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SEP 28 2012

Ref: 8EPR-N

Mr. Dan S. Dallas, Forest Supervisor
Rio Grande National Forest
c/o Divide District Ranger
13308 W. Hwy 160
Del Norte, CO 81132

RE: EPA Comments on Draft Environmental Impact Statement, Village at Wolf Creek Access Project; CEQ #20120266

Dear Mr. Dallas:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, *et seq.*, and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the August 2012 Draft Environmental Impact Statement (DEIS) for the Village at Wolf Creek Access Project. This DEIS was prepared by the Divide Ranger District of the U.S. Department of Agriculture Forest Service (USFS) Rio Grande National Forest to analyze potential environmental impacts associated with alternatives for providing year-round vehicular access to an existing private in-holding.

Project Description and Background

The Village at Wolf Creek Access Project Area is located in Mineral County, Colorado, adjacent to the Wolf Creek Ski Area and approximately 16 miles southwest of the town of South Fork. Under the Preferred Alternative, the United States would convey a parcel of USFS land to the Leavell-McCombs Joint Venture (LMJV) in exchange for a parcel of non-Federal land owned by LMJV. This exchange would extend the private land parcel to U.S. Highway 160, thereby allowing for year-round vehicular access. A connected action to this proposed land exchange would be the development of the LMJV private in-holding into the Village at Wolf Creek, a four-season resort with all the associated housing and infrastructure necessary for operations. Although USFS acknowledges that they would not have control over the development pursued on private lands, the DEIS attempts to disclose indirect impacts of a new four-season resort by analyzing potential development scenarios (low, moderate, and maximum density) ranging from approximately 10 to 1,700 lodging units with associated levels of commercial development, roads/highway access, and utilities.

A summary of the Access Project alternatives analyzed in the DEIS follows.

- Alternative 1, No Action, would be a continuation of existing management practices without changes to land ownership. The proponent would continue to have vehicular access to its

inholding via FSR 391 during snow-free conditions, but there would be no additional road access provided for year-round purposes.

- Alternative 2, Land Exchange (Preferred Alternative), would be a land exchange between the United States and LMJV. LMJV would convey 177.8 acres of non-Federal lands to USFS in exchange for 204.4 acres of USFS lands. This exchange would create a private land parcel totaling approximately 324 acres extending to Hwy 160 that would accommodate year-round vehicular access.
- Alternative 3, Alaska National Interest Lands Conservation Act (ANILCA) Road Access, would provide an access road across USFS lands between Hwy 160 on the north and the 288 acre private land inholding on the south. The road would be 1,612 feet in length and within a 60- to 100-foot corridor depending on the development scenario selected.

Key Issues Identified by the EPA

In a June 2, 2011 letter, the EPA provided scoping comments for this project. We appreciate that many of our comments were addressed in the DEIS. As a result, our concerns with the August 2012 DEIS are focused on the following key issues: (1) aquatic resources, (2) air quality and (3) assurances that recommended Best Management Practices (BMPs) and project design criteria will be implemented by the project proponent. These concerns are the basis for the EPA's "EC-2" rating discussed at the conclusion of this letter.

(1) Aquatic resources in the project area have unique value requiring careful disclosure and mitigation of project and connected action impacts.

The EPA considers protection of aquatic resources, including water quality, hydrology, wetlands, and riparian areas, to be among the most critical issues to be addressed in any NEPA analysis for projects in mountain areas where shorter growing seasons and low night time temperatures contribute to difficult mitigation of alpine impacts. Generally, the DEIS provides a thorough characterization of existing aquatic resources and baseline conditions in the proposed project area, including a discussion of the classification of North Pass Creek and South Pass Creek as Class 1 Cold Water for aquatic life. Our recommendations below are intended to support additional detail in the Final EIS (FEIS) related to protecting water quality by avoiding and minimizing impacts first and then providing more specificity for mitigation where necessary.

Additional Information and Analyses: We appreciate the USFS efforts to disclose indirect impacts to aquatic resources associated with the connected action of developing the Village at Wolf Creek. However, the DEIS notes in numerous instances that certain detailed information is not available at this time, including mapped floodplains for North Pass Creek and South Pass Creek and groundwater investigations for the area east of the Central Alberta Park Wetland Complex. To the extent possible, we recommend that the FEIS fill information gaps in order to provide disclosure of the full impacts to aquatic resources that could result from the development.

Surface Water: The DEIS discussion notes that there are no Clean Water Act (CWA) Section 303(d) impaired water bodies within the project area. We recommend expanding this discussion to identify impaired or threatened water body segments within the watershed or downstream of the project area and provide information regarding any State Total Maximum Daily Load completed for such water bodies. To provide a baseline for future monitoring of impacts and evaluating of potential influence on

downstream water quality, we recommend the FEIS provide a summary of available water quality monitoring data for the project area. The DEIS notes that a summary of 2011 water quality sampling results is provided in Appendix C; however, Chapter 11, Appendices, does not include this information.

The DEIS notes that 2011 sampling results for chlorine and total coliform exceeded Colorado Department of Public Health and Environment (CDPHE) Water Quality Standards for Class 1 Cold Water streams at sampling locations for both North Pass Creek and South Pass Creek. While the DEIS discloses that the Village at Wolf Creek moderate and maximum development scenarios are expected to degrade water quality in North Pass Creek through loading of waste water treatment plant pollutants and to degrade water quality in North Pass Creek and South Pass Creek through non-point source pollution in the form of runoff from roadways, parking lots and other man-made impervious surfaces, it is noted that project contributions to degradation of stream standards would be minimized through the use of construction BMPs and detention basins with water quality enhancements to capture and treat the majority of runoff. While the USFS's technical guide, *National Best Management Practices for Water Quality Management on National Forest System Lands* (FS-990a, April 2012), does not appear to be referenced in this DEIS, it is a valuable reference that could inform development practices should the land exchange move forward. We recommend the FEIS describe specific recommended BMPs, as well as the mechanisms that will be in place to ensure LMJV mitigates the impacts of pollution resulting from its development of the Village at Wolf Creek.

We recommend BMPs to control erosion and storm water be designed to meet the needs of the site. Such practices for consideration include:

- Structural practices used to divert flows from exposed soils, retain or detain flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site (e.g., diversions, berms, ditches, storage basins, sediment traps and sediment basins);
- Controls to stabilize exposed soils where construction activities have temporarily or permanently ceased (e.g., interim seeding with native vegetation, hydroseeding), but avoid using impervious surfaces for stabilization whenever possible;
- Controls to protect all slopes (e.g., erosion control blankets, tackifiers) and structural practices to filter and trap sediment before it leaves the site (e.g., silt fences or fiber rolls);
- Specific BMPs to limit the addition of nutrients and sediment to the Alberta Park Reservoir; and
- Maintenance and inspection procedures for BMPs (e.g., implementation of protocols, thresholds and schedules for cleaning, repairing, or replacing damaged/failing BMPs).

Monitoring: We recommend the FEIS include a discussion regarding USFS's approach to water quality monitoring of indirect impacts associated with the development of the Village at Wolf Creek and whether thresholds for triggering enhanced mitigation would be considered. In addition to monitoring on North Pass Creek and South Pass Creek, nutrient monitoring (e.g., total phosphorus, total nitrogen and sediment) in the area is warranted given the hypereutrophic state of Alberta Park Reservoir. Identification of any significant gaps in existing water quality data would be helpful in determining needs for future monitoring plans. The CDPHE's Water Quality Monitoring Strategy and annual monitoring work plans are valuable references.

Watershed Approach and Cumulative Effects: On a watershed scale, cumulative effects are of concern with respect to road construction, use and maintenance during both the construction phase and the completed build-out phase of development. Effects from these activities can persist for many years and increase the potential for cumulative effects to occur. Using a watershed approach to water quality management, and within the context of road construction for the various development scenarios, we

suggest the proponent make use of the following measures:

- Apply BMPs and design criteria that take into consideration the current state of water quality in receiving waters, given all that is happening in the watershed.
- Actively maintain roads to reduce the potential for erosion to occur with special attention to road drainage structures, road fills in stream channels, and road fills on steep slopes.
- Inspect and repair roads prior to heavy use, especially at stream crossings and during wet or thawing ground conditions.
- Locate roads away from riparian areas wherever practicable.
- Add vegetated buffers and/or streamside management zones.
- Employ a minimum 100 foot stream setback based on EPA recommendations.

Our recommendations are based in part on the Colorado State Forest's recently revised handbook, *Forestry Best Management Practices to Protect Water Quality in Colorado* (see http://csfs.colostate.edu/pdfs/ForestryBMP-CO-2010.pdf). This publication discusses "Streamside Management Zones" as a specific application of the "Aquatic Management Zones" outlined in the USFS's National BMP technical guide referenced above.

We also recommend the FEIS present an expanded analysis of cumulative effects on surface water quality and stream health. In particular, a qualitative discussion of the cumulative effects of increased levels of erosion, sedimentation, run-off and discharge would be a valuable addition to the limited discussion provided in the DEIS.

Groundwater and Wetlands Resources: The DEIS notes likely impacts to groundwater recharge and flow under both the moderate and maximum density development scenarios due to the foundations of several buildings intercepting the groundwater table with impacts resulting to certain wetlands in the area. The DEIS further notes that mitigation measures, including "significant mitigative efforts" under the maximum development scenario, would be necessary to mitigate the loss of groundwater recharge and the potential interruption of flow to wetlands. We fully support the USFS recommendations for mitigation measures to include provision of infiltration galleries, detention ponds and drains that promote groundwater recharge and restore natural groundwater flow. We recommend the FEIS include a discussion regarding what mechanisms will be in place to require the proponent to implement such measures to ensure that these groundwater impacts are adequately mitigated (see comment #3 below for more detail).

We appreciate the DEIS discussion of the U.S. Army Corps of Engineers (Corps) regulatory program and potential design criteria and mitigation measures to protect wetlands that the Corps may require through its CWA Section 404 permits. This permitting will involve the analysis of all discharges of dredge and fill material in waters of the United States, including wetlands. Critical aquatic resources impact avoidance and minimization steps for direct, indirect and cumulative adverse impacts can be achieved by a clear demonstration by the proponent that the resort design is the least environmentally damaging practicable alternative pursuant to requirements under the CWA Section 404(b)(1) Guidelines (see 40 CFR § 230.10). The Corps may need to supplement the EIS to meet its CWA and NEPA requirements. We recommend that USFS encourage LMJV to discuss plans for the Village at Wolf Creek development with the Corps as soon as possible. If desired, the EPA is available to participate in discussions.

The DEIS provides a good general understanding of the range of potential impacts to groundwater resources resulting from infrastructure and resort development design under the development scenarios. However, there is significant uncertainty at this time as to whether a CWA Section 404 individual or nationwide permit will be required and whether impacts will occur (as noted on page 4-73 regarding approval from Mineral County). We recommend the FEIS provide an expanded discussion to describe any consultation that has already occurred between LMJV and the Corps, as well as any additional analyses and/or compensation that may be required by the Corps through the CWA Section 404 permitting process for the Village at Wolf Creek development to move forward after the USFS analysis and decision are completed on the Access Project.

The DEIS discloses both direct and indirect impacts to wetlands associated with the Preferred Alternative. Direct impacts from the land exchange include the loss of 1.13 acres of pond aquatic habitat from Federal lands and the gain of approximately 40 acres of high to very high functioning wetlands, including about 28 acres of fens and eight springs into Federal ownership. The EPA supports the net benefit to wetlands resulting from the proposed land exchange since critical wetland complexes currently under private ownership will become Federal land and, therefore, afforded protections under Executive Order 11990, Protection of Wetlands.

The DEIS makes brief reference to two proposed Village chairlifts that would be included in both the moderate and maximum density development scenarios, but no discussion or analysis is provided related to potential wetlands impacts associated with the placement and installation of these chairlifts. We recommend that the discussion of potential wetland impacts be expanded in the FEIS to address this concern.

Depending on the development scenario, the DEIS notes that up to seven bridges and/or up to four culverts would be used to cross wetlands, with the bridges minimizing aquatic resource impacts. In addition, BMPs are recommended to reduce construction impacts to wetlands and a snow management plan, including use of detention ponds, is described for the maximum development scenario with the assumption that a similar plan would be followed under other development scenarios. We recommend the FEIS describe how the USFS will ensure the design criteria for bridges, construction BMPs and snow management plans would be implemented by the proponent once a land exchange is completed.

The Preferred Alternative does not include much discussion related to impacts from installation of utilities, e.g., natural gas distribution, or additional onsite water storage. We recommend the FEIS include discussion of surface disturbance impacts associated with installation of all utility lines and water storage including:

- location and amount of pipe proposed in wetlands (if applicable); and
- right-of-way easements along Hwy 160, within the Forest, or elsewhere to connect power and other utilities to the Village at Wolf Creek development.

(2) Results of the air quality analyses would be better understood with supporting information to describe methodology and additional detail regarding potential mitigation measures to ensure impacts of the proposed project are minimized.

We appreciate the DEIS disclosure of the indirect impacts to air quality that would result from the development of the Village at Wolf Creek, particularly given that the location of the proposed project is currently in attainment of all air quality standards, as well as in close proximity to a mandatory Class I

Federal Area, the Weminuche Wilderness Area. It appears that impacts to air quality would not be significant under the Preferred Alternative; however, we make the following recommendations to ensure clear understanding of air quality analyses and potential mitigation measures.

Methodology to Determine Indirect Effects of Development: The DEIS states "[b]ased on the estimated traffic data, models were used to predict emission factors in terms of grams per mile of hydrocarbons (HC), carbon monoxide (CO), nitrogen oxides (NO_x), carbon dioxide (CO_2), and particulate matter (PM) from cars, trucks and motorcycles under various conditions. The vehicle emission factors were then entered into another EPA-approved computer-based model to predict air pollutant concentrations from motor vehicles along roadways and at roadway intersections." We recommend that the FEIS text (or appendices where appropriate) include additional discussion and clarification, including the following:

- Identification of models used to predict emission factors (e.g., MOVES2010a or MOVES2010b, MOBILE6.2, or other), and inclusion of tables that show how the actual calculated criteria emissions for the no-build and peak year of traffic were prepared;
- Description of what VMT data were used in calculating the mobile sources emissions;
- Clarification regarding whether PM emissions information represents only tailpipe PM emissions or includes PM re-entrained road dust emissions, and whether the EPA's Compilation of Air Pollutant Emission Factors, AP-42, was consulted for re-entrained road dust emissions (if so, please note that on February 4, 2011, Chapter 13.2.1 of AP-42 (road dust emissions for paved roads) was updated (see 76 FR 6328));
- Identification of which model was used to predict air pollutant concentrations (e.g., CAL3QHC or AERMOD) and inclusion of the intersection modeling protocol as an appendix to the FEIS;
- Calculation of emissions for heavy-duty trucks since they can compromise up to 16% of the daily traffic passing through the intersection according to Section 3.12.2.1.1 Traffic Volumes; and
- Clarification of modeling data presented in Table 4.5-1, Predicted Air Pollutant Concentrations (we recommend peak 1-hour concentrations for the peak year of 2035 and a 2035 no-build analysis for comparison).

Mitigation: We support the BMPs described for the mitigation of construction emissions and suggest expanding the discussion to consider other possible methods and techniques that might be employed to mitigate the negative impacts of the project on air quality. Such mitigation measures include, but are not limited to, the following:

- Require heavy construction equipment to use the cleanest available engines or to be retrofitted with diesel particulate control.
- Require construction vehicle engines to be properly tuned and maintained.
- Use water or wetting agent to control dust.
- Use wind barriers and wind screens to prevent spreading of dust from the site.
- Cover all dump trucks leaving sites.
- Cover or wet temporary excavated materials.

In addition, the DEIS notes that some combustion emissions would be generated by diesel-fired construction vehicles but does not include information related to any need for onsite generators during construction. We recommend the FEIS include discussion of this issue and potential emissions.

While the DEIS notes that all of the construction related emissions would be temporary in nature and controlled by BMPs, there is no discussion related to how these BMPs will be required. We recommend the FEIS describe mechanisms for ensuring BMP implementation during development of the Village at Wolf Creek that would result from the land exchange. See comment #3 below for more detail.

Finally, the 2012 Traffic Impact Study completed for this DEIS concluded that a conventional at-grade intersection at the Hwy 160/Village at Wolf Creek access, with appropriate acceleration/deceleration lanes, would be adequate to address Level of Service (LOS) concerns associated with the maximum density development scenario. We recommend the FEIS include documentation of consultation with the Colorado Department of Transportation regarding the adequacy of an at-grade intersection.

(3) The USFS should ensure that recommendations for BMPs and project design criteria are implemented by the project proponent to mitigate adverse impacts to resources resulting from the land exchange and connected development.

As the DEIS documents, numerous adverse impacts to resources, including wetlands, groundwater, surface water quality, and Canada lynx, would result from the connected action of developing the Village at Wolf Creek. The DEIS further notes BMPs and project design criteria would address the aquatic resource impacts, and we assume the FEIS will include recommendations from the U.S. Fish and Wildlife Service to address lynx impacts. We strongly recommend that the FEIS identify how the USFS will ensure that these mitigation measures will be implemented. For example, if the Preferred Alternative were to be selected, the FEIS could describe mechanisms to make the land exchange contingent upon implementation of specific BMPs and design criteria. Based on our understanding of USFS policy and process, such mechanisms may include restrictions placed on the land conveyance documents or commitments included in the USFS Record of Decision. If implementation of BMPs and design criteria would result from local or state regulation, then a summary description of these requirements should be described in the FEIS. Without information regarding how implementation of BMPs and design criteria is ensured, it is not possible to determine the full impacts of the land exchange.

Other Issues

<u>Documentation of the U.S. Fish and Wildlife Service's recommendations will be a valuable addition to the FEIS</u>**.**

The DEIS identifies the Canada lynx, an Endangered Species Act (ESA)-listed threatened species, as likely to be adversely affected by both the land exchange and the connected development project. In addition, DEIS Table 3.9-1, notes that four ESA-listed endangered fishes, i.e., Bonytail chub, Colorado pikeminnow, Humpback chub, and Razorback sucker, were identified as potentially affected by management decisions associated with the proposed action, but were eliminated from detailed evaluation based on the determination that there would be no additional Colorado River depletions beyond previously authorized limits.

We recognize that USFS will discuss its determinations and project impacts with the U.S. Fish and Wildlife Service (USFWS). The USFWS's concurrence with the USFS determinations, as well as the results of consultation and the USFWS's recommendations for design criteria, mitigation, conservation measures and monitoring will be valuable additions to the FEIS in order to fully understand the potential impacts of the project.

The EPA's Rating and Recommendation

Consistent with Section 309 of the CAA, it is the EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project. Based on the procedures the EPA uses to evaluate the adequacy of the information and the potential environmental impacts of the proposed action, the EPA is rating this DEIS as Environmental Concerns – Insufficient Information (EC-2). The "EC" rating indicates that the EPA review has identified environmental impacts that need to be avoided in order to fully protect the environment. The "2" rating indicates that the EPA has identified additional information, data, analyses, or discussion that we recommend for inclusion in the FEIS. A full description of the EPA's rating system is enclosed.

We appreciate the opportunity to review and comment on this DEIS and hope that our comments will assist you in further disclosing and reducing the environmental impacts of this project. If we may provide further explanation of our comments, please contact me at 303-312-6925, or your staff may contact Amy Platt at 303-312-6449.

Sincerely,

Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

Enclosure

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.