the year after the withdrawal was published** shows FSR 274 connecting to SP’s property boundary. (See Attachment B.) This cuts against Mr. Voorhis’s assertion that FSR 274 was closed “as part of a mineral withdrawal.”

It is our position that the mining withdrawal is a red herring and that it either had no impact on the status of FSR 274 as a recreational road or, if it did, it no longer should since the withdrawal has expired.

WILD AND SCENIC RIVER STUDY AND ADOPTION OF FOREST PLAN AMENDMENT

It is our position that the FSR 274 is a recreational road that is not subject to closure under the 2004 Forest Plan Amendment given its location within Segment B of the management area which has been classified as “Recreational” with a ROS of “Rural.”

In subsequent communication, Mr. Voorhis offered another possible explanation for the change in status of FSR 274. (See Attachment D.) This time he says, “However, I am not sure if the mining withdrawal caused the road to close or if the road closure was directly related to protection of the South Platte river. During this time period of the mid-2000’s there was considerable work completed around a Wild and Scenic designation for the South Platte river. I suspect that may be what caused the mining withdrawal.” We have researched this issue as well.

In the late 1990s and early 2000s, the PSINF undertook a study to examine whether is wanted to apply for federal designation of certain stretches of the South Platte River as Wild and Scenic. This effort ultimately culminated in a Record of Decision (“RoD”) issued in June of 2004 by the then Forest Supervisor of the PSINF in which it was decided not to pursue Wild and Scenic designation for the river. Instead, this decision

recognized the potential creation of the South Platte Protection Plan and adopted a Forest Plan Amendment (FPA) to the PSINF 1984 Forest Plan which still governs today. (The RoD is available on the PSINF website here -

<https://www.fs.usda.gov/detail/psicc/landmanagement/planning/?cid=stelprdb5214248>; the 1984 Forest Plan and FPA are available here -

<https://www.fs.usda.gov/main/psicc/landmanagement/planning>).

Under the original 1984 Forest Plan, the portions of the PSINF in which FSR 274 is located are to be governed according to Management Areas 2A and 2B. (See Attachment G.) Management Area 2A, which covers the eastern portions of FSR 274, provides for “semi-primitive motorized recreation opportunities, such as snowmobiling, four-wheel driving and motorcycling, both on and off roads and trails.” And Management Area 2B, which covers the western portions of FSR 274 including where it intersects with our property boundary, provides for an even less-restrictive “outdoor recreation in roaded natural and rural setting, including developed recreational facilities and year-round motorized and nonmotorized recreation.” Both of these management standards support a finding that FSR 274 appropriately connects to our property boundary and that is exactly what is reflected in the 1984 map. (See Attachment B.)

The FPA adopted in the RoD establishes an additional management area “to protect river segments that have been determined eligible for potential addition to the National Wild and Scenic Rivers system from activities which could diminish or change the values which make the rivers eligible for designation.” The added management area is a corridor extending ¼ mile on either side of the high-water line of the river. The management area is characterized by the identification of various segments reflecting differing statuses for eligibility ranging from “Recreational” to “Wild.” The segment covering the area where FSR 274 intersects SP is Segment B and has been classified in the RoD as “Recreational” with a “Recreation Opportunity Spectrum” (“ROS”) of “Rural”. The FPA explicitly states that activities within the management area will be “consistent with the adopted ROS” which we believe includes recreational access to the PSINF via FSR 274. Nowhere does the FPA call for the closure of recreational NFS roads within the management area. Further, according to paragraph 2354.42g.3 of the Forest Service Manual 2354 which is found in Appendix G to the Wild and Scenic River Study EIS, roads in recreational river segments are “normally open to motorized travel.” This standard cuts in favor of FSR 274 remaining open even though it is within the additional management area. (This document can be found on the PSINF website here - <https://www.fs.usda.gov/detail/psicc/landmanagement/planning/?cid=stelprdb5214248>.)

It is our position that the FSR 274 is a recreational road that is not subject to closure under the FPA given its location within Segment B of the management area which has been classified as "Recreational" with a ROS of "Rural."

THE PROJECTED CLOSURE WILL DO MORE HARM THAN GOOD

The projected closure of FSR 274 will cause more harm than good. It will require SP members and guests to use Park County Road 112 to trailer their OHVs to access the trails system we have accessed via FSR 274 for more than half a century. Park County Road 112 is a gravel road that runs parallel to the South Platte River for two and a half miles, sometime approaching as few as ten feet from the bank. The harmful impact on the South Platte River due to this increased traffic will far outweigh anything gained by the projected closing of FSR 274. We know of no study that has been conducted by PSINF to examine this important issue.

CONTINUOUS, HISTORIC USE AND LACK OF PUBLIC NOTICE

But perhaps our strongest arguments in favor of keeping FSR 274 as it has existed for more than 60 years lie in its continuous and historic use combined with the lack of public notice of its projected closure. As it currently exists, FSR 274 has provided safe and reasonable access to the National Forest for recreational purposes and has done so as long as anyone can remember. Dating back to before the founding of SP in the late 1950s, FSR 274 has **ALWAYS** connected to our boundary. This has been reflected in map after map published by the PSINF over decades. (See Attachment B.) In fact, the current signage installed by the PSINF itself recognizes that FSR 274 **ENDS** at our property boundary. (See Attachment H.) At no time in the past or present has the PSINF given public notice of the proposed closure of any part of FSR 274, making any current claims of such capricious and arbitrary.

REQUEST TO STAY CLOSURE OF FSR 274, TO AMEND DEIS, AND FOR A MEETING

As of this writing and despite our numerous requests, we are left with the following unanswered questions:

- 1. Where do the coordinates which Mr. Voorhis claims define the end of FSR 274 come from? Who determined them? When and how were they determined?**
- 2. Where does the map Mr. Voorhis sent Eric Hendrickson attached to his email of December 18th come from? Who created it? Why is it determinative as to where FSR 274 ends? What leads Mr. Voorhis to claim that it reflects the 2010 MVUM, particularly when that claim contradicts both the published version**

of the 2010 MVUM and the map for Alternative A in the DEIS which is based on the 2010 MVUM?

- 3. Where is the change in the terminus of FSR 274 documented? Where is the due process, proper notification, and the opportunity for public comment documented?**

We remain committed to working with you, Mr. Voorhis, and the PSINF on this matter. But we also remain convinced that all of the evidence points to the common sense conclusion that FSR 274 ends at SP's property boundary and that the same recreational use it has provided to the public for more than 60 years should be allowed to continue.

We respectfully make the following three requests: 1) that no action be taken to close FSR 274 short of our property boundary, 2) that Alternatives B, C, D and E of the DEIS be amended to reflect that FSR 274 extends to our property boundary as is rightfully and accurately reflected in Alternative A, and 3) that a meeting is scheduled between representatives of SP and you, Mr. Voorhis, and members of your staff, and representatives from any other agency, government or otherwise, who can help us understand, explain, determine, figure out, etc. what is going on here. Our board president Matt Walter will be in Colorado and available to meet March 11-13. If those dates are not convenient, please let us know some that are. This matter is of great importance.

Sincerely,

Sportsmen's Paradise Board of Directors

Matt Walter, President

Billy English, Vice President

Gary Gregory, Secretary

Paul Harrison, Treasurer

Eric Hendrickson

Molly Murphy

Jim Young

and the other 313 members of Sportsmen's Paradise

Cc. via email

Office of Congressman Doug Lamborn

Mr. Joshua Hosler, District Director

1125 Kelly Johnson Blvd #330

Colorado Springs, CO 80920

Mr. Mike Brazell, County Commissioner
Park County
856 Castello Avenue
Fairplay, CO 80440

Mr. Josh Voorhis
Ms. Amy Titterington
South Park Ranger District
Pike San Isabel National Forests Cimarron and Comanche National Grasslands
P.O. Box 219
320 Hwy. 285 Fairplay, CO 80440

Mr. John Dow
Pike & San Isabel National Forests, Cimarron & Comanche National Grasslands
2840 Kachina Drive
Pueblo, CO 81008



Sportsmen's Paradise

P.O. Box 383

Lake George, CO 80827

March 12, 2020

Mr. John Dow

Pike & San Isabel National Forests, Cimarron & Comanche National Grasslands

2840 Kachina Drive

Pueblo, CO 81008

Dear Mr. Dow,

We, the Board of Directors for Sportsmen's Paradise, are writing to follow up on our letter of February 24, 2020 expressing concerns and objections to the projected closure of Forest Service Road 274 ("FSR 274") at a point approximately 600' or so east of our property boundary. We have continued our research into this matter and believe we have determined the cause of all the confusion. It can all be found in your own INFRA data.

BACKGROUND

All the INFRA road reports (CORE, Linear, and ROE) you have published on your website in connection with the PSINF MVUM analysis - (<https://www.fs.usda.gov/project/?project=48214>) - starting with the Baseline reports all the way through to the most recent reports published for 2020 clearly show that FSR 274 begins at Teller County Road 32 and ends at the "intersection of private road," that private road being East Platte Road in Sportsmen's Paradise.

All the INFRA road reports starting with the Baseline reports through the most recent reports published for 2020 show 4 segments for FSR 274 (except for the 2020 reports which combine the middle two segments). The 4 segments consist of the following:

1. Segment 1 - This segment runs from the beginning of FSR 275 at Teller County 32 through private property. It was originally thought to be .8 miles long but this length was corrected to 1.02 miles by an N. Palider in September of 2009 (see page 351 of the 2020 INFRA Road ROE report).

2. Segments 2 and 3 – these segments have been correctly identified as running through the PSINF. There have been several adjustments of the length of these segment over the years and they were combined in the most recent INFRA reports (see page 149 of the 2020 INFRA Road Core report). But they have always been designated as ending at a private property boundary, presumably Sportsmen’s Paradise since that is the only private property at which FSR 274 could possibly end. And as will be shown below, the end point of the middle two segments has not been accurately identified in terms of the mile point (MP) in any of the INFRA reports that serve as the basis for the PSINF MVUM Analysis.
3. Segment 4 – this is the key segment. This segment has been consistently identified as being .15 miles long and being on private property. The private property label is correct as this represents the final segment of the road as it enters Sportsmen’s Paradise and connects to our East Platte Road. However, **THE LENGTH OF THIS SEGMENT IS WRONG! IT SHOULD BE .015 MILES, NOT .15 MILES!!**

ANALYSIS (reference page 351 of the 2020 INFRA Road ROE report)

Prior to 2009, the length of FSR 274 was recorded in the INFRA database as 3.90 miles. In September of 2009, a G. Morrison corrected the length to 4.15. In August of 2015, G. Morrison again updated the length to 4.25, this time including the remarks “Road EMP changed from 4.15 to 4.25 to match new AECOM and NAIP spatial data.” In February of 2016, a K. Dougan changed the data to show FSR 274 beginning at MP 1.02 (accounting for Segment 1 which traverses private property for the first 1.02 miles) and ending at MP 4.10 (accounting for Segment 4 which also traverses private property, **but which was inaccurately labeled as being .15 miles in length**). K. Dougan also notes that a Planning Document was "likely needed." We are not sure what this means or if it was ever secured. We are certainly not aware of any such planning document.

The coordinates provided us by Josh Voorhis through Amy Titterington which purport to show where Segments 2 and 3 of FSR 274 currently end are 39° 1'44.43"N, 105°20'40.98"W. When these coordinates are plugged into the USDA Forest Service FS Geodata Clearinghouse website -

<https://data.fs.usda.gov/geodata/rastergateway/states-regions/states.php> - they show FSR 274 ending approximately .15 miles from East Platte Road inside Sportsmen’s Paradise which is what the current INFRA data supports. **The problem is that Segments 2 and 3 are supposed to end at a private property boundary and these coordinates have it ending in the middle of the PSINF. This is because our boundary**

is only .015 miles from East Platte Road, and NOT .15 miles as is erroneously reflected in your current INFRA data. This is the reason that Alternatives B through E of the DEIS show FSR 274 ending short of our property boundary, not because of some mining withdrawal or some Wild and Scenic River designation (although all of the arguments addressing those issues in our previous letter are still valid and are incorporated by reference into this letter as well.)

We respectfully request that PSINF immediately update your INFRA database and the DEIS to correct your internal error to accurately reflect that Segments 2 and 3 of FSR 274 end at the MP which coincides with our eastern property boundary which we believe to be approximately MP 4.235. We also respectfully request that Mr. Voorhis be instructed not to install Forest Service gates at MP 4.1 or at our property boundary, as he has said he plans to do, until this matter can be fully researched, discussed, and resolved to the satisfaction of all parties involved. Finally, we respectfully request that this letter be included in the record of comments submitted in response to the DEIS, but maintain the position that this is a mistake of fact separate and apart from the DEIS and its underlying lawsuit and that the errors raised by this letter are of the type that would not be reasonably expected to be addressed during the comment period (the general public should not be expected to have to verify or find errors in your INFRA data) and these errors should be addressed and corrected both as part of and at the same time regardless of the DEIS and underlying lawsuit.

Sincerely,

Sportsmen's Paradise Board of Directors

Matt Walter, President

Billy English, Vice President

Gary Gregory, Secretary

Paul Harrison, Treasurer

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and the other 313 members of Sportsmen's Paradise