
File Code: 1570

15-02-00-0098-219

Date: July 30, 2015

Deb Gardner
Chair, Boulder County Board of Commissioners
1325 Pearl Street
Boulder, CO 80306
commissioners@bouldercounty.org

Dear Ms. Gardner:

The Eldora Mountain Resort (EMR) Ski Area has submitted a request to the Forest Service to implement projects from their 2011 Master Plan. You filed a timely objection to the Draft Record of Decision regarding the implementation of those EMR Ski Area projects, and the associated boundary expansion.

Upon completion of my initial review of the written objections received, I held a meeting on July 17, 2015 in Fort Collins, Colorado. Many of the objectors were present either in person, or by telephone. The meeting did not result in the resolution of any objection; however, objectors helped to clarify my understanding of the issues.

During the meeting I heard several recurring themes regarding the EMR projects and boundary expansion including: 1) an objection to boundary expansion and associated projects; 2) the belief that an Alternative allowing certain projects without a boundary expansion (Infill) was not adequately considered in the analysis; and 3) a concern about access to the Jenny Creek Trail and loss of Nordic skiing opportunities in the same area. Those concerns were heard by me, and by the Arapaho and Roosevelt National Forests and Pawnee National Grassland (ARP) Supervisor.

My role in this objection process is to establish that there has been no violation of law, regulation or policy as it relates to the Draft Record of Decision, the Final Environment Impact Statement, and the project record, and try to resolve objections where possible.

All objections of the EMR Ski Area have been consolidated into one set of issues and one response is being rendered. The issues were sufficiently similar to allow consolidation, per 36 CFR 218.11(b)(1). This letter, and the enclosed document responding to each of the identified issues, is my written response to the objections.

The enclosed response document contains two instructions to the Forest and Grassland Supervisor of the ARP, applicable if the final decision includes an expansion of the special use permit boundary. However, Instruction 1 would only be necessary if the final decision by the Forest Supervisor is to expand the Special Use Permit boundary with a Forest Plan Amendment. If the decision does not include an expansion of the Special Use Permit boundary, only Instruction 2 would apply.



With the transmittal of these instructions, the ARP Supervisor, who has heard your concerns, will consider your comments in the formulation of his Final Record of Decision. The ARP Forest Supervisor must also incorporate these instructions in the Final Record of Decision as applicable in accordance with 36 CFR 218.12(b).

If you have any questions or concerns regarding this response, please contact Nancy Miller, Acting Regional Administrative Review Coordinator, at 303-275-5373 or njmiller@fs.fed.us. This response is not subject to further administrative review by the Forest Service or the Department of Agriculture, pursuant to 36 CFR 218.11(b)(2).

Sincerely,

/s/ Daniel McCusker

DANIEL MCCUSKER
Acting Deputy Regional Forester
Reviewing Officer

Enclosure

cc: Nancy Miller, Karen Roth, Glenn Casamassa, Sylvia Clark

Issue 1: Vegetation - Mountain Pine Beetle mitigation is unsupported and outdated.

Response: Carbaryl spraying and alternative treatments are disclosed in the analysis. (Final Environmental Impact Statement (FEIS), Chapter 2 - Vegetation Management Projects, and Appendix D). The method used has been approximately 95 percent effective in stands surrounding the top of Challenge and Cannonball chairlifts, the patrol headquarters, and the top terminal of Indian Peaks chairlift (FEIS, Chapter 3). The decision to allow Carbaryl spraying at Eldora Mountain Resort (EMR) was authorized in 2007. The action alternatives do not include an increase or expansion of Carbaryl application at EMR over what was originally authorized in 2007. The analysis in the FEIS is based on best available science, as evidenced by the documentation of research, scientific studies, and site-specific monitoring information as documented in the FEIS and in the references section (FEIS, Chapter 5). The Draft Record of Decision (DROD), FEIS, and project record show an adequate consideration of the best available science.

Issue 2: Wastewater Treatment System – The FEIS does not adequately address Health Department review of onsite wastewater treatment systems expansion. There was inadequate consideration of the runoff from snowmaking into Middle Boulder Creek (MBC), and in Eldora, with homes with wells using Onsite Wastewater Treatment Systems. Testing water samples should have been done during National Environmental Policy Act (NEPA) process.

Response: The proposed onsite septic systems are over one mile from Middle Boulder Creek. The analysis states that any effluent that reaches Middle Boulder Creek from the proposed facilities would be immeasurable (FEIS, Chapter 3 –Irreversible and Irrecoverable Commitment of Resources). The proposed septic systems will comply with all State and County regulations. Prior to implementation, a water quality monitoring program will be initiated and developed, including baseline water quality monitoring, and monitoring during construction. The Forest Service has incorporated a water quality monitoring program including baseline water quality monitoring. The water quality monitoring program is listed in Project Design Criteria (PDC), (FEIS, Table 2-3). If stream health and/or water quality issues are identified, mitigation and response measures will be addressed (FEIS, Appendix D). This water quality monitoring will be specific to Middle Boulder Creek. EMR will be required to obtain all applicable state and local storm water permits, including, but not limited to, a general construction permit (FEIS, Appendix D). The FEIS contains the required analysis and documentation in accordance with applicable regulations.

Issue 3: Water – The FEIS fails to adequately address impacts on Middle Boulder Creek, including: avalanche control impacts, construction, and Carbaryl spraying. The effects of trash and debris from ski operations on drinking water for residents downstream was not addressed. FEIS fails to adequately address increased water consumption, water quality from snowmakers, and expanded number of visitors.

Response: Avalanche control impacts are analyzed and disclosed (FEIS, Appendix D). The impacts associated with construction of specific projects, as well as construction practices, are analyzed and disclosed. The discussion includes a comparison of construction activities across the action alternatives (FEIS, Chapter 2, Table 2-5). The effects of Carbaryl spraying have been analyzed and disclosed (FEIS, Section 2, Vegetation Management Projects, and Appendix D). The water quality monitoring program is incorporated as part of the FEIS to address concerns related to downstream water quality, including debris and trash from ski operations on drinking water (FEIS, Table 2-3). If stream health and/or water quality issues are identified through this monitoring program, appropriate mitigation and response measures will be addressed by the Arapaho and Roosevelt National Forests and Pawnee National Grassland (FEIS, Appendix D).

Impacts to watershed and soil resources, including discussions regarding water quality and quantity, are disclosed (FEIS, Chapter 3, Watershed, Wetlands, and Soils). Project design criterion requiring a water quality monitoring program, including baseline water quality data collection, monitoring of water quality during construction, and long-term water quality monitoring, are disclosed (FEIS, Chapter 2, Table 2-3). Impacts from expanded numbers of visitors to EMR are discussed (FEIS, Chapter 3, Recreation, Mountain Operations, and Guest Services), including projections of annual visitor growth rates for the next 10 years (FEIS, Table 3A-4). The FEIS contains adequate analysis and documentation of the issues raised here.

Issue 4: Water - FEIS fails to show how clearings for trails, lifts, and glades on these warm south facing slopes will not severely affect hydrology. Clearcuts will increase sediment loading from steep slopes and roads, and will accelerate snow ablation and water loss.

Response: Watershed impacts are analyzed and documented (FEIS, Chapter 3). Snowmaking is proposed on all new ski trails. Additionally, these areas are relatively protected from the prevailing winds. With the compaction of skiers and groomers, it is expected this area would maintain snow (FEIS, Appendix D).

Issue 5: Water - Making snow on a South facing slope is a waste of water.

Response: Snowmaking is proposed on all new ski trails associated with the action alternatives (FEIS, Chapter 2). The Jolly Jug terrain is the only area where snowmaking is proposed on south facing slopes. This area is relatively protected from prevailing winds; therefore, with the compaction of skiers and groomers, it is expected that it would maintain snow (FEIS, Appendix D). The FEIS and Appendices adequately address the issue of snowmaking in general, as well as on south facing slopes. There is no violation of law, regulation, or policy with respect to this issue.

Issue 6: Water - Expansion into Hessie would create water issues.

Response: PDC and best management practices (BMPs) were designed to minimize and avoid adverse impacts to water quality (FEIS, Chapter 2, Table 2-3). Specific PDC were also developed for individual watersheds, to address particular concerns relating to projects associated with the action alternatives. PDC implementation is expected to maintain consistency with Forest Plan direction for hydrologic resources, and to prevent adverse impacts to the health of Middle Boulder Creek, near the Town of Hessie. There is no expansion into the Hessie townsite. Hessie is technically upstream from the ski area and tributaries that flow from the ski area to Middle Boulder Creek. The FEIS adequately addresses water effects to the Hessie townsite, and there is no violation of law, regulation, or policy regarding this issue.

Issue 7: Watershed Conservation Practices (WCP) - The Action Alternatives would not protect riparian and watershed integrity, soil stability, or water quality, and the FEIS fails to sufficiently analyze wetland avoidance and mitigation. It violates the Watershed Conservation Practices Handbook (WCPH), because these measures are incorporated into the Forest Plan. A violation of the WCPH is also a violation of the Forest Plan.

Response: The WCPH is a region-wide direction, and a documentation of Forest Service policy. The measures contained in the WCPH are not incorporated in the Forest Plan. Table 2-3 contains extensive PDC and BMPs designed to minimize and avoid adverse impacts to water quality. These measures are consistent with the WCPH and Forest Plan standards (FEIS, Chapter 2). The issue of wetland avoidance and mitigation is addressed (FEIS, Chapter 3, Section J). The FEIS adequately addresses the issue of compliance with the WCPH, and there is no violation of law, regulation, or policy regarding this issue.

Issue 8: Wetlands - The Council on Environmental Quality (CEQ) regulations require that the draft EIS list federal permits which must be obtained or indicate if there is uncertainty as to whether a permit must be obtained. Failure to resolve this implies that the Forest Service would prefer to not take a hard look at impacts to wetlands as they relate to Clean Water Act (CWA) policies and regulations.

Response: The FEIS includes an analysis of wetland effects, and includes measures for avoidance and minimization of disturbance from project related activities (FEIS, Chapter 1 – Purpose and Need, and Chapter 3). The analysis includes PDC that states a CWA Section 404 permit would be required by the US Army Corps of Engineers (USACE) prior to disturbance of any waters of the U.S., including wetlands (FEIS, Table 2-3). The FEIS discloses potential impacts to these resources resulting from all proposed projects listed in the action alternatives (FEIS, Chapter 3). The wetlands delineation report, a substantial list of wetlands focused PDC, and the requirement of a Section 404 permit

from USACE prior to any disturbance are all measures of the NEPA “hard look” analysis for wetlands in the project area. These disclosures and analyses are in accordance with both the CWA Section 404 and NEPA “hard look” requirements.

Issue 9: Wetlands - Executive Orders 11988 and 11990 direct federal agencies to evaluate the effects of proposed actions on floodplains and wetlands, and to avoid taking action affecting such areas unless there are no practicable alternatives. It is not acceptable under NEPA to defer these important considerations to decisions which will be made in subsequent proceedings by the Army Corps of Engineers or other federal agencies.

Response: Wetland effects are analyzed, and measures for avoidance and minimization of disturbance from project related activities are disclosed and analyzed (FEIS, Chapter 2, Table 2-3 and Chapter 3). A CWA Section 404 permit would be required by the USACE prior to disturbance of any waters of the U.S., including wetlands. PDC and BMP’s have been identified to reduce adverse impacts to watershed, wetlands, and soil resources (FEIS, Appendix D). The FEIS provides sufficient analysis.

Issue 10: Wilderness - The project expands into wilderness habitat, but adds so little actual quality skiing; it would destroy and alter such a beautiful, pristine, quiet, peaceful, well-loved section of the gateway to Indian Peaks Wilderness.

Response: The boundary of the Indian Peaks Wilderness, where the characteristics of remoteness, primitiveness, and solitude are expressly protected through Forest Service management, is approximately 1.3 miles from the proposed projects at its closest point (FEIS, Appendix D). Due to this separation, there would be no direct impact to the designated Wilderness area (FEIS, Chapter 6, Figures 3 and 5). None of the action alternatives analyzed propose activities in designated Wilderness Areas and are not subject to the restrictions established in the Wilderness Act of 1964 Section 4(b).

Issue 11: Wildlife - The FEIS does not analyze cumulative impacts to elk, deer, and other wildlife from the combined impacts of potentially losing the migration corridor; 64.8 acres of elk and deer habitat under Alternative 2, and that Alternative 3, would result in a loss of approximately 58.9 acres of potential elk and mule deer habitat.

Response: The Biological Analysis/Biological Evaluation (BA/BE) Management Indicator Species (MIS) Report adequately addresses direct, indirect, and cumulative effects to wildlife. The potential for loss of habitat that could occur under the action alternatives is disclosed (BA/BE and FEIS, Chapter 3, Section H). The FEIS provides sufficient analysis.

Issue 12: Wildlife - FEIS has not used best available science and information for wildlife, in particular Rocky Mountain capshell snail, northern goshawk, pygmy shrew, several bat species, American marten, as well as cumulative impacts.

Response: Wildlife surveys (2009-2012) were conducted by a biologist. Project effects to species, including changes in habitat, were disclosed and analyzed. The FEIS and technical reports used the best available science and information, and analyzed impacts to species (BA/BE and FEIS, Chapter 3, Section H). The FEIS provides sufficient analysis.

Issue 13: Wildlife - Proposal removes a wildlife corridor for key species. Expanding into a wildlife corridor would impact animals by noise, dust, and people. The Placer lift could inhibit use of wildlife corridor. The Placer lift and bridge will further restrict movement of elk.

Response: Effects, including the potential for habitat loss, were disclosed and analyzed (FEIS, Chapter 3, and Section H). PDC are expected to reduce or eliminate some potential adverse effects (FEIS, Chapter 2, and Table 2-3). These analyses adequately address impacts to wildlife and specifically discuss the impacts to elk movement.

Issue 14: Wildlife - Migration corridors and calving areas are of far greater importance to elk than potential range. The FEIS statement that the proposed expansion area represents a small portion of overall range for moose is not accurate in relation to primary movement corridors.

Response: The analysis uses the best available science for elk and considers migration, corridors, and calving. No evidence of elk calving on the project area was detected during any June survey; however, it is possible that a low level of calving could occur (FEIS, Chapter 3). The best potential elk calving habitat within the project area occurs in two areas: the shallow gradient terrain near the Corona chairlift, and the Jenny Creek area. The shallow gradient terrain around the base of the Corona chairlift is isolated from human activity, and provides good nearby forage and water. Similar characteristics occur in the Jenny Creek area, including up and into the proposed Jolly Jug pod. The terrain below the base of the Corona and Indian Peaks base terminals is too steep and snow-covered to provide suitable calving habitat. The terrace along Middle Boulder Creek is too close to the heavy traffic, dogs, and human disturbances associated with the Fourth of July Trailhead (FEIS, Chapter 3). Wording from the BE-MIS document also supports this analysis: "Primary moose habitat (lakes, marshes, and phreatophytic shrub lands, including willows) would not be directly affected by Alternatives 2 or 3. The Forest Service has addressed this concern using the best available science, and therefore satisfies its obligation under the NEPA.

Issue 15: Wildlife - Alternative 2 warrants a 'may affect/likely to adversely affect' determination for Canada Lynx, because there are habitat components within EMR and inside the proposed expansion that can provide quality habitat. It is important to minimize snow compaction.

Response: The analysis adequately addresses impacts to lynx, and discusses snow compaction (FEIS, Chapter 3, Section H – Fish and Wildlife). The FEIS BA determination indicates both alternatives 2 and 3 warrant 'may affect, likely to adversely

affect' determination for the lynx. The project contains PDC that seek to minimize adverse effects (FEIS, Table 2-3). The PDC for wildlife proposes methods to retain Coarse Woody Debris (CWD). Snow compaction effects to wildlife were analyzed with each action alternative. There is no violation of law, regulation or policy with respect to this issue.

Issue 16: Wildlife - Not sufficient details on mitigation

Response: PDCs intended to minimize any adverse impacts to wildlife resulting from the EMR project are disclosed (FEIS, Table 2-3). The Forest Service is consulting with the United States Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act.

Issue 16a: Wildlife - The EIS violates NEPA by failing to take a hard look at wildlife and habitat impacts of the project.

Response: The analysis considers impacts to wildlife in all Alternatives (FEIS, Chapter 2). The analysis includes PDC to minimize analyzed effects (FEIS, Table 2-3). The BA and BE/MIS Reports fully address impacts and habitat. Table 2-3 and the resulting conclusions are adequate analyses and disclosure.

Issue 16b: Wildlife - The Ski Resort's expansion plans are contrary to the preservation and future of Hesse and Indian Peaks; this would also include protection of all wildlife.

Response: The FEIS adequately discloses and analyzes effects to the Hesse and Indian Peaks Wilderness, and in the PDC, criterion are listed that would minimize effects (FEIS Chapter 2 and Table 2-3).

Issue 17: Aquatics - Activity on the south side of Middle Boulder Creek will cause increased runoff, which could have negative impact on riparian corridor, aquatic insect habitat, trout spawning habitat, and larval fish cover.

Response: The FEIS adequately discloses effects to fish and wildlife habitat (FEIS Chapter 3, Section H). The BE thoroughly analyzes effects. PDC to minimize potential impacts to fish is disclosed (FEIS, Table 2-3).

Issue 18: Aquatics - Objector asks for a justification of the statement in the project introduction that states, "A more thorough evaluation and interpretation of the fish and macro invertebrate results was not within this scope of work."

Response: Sufficient analysis of fish and macro invertebrates was conducted to disclose the impacts as a result of this project (FEIS, Chapter 3, Section H). USFWS acknowledges that action alternatives could result in sedimentation that could adversely

affect fish (trout spawning) and macro invertebrates before re-vegetation treatments become effective (FEIS, Chapter 3, MIS).

Issue 19: Master Plan - The EIS is incorrect in assuming reference to the boundaries of Eldora Master Development Plan (MDP) in the 1997 Forest Plan can be applied to the 2011 MDP.

Response: Consistency with the goal/desired condition described in the Forest Plan, and whether the 1994 or 2011 MDP controls this goal/desired condition statement, is not relevant for a Forest Plan consistency determination. Even if the 1994 MDP controls the goal/desired condition statement, the Forest has provided sufficient rationale for why the proposal expands beyond the 1994 MDP, which is all that is needed to deviate from a Forest Plan desired condition statement (FEIS, Chapter 1). This project has always contemplated expansion beyond the 1994 MDP boundary, and notice was properly given that a Forest Plan amendment would be necessary to do so. The Responsible Official simply did not conclude that the desired condition statement needed to be part of that amendment.

Rather than rely on the ambiguity of the desired condition statement, I prefer to amend the plan to eliminate the ambiguity. The Responsible Official must also determine whether the changed scope of the amendment changes the determination that this is a non-significant amendment.

The following sentences from the goal/desired condition statement are confusing and do not necessarily sound like a desired condition statement.

“Further improvements of the base facilities, infrastructure, and ski runs within the current boundary are expected. There will be no expansion of the area outside the boundaries currently specified in the Master Development Plan.”

It is understandable that multiple interpretations of this statement have arisen. Therefore, I instruct the Forest to expand the scope of the forest plan amendment to remove these two sentences from the plan unless the decision does not include the Forest Plan Amendment to change the boundaries. In that event, this instruction would not be required.

Issue 20: Access - It does not appear the Forest Service has a right of way for trail #808.

Response: The Forest Service does not have a right-of-way for the portion of trail #808 that travels through private property. However, the Arapaho and Roosevelt National Forests and Pawnee National Grassland will pursue an easement for the current location of Jenny Creek Trail on private land owned by EMR (DROD, Appendix A and Chapter 2, Table 2-3). The acquisition of a right-of-way for this trail is a desired condition of the Arapaho and Roosevelt National Forests and Pawnee National Grassland as identified in

the Forest Plan, and would facilitate access to National Forest System lands, including the Indian Peaks Wilderness. Successful pursuit of an easement or right-of-way would require private landowner's cooperation, since the eastern end of the winter trail crosses private parcels. There is no violation of law, regulation, or policy with respect to this issue.

Issue 21: Access - The EIS does not address access to the Jenny Creek trail year round, and the proposal would limit access. The reduced access would create additional safety concerns for those accessing the Arestua Hut and Rollins Pass due to the avalanche terrain.

Response: The designated route for users of the Jenny Creek Trail would provide a safe path to traverse EMR. A PDC is incorporated into the project for the forest to pursue an easement for the current location of Jenny Creek Trail on private land owned by EMR (FEIS, Table 2-3). The impacts the selected alternative will have on the Jenny Creek trail are disclosed (FEIS, Chapter 3). EMR is required to manage the interface between resort skiers and backcountry skiers at the junction between the Jenny Creek Trail, EMR ski trails, and tree and gladed skiing areas. EMR is required to facilitate the passage of users of the Jenny Creek Trail through extensive signage, and potentially by use of an uphill lane where necessary. The acquisition of a right-of-way for this trail is a desired condition of the Arapaho and Roosevelt National Forests and Pawnee National Grassland, as identified in the Forest Plan, and would facilitate access to National Forest System lands, including the Indian Peaks Wilderness. The assessment of avalanche safety hazards for those accessing the Arestua Hut via Rollins Pass is outside the scope of this analysis. The FEIS analyzed this issue in sufficient detail.

Issue 22: Backcountry Recreation - The Placer Lift expansion will degrade the backcountry experience both summer and winter.

Response: The analysis disclosed that there could be impacts to dispersed recreation proximate to the Placer chairlift. The analysis discloses that scenic and noise impacts resulting from the construction and operation of proposed back-side infrastructure could impact the recreational experience for users in the Hessie/Fourth of July Road area (FEIS, Chapter 3 and Appendix D). Impacts to dispersed recreation have been adequately disclosed and analyzed.

Issue 23: Biased Analysis - The EIS is biased because it justifies the expansions while minimizing the impacts and money making is the primary decision factor.

Response: The effects of the alternatives have been disclosed as required under the NEPA. The FEIS presents the effects of implementing the alternatives analyzed.

Issue 24: Bridge - The proposed bridge will adversely impact the ecosystem, riparian areas, recreational opportunities (fishing), and fugitive dust.

Response: The FEIS discusses the effects of project disturbance to Middle Boulder Creek and the specific impacts on trout (FEIS, Chapter 3, Section H). The BA/BE disclose effects to wildlife, fish, and those of the construction practices (BA/BE Section 2.2.8). The analysis provided in the FEIS discloses the level of impact the bridge construction will create. Alternatives 2 and 3 are consistent with the Executive Orders 12962 and 13474 (Orders prohibiting actions significantly affecting recreational fishery).

Issue 25: Bridge - The EIS does not adequately address the effects of the bridge on the Hessie town site, the Town of Eldora, ambulance access, or maximum daily trips across MBC.

Response: The bridge across MBC is for EMR employees, construction work, and administrative use (FEIS, Section 3). The bridge is not intended to provide additional access to the Hessie town site. The analysis provided in the FEIS addresses the impacts of the intended uses for the bridge, and satisfies NEPA.

Issue 26: Bridge - The FEIS does not justify the need for the bridge or associated use of CR 130.

Issue 27: Bridge - The bridge may become an access point and the PDC do not adequately address unauthorized use, including trail use heading to the West. The term adaptive management for the PDC is not defined.

Response to Issues 26 and 27: The Purpose and Need states the rationale for the bridge across MBC (FEIS, Chapter 1, Scenery Resources and Issues Dismissed). A PDC prevents the public from using the bridge (FEIS, Chapter 2, and Table 2-3). The FEIS discloses the efforts to prevent unauthorized use.

Issue 28: Conflict of Interest - The consultant used lacks objectivity because they wrote the 2011 Master Plan.

Response: The selection of a project consultant is done at the discretion of the Forest Service and is based on qualifications and experience. Once selected, the consultant serves under the direct supervision and control of the Forest Service. The consultant's work product is considered a Forest Service work product because it is prepared under Forest Service supervision, and it is intended to meet legal requirements that apply to the Forest Service. The resulting analysis and project decision are supervised and controlled by the Forest Service. A Memorandum of Understanding (MOU) articulates the roles of the Forest Service, the project applicant, as well as the conditions and requirements of the contractor (FEIS, Chapter 4, Consultant Team). The consultant met the criteria outlined above and does not create a conflict of interest.

Issue 29: Connected Actions - The Four O'clock lift should be a connected action if it must be used to get to the Placer lift.

Response: The Four O'clock chairlift is not a connected action in this analysis because it is independent in utility (FEIS, Chapter 1). This chairlift was included in the 2011 Master Development Plan. Because this project is able to be constructed and operated independently, the Four O'clock chairlift is not considered a connected action.

Issue 30: Cooperation - 16 United States Code (USC) 1600(2) requires the Forest Service to recognize that most or all other agency comments oppose most of the proposed expansion elements of the DROD.

Response: The Arapaho and Roosevelt National Forests and Pawnee National Grassland disclosed all agency comment letters (FEIS, Appendix C), and responded to those comments (FEIS, Appendix D). No further action is required.

Issue 31: Cooperation - Case law and 16 USC 1604(a) and 43 USC 1712(c)(9) require the Forest Service to take account of local zoning and land use plans, specifically the Eldora Environmental Preservation Plan, and Boulder County Comprehensive Plan.

Response: The Forest Service considered the local planning documents, both during Forest Planning, and during this EIS process (FEIS, Chapter 1). These plans were referenced and incorporated to the extent practical, particularly through the development of PDC and Alternative 3. The Forest Service engaged the local governments to gather input and inform the local governments of the project and its impacts (FEIS, Appendix D). The analysis contained within the FEIS demonstrates that local zoning and land use plans were considered.

Issue 32: Cooperation - The EIS violated NEPA by failing to take a hard look at the lack of consistency with local government plans and policies.

Response: The Forest Service considered guidance included in local government plans and policies throughout the development of the EIS, and incorporated this guidance to the extent reasonable and practical, particularly through the development of PDC, and Alternative 3 (DEIS, Chapter 1, and FEIS, Chapter 1). Forest Plan guidance will prevail on National Forest System lands if there is a conflict between the Forest Plan and local governmental plans. This process is disclosed in the analysis (FEIS, Appendix D). The Responsible Official took a hard look at consistency with local government plans and policies.

Issue 33: Economics - Objector challenges the economic assumptions that the expansion will be a financial success in the context of the local economic benefit/community, and for EMR.

Response: The assumptions and processes are documented in the economic impact analysis, and support the conclusions made in the analysis (FEIS, Chapter 3, Section E – Social and Economic Resources). The FEIS discloses the impact of proposed projects on

a variety of economic indicators (Doug Kennedy Advisors 2013, Economic Impact Assessment for EMR Alternatives).

The variables in the model are the assumptions. The assumptions for this analysis are based on a memo to the SE Group from Dave Belin of RRC Associates (RRC Associates. 2013. EMR Market Analysis Memorandum, June, 2013).

The economic assumptions are adequately disclosed and supported in the analysis.

Issue 34: Economics - The economic impact assessment is not supported by the Pete Morton expert opinion (Objector's Exhibit 12), which constitutes a scientific controversy.

Response: The letter from Pete Morton attached to this objection as an exhibit is considered to be a comment without standing. The economic impacts of the project are adequately disclosed and analyzed (FEIS, Chapter 3 Section E – Social and Economic Resources and Appendix D and response to Issue 33).

Issue 35: Economics - EIS violated NEPA by failing to take a hard look at the socioeconomic impacts of the project.

Response: The economic impacts of the project are adequately disclosed and analyzed (FEIS, Chapter 3 Section E – Social and Economic Resources and Appendix D and response to Issue 33).

Issue 36: Food Operations and Licensing - FEIS does not adequately address Health Department review and licensing of retail food establishments.

Response: EMR would be required to obtain all necessary permits prior to construction. (FEIS, Appendix D). The Forest Service requires EMR to follow all applicable county, state, and municipal laws. This requirement is mandated in the Terms and Conditions of EMR's Ski Area Permit. The Forest Service assumes no responsibility for enforcing laws, regulations, and ordinances that are under the jurisdiction of other government bodies (Ski Area Term Special Use Permit (SUP), Terms and Conditions).

Issue 37: Forest Plan - The proposal violates the Forest Plan by not complying with habitat guidelines 107, 108, 120. Noncompliance with these guidelines prevents the Forest Service from achieving the Forest Plan's stated goals, which is the underlying purpose of guidelines.

Response: Under the National Forest Management Act (NFMA), guidelines serve the same purpose as standards, but they differ in that they provide flexibility in defining Forest Plan consistency, while standards are absolute constraints. Forest Supervisors have the authority to deviate from Forest Plan guidelines, so long as the deviations are documented during the analysis process, and the rationale for the deviations is documented in a decision document. The effects of deviating from Guidelines 107, 108,

and 120 are disclosed and analyzed (FEIS, Chapter 3 and Appendix D-Response to Comments).

Issue 38: Forest Plan - The proposal may violate the Forest Plan and an agreement with the county by increasing the capacity of the ski area. The agreement with Boulder County limits daily lift ticket sales to 5,000. The Comfortable Carrying Capacity (CCC) under alternative 2 would increase to 5580 people per day. However, the 5000 people per day limit in the agreement with the county are a regulatory cap on daily use.

Response: The project is consistent with the Forest Plan because it does not increase the maximum daily capacity. The increase in CCC is not the same as an increase in maximum daily capacity. Rather, CCC is a planning parameter used to determine the optimum level of daily utilization for a resort—one that facilitates a pleasant recreational experience without overburdening the resort's infrastructure. It is a planning figure only, and does not represent a regulatory cap on visitation. EMR is still bound by their agreement with Boulder County regarding maximum daily capacity, and no increase in maximum daily capacity would occur (FEIS Appendix D-Response to Comments).

Issue 39: Forest Plan - The proposal violates the Forest Plan; goal 95 is not met because the integrity of effective habitats is not retained.

Response: This is a new comment that has not been previously submitted. This issue was not identified in previous timely comments, and is not based on new information. Issues raised in objections must be based on previously submitted, specific written comments regarding the proposed project or activity, and attributed to the objector; unless, the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Issue 40: Forest Plan - The proposal violates the Forest Plan Standard 97 which requires that structures be designed and built so that they do not create unreasonable or unnecessary barriers or hazards for wildlife.

Response: This is a new comment that has not been previously submitted. This issue was not identified in previous timely comments, and is not based on new information. Issues raised in objections must be based on previously submitted, specific written comments regarding the proposed project or activity, and attributed to the objector; unless, the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Issue 41: Forest Plan - The agency violated NEPA's public involvement requirements and agency direction by amending the plan to invalidate Forest Plan Standard 99 in the FEIS and ROD. The DEIS did not propose to amend or alter Standard 99. This decision appeared for the first time in the DROD and FEIS, after the last opportunity for public comment.

Response: The Arapaho and Roosevelt National Forests and Pawnee National Grassland discussed Forest Plan amendments associated with the Eldora Ski Area Expansion proposal in the July 6, 2012 Notice of Intent; the June 28 and July 13, 2012 scoping documents; and in the Draft EIS. Although the amendment to remove the applicability of Standard 99 to approximately 200 feet of Middle Boulder Creek area was not identified in the aforementioned documents, the effects of this amendment have been disclosed (FEIS Chapter 3, Section H and Appendix B, and Proposed Forest Plan Amendments). This project contemplated the boundary expansion and notice was properly given that a Forest Plan amendment would be necessary to do so. The Responsible Official did not initially conclude that Standard 99 needed to be part of that amendment. There is no violation of law, regulation, or policy with respect to this issue.

Issue 42: Forest Plan - Removing the applicability of Standard 99 is not justified in riparian areas, because cover that provides wildlife travel corridors should be maintained along the entire length of riparian zones on at least one side of the drainage.

Response: The Forest Supervisor may amend the Forest Plan based on an analysis of the objectives, guidelines, and other contents of the Forest Plan. The Forest Supervisor shall determine whether a proposed amendment would result in a significant change in the plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures. The Arapaho and Roosevelt National Forests and Pawnee National Grassland discussed Forest Plan amendments associated with the Eldora Ski Area Expansion proposal in the July 6, 2012 Notice of Intent; the June 28 and July 13, 2012 scoping documents; and in the DEIS. Although the Responsible Official did not initially conclude that Standard 99 needed to be part of that amendment, this project always contemplated the boundary expansion, and notice was properly given that a Forest Plan amendment would be necessary to do so. The Responsible Official has the authority to amend the Arapaho and Roosevelt National Forests and Pawnee National Grassland Forest Plan to remove the applicability of Standard 99 to approximately 200 feet of Middle Boulder Creek. The effects of this action have been analyzed and documented in the project record. There is no violation of law, regulation, or policy with respect to this issue.

Issue 43: Forest Plan - Removing the applicability of Standard 99 is not sufficient for a NFMA of 1976 finding of non-significance; because “the area north of the stream is already compromised by a road” is not justification for further impacting the south side of the creek. There is poor reasoning and insufficient analysis to come to the conclusion of NMFA non-significance.

Response: 36 CFR 219.10(f) affords Forest Supervisors the ability to amend Forest Plans, following appropriate public notification and satisfactory completion of NEPA procedures. The Arapaho and Roosevelt National Forests and Pawnee National Grassland analyzed and documented the effects of removing the applicability of Standard 99 along 200 feet of MBC (FEIS, Chapter 3 and Appendix B). The factors considered in making the NFMA determination of non-significance include: 1) timing of the action; 2) location and size of the action; 3) how the action would affect Forest Plan goals, outputs, and objectives; and 4) whether the action would apply only to a specific situation or to future situations across the planning area. When considering these factors collectively, the Arapaho and Roosevelt National Forests and Pawnee National Grassland determined that the effects of removing the applicability of Standard 99 along the small stretch of MBC was spatially negligible in the context of the Arapaho and Roosevelt National Forests and Pawnee National Grassland planning (Appendix B). The finding of non-significance is appropriate in this circumstance.

Issue 44: Old Growth - There is one statement that old growth is not present at EMR; but, Table 2-5 states that there will be impacts to old growth.

Response: Table 2-5 states that there is no old growth within the study area (FEIS, Chapter 2). Table 2-5 also refers the reader to the discussion on old growth (FEIS, Chapter 3, and Section G and H). The subject of old growth has been adequately disclosed and analyzed.

Issue 45: Range of Alternatives - The DEIS and FEIS failed to consider an adequate range of alternatives.

Response: The project record demonstrates that the Responsible Official analyzed a reasonable range of alternatives, as required by NEPA. The FEIS describes the purpose and need for the modifications that were made to the proposed action, based on scoping comments and field verification, and the issues analyzed and dismissed during the analysis process (FEIS, Chapter 1). There is further discussion of the process used to develop alternatives for the EMR Ski Area project (FEIS, Chapter 2). Each action alternative described in the FEIS includes a description of the issues addressed by that particular alternative, and contains a description of, and rationale for, several alternatives that were considered but eliminated from detailed study (FEIS, Chapter 2). The record supports that a reasonable range of alternatives was considered, as required by NEPA.

Issue 46: Parking - FEIS does not adequately address the potential for illegal parking due to the 20% reduction in parking spaces along Hessie Road.

Response: The loss of approximately eight car lengths of parking is disclosed in the analysis (FEIS, Chapter 3, and Dispersed Trailhead Parking). That loss of parking space

was not determined to be substantial. This determination, coupled with the overall analysis of the parking impacts for this project, meets the requirements of NEPA.

Issue 47: Parking - The FEIS did not explore the potential of using 180 parking spaces at the Nederland High School.

Response: A PDC was developed in response to comments. That PDC encourages EMR to use the parking lots at Nederland High School for guests and employees to the greatest extent possible (FEIS, Chapter 2, Table 2-3, and Appendix D- Response to Comments). However, because the proposed parking lot expansion is located on private land, the Forest Service does not have direct jurisdiction over this project. There is no violation of law, regulation, or policy with respect to this issue.

Issue 48: PDC - How will PDCs be managed or enforced given that they are conditioned on language such as “to the extent possible.” This violates NEPA’s mandate that federal agencies avoid and minimize adverse impacts to the environment.

Response: PDC are required to be implemented as part of the alternatives. The potential alternative effects were analyzed with PDC applied (FEIS, Chapter 2, Section C). Responsibility for ensuring that required PDC are implemented rests with EMR and the Forest Service. The enforcement mechanism for implementation of the specified PDC would be the terms and conditions of the SUP, and would extend to the Forest Service SUP Administrator, the District Ranger, and the Forest Supervisor.

When a PDC is necessary to comply with law, regulation, or policy, it is written as an absolute. In other cases where a PDC is designed to lessen environmental impacts, within the frame of law, regulation or policy, it is presented as an advised course of action.

The analysis and DROD adequately disclose how the project, including PDC, will be managed and enforced. The likelihood of implementation is disclosed because PDC are part of the design of the alternatives.

Issue 49: PDC - The FEIS shows the implementation of several applicable PDC is not required. If the agency relies on these PDC to minimize impacts, they must be mandatory.

Response: When a PDC is necessary to comply with law, regulation, or policy it is written as an absolute. In other cases where a PDC is designed to lessen environmental impacts, within the frame of law, regulation, or policy, it is presented as an advised course of action.

The analysis and DROD adequately disclose how the project, including PDC, will be managed and enforced. The likelihood of implementation is disclosed because PDC are part of the design of the alternatives (FEIS, Chapter 2, Section C).

Issue 50: Public - The Forest Service ignored significant concerns regarding backcountry use, sensitive environmental resources, threats to wildlife habitat, permit boundary adjustment near MBC, and user safety from stakeholders and the public, ignoring its duty to the public and other governmental bodies to rigorously consider alternatives.

Response: The Responsible Official is required to consider and respond to all substantive written and oral comments submitted in compliance with operative regulations (36 CFR 215). The Arapaho and Roosevelt National Forests and Pawnee National Grassland disclosed all agency comment letters (FEIS, Appendix C), and responded to those comments, as well as comments from the public (FEIS, Appendix D). The response to comments is sufficient to meet requirements. There is no violation of law, regulation, or policy with respect to this issue.

Issue 51: Public - The Forest Service must listen to Elders, native people, and Earth People.

Response: Elders, native people, and Earth People were given opportunity to comment. Invitation to comment was provided in accordance with 36 CFR 215.5 (FEIS, Executive Summary). Tribal governments were contacted (FEIS, Chapter 4). Responsible officials are only required to consider written comments. The Responsible Official complied with the regulations regarding public involvement. There is no violation of law, regulation, or policy with respect to this issue.

Issue 52: Public - The project seems to be under the radar because there were never any news stories or public announcements.

Response: The Forest Service is required to mail notices about the proposed action to individuals or organizations that have requested it, and to those who have participated in project planning. Such notices were mailed June 28, 2012 and July 13, 2012 (FEIS, Executive Summary, Chapter 4). 36 CFR 215.5 also requires that the Forest Service publish a Notice of Availability in the Federal Register. Notices of Intent were published in the Federal Register July 6, 2012 and July 20, 2012. A Notice of Availability for the DEIS was published in the Federal Register February 28, 2014 (FEIS, Executive Summary). Additional information and opportunity to comment was available at four public meetings and on the website www.eldoraeis.com. There are no further requirements to publish news stories or public announcements.

Issue 53: Public - Comments were not addressed.

Response: 36 CFR 215.6(b) requires that the Responsible Official considers all substantive written and oral comments submitted in compliance with 36 CFR 215.6(a), and that all such written comments be placed in the project file to become public record. 40 CFR 1503.4 requires that substantive comments regarding an EIS be responded to by modification of alternatives, development and evaluation of new alternatives,

supplemental analyses, factual corrections, or explanation of why the comments do not require further response. Substantive comments about the DEIS should be attached to the FEIS, regardless of individual discussion by the Forest Service. The Forest Service has fulfilled 36 CFR 215.6 and 40 CFR 1503.4 by inclusion of comments and responses in the FEIS (FEIS, Appendix D – Response to Comments). The process for the consideration given the comments is disclosed (FEIS, Executive Summary). Concerns submitted by the public during public comment periods have been reviewed and answered (FEIS, Appendix D – Response to Comments). The Arapaho and Roosevelt National Forests and Pawnee National Grassland disclosed all agency comment letters (FEIS Appendix C), and responded to those comments (FEIS, Appendix D). The response to comments is sufficient to meet the requirements. Nothing further is required.

Issue 54: Public - Current ski area owners and the USDA are making key decisions ignoring public input because I noticed that the Forest Service website now states that the current access trail can only be used when the ski area is open. The Forest Service published this data without any public input.

Response: The Forest Service fulfilled requirements for inviting public comments set forth by 40 CFR 1503.1 and 36 CFR 218.24 (FEIS, Executive Summary and Chapter 4). The Forest Service fulfills requirements for consideration of public input as indicated by 40 CFR 1503.4 and 36 CFR 215.6(b) (FEIS, Executive Summary and Appendix D – Response to Comments).

Issue 55: Public - The Arapaho and Roosevelt National Forests and Pawnee National Grassland Evaluation of the EMR and Proposed Projects exposes an end-run around NEPA's public involvement requirements leading up to the DROD. This document raises serious issues as to the objectivity and independence of the process because the deciding officer authorized an expansion even more aggressive than those considered in the action alternatives is in the public interest

Response: The alternative identified in the DROD is a combination of the two action alternatives analyzed. The DEIS and the FEIS discuss the decision to be made (FEIS, Chapter 1, DEIS Chapter 1). It was disclosed that the Forest Supervisor might select components of an action alternative, or develop an entirely new alternative created from components of each action alternative. In the DROD, the Responsible Official has chosen elements of expansion contained within both the action alternatives. The DROD includes rationale for the decision from the decision maker.

Issue 56: Purpose and Need - The Forest Service did not adhere to the forest planning section of NFMA which requires additional assurances and coordination for multiple uses.

Response: The Arapaho and Roosevelt National Forests and Pawnee National Grassland Forest Plan provides for multiple uses and sustained yields as required under the National

Forest Management Act (NFMA). The Forest Plan was created using an interdisciplinary team to assure coordination between various resources including outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness. This resulted in a Forest Plan with multiple-use management goals and objections; management requirements for various resources including outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and management area and geographic area direction with varying management emphases to ensure multiple-use management. The Forest Plan amendments that are part of the EMR Ski Area Project are non-significant amendments that apply to only an extremely small portion of the Forest and do not change the conclusions related to multiple uses reached in the Forest Plan (FEIS, Appendix B).

In addition, the interdisciplinary team for the EMR Ski Area Project was established, in part, to provide a coordinated multiple use perspective. This team included specialists from a variety of disciplines, including an archaeologist, biologist, botanist, forester, engineer, landscape architect, soil scientist, recreation specialist, lands specialist, and others. Chapter 3 in the FEIS documents this analysis.

The Forest Service did not violate the requirements of NFMA related to additional assurances and coordination for multiple-uses.

Issue 57: Purpose and Need - FEIS fails to explain or describe what "more natural terrain" is. It is not 8.22 Ski Resort Designated lands.

Response: There is a description of terrain in the Purpose and Need section (FEIS, Chapter 1). Discussion of terrain distinguishes gladed terrain from other types of terrain. Although a clear definition of the term "more natural terrain" would have been helpful, the lack of a definition does not invalidate the Purpose and Need. In addition, nothing in the description of desired conditions for 8.22 – Ski-based Resorts conflicts with the inclusion of more natural terrain within EMR. The FEIS provides an adequate description of terrain.

Issue 58: Purpose and Need - The Forest Service did not meet the purpose and need of improving the quality of the skier experience because P-5 and P-6 are very short runs and Section 2-41 states "very short runs would not provide a quality ski experience."

Response: Ski trails P-5 and P-6 are designations applied to individual sections of much longer trails. Those trails are not necessarily individual, stand-alone trails (FEIS, Figure 2). These sections were designated separately because they appear only in Alternative 2. Designating these sections separately from the longer trail also helps to show which lift would most logically service each section of the longer run. P-5 is a continuation of C-3 and C-1. These three sections together make a much longer run. Similarly, P-6 is a continuation of C-4 and C-2, which together make a much longer run (FEIS, Figure 2).

Including P-5 and P-6 makes the final run even longer, meeting the purpose and need of improving the guest experience.

The inclusion of ski trails P-5 and P-6 appropriately satisfies the purpose and need to improve the quality of the alpine skier experience (FEIS, Chapter 1).

Issue 59: Recreation - Degradation of summer recreational experience

Response: The analysis at issue did not consider additional summer recreation at EMR. Some cumulative effects projects could lead to temporary increases in dispersed recreation users in the Hessie/Fourth of July Road area, and general increasing interest in outdoor recreation could lead to additional summer recreation in the study area. The recreation analysis acknowledges that impacts to the Jenny Creek Trail could drive users to other trails in the area which could increase the usage of those trails, thereby diminishing the experience for other users of the trail (FEIS, Chapter 3, Appendix D).

Small summer events are occasionally held at EMR. Summer events are limited in size, type, and time of year by the Boulder County permit conditions. The permit also includes restrictions for noise, use of specific trails, leashed pets, visitor numbers in certain zones at EMR, and wetland protection measures (FEIS, Chapter 3).

These summer events provide structured activities for guests at EMR. These activities are included as part of the existing condition at EMR, and the 2011 Master Plan does not include any additional future summer activities. The existing activities have been incorporated into the environmental baseline from a resource standpoint. Due to the nature of these events and activities, the environmental impacts are negligible.

The project impacts to the summer recreational experience have been adequately disclosed and analyzed.

Issue 60: Relocation of the Jenny Creek Trail has significant impacts on user experience and the environment, which was not analyzed.

Response: The relocation of a motorized segment of Jenny Creek Trail was authorized under a separate 2013 Decision. The relocation was analyzed as part of the EMR Ski Area Project as a Past, Present, and Reasonably Foreseeable Future Action (FEIS, Appendix A-Cumulative Effects). Any other actions to relocate Jenny Creek Trail as part of the EMR Ski Area Project were considered but eliminated from detailed analysis (FEIS, Chapter 2). There are no further actions to relocate Jenny Creek trail, making further analysis unnecessary.

Issue 61: Riparian - The project would not maintain the Middle Boulder Creek riparian area as required by Forest Service Handbook (FSH) 2509.25, section 12.1 (Management Measure 2),

design criterion 1b; Goal 6, Forest Plan at 13; Guideline 103, id., at 30; Goal 93, id at 30; and Standard 99.

Issue 62: Riparian - The plan will cause riparian destruction.

Response to Issue 61 and 62: Following public scoping for the Proposed Action the forest identified potential impacts to riparian areas as an issue to be analyzed (FEIS, Chapter 1). A PDC was included specific to riparian areas and wetlands (FEIS, Chapter 2, and Table 2-3). Where impacts are necessary, PDC require impacted riparian areas to be restored upon completion of construction activities. PDC also require a Clean Water Act (CWA), Section 404 permit from the U.S. Army Corps of Engineers (USACE) prior to disturbance of any waters of the U.S. This permit would require the preparation and approval of a mitigation plan for the impacted stream channel and wetlands. A PDC for watershed and aquatic resources designed to limit soil erosion and sediment transport, which will also minimize impacts to riparian areas, has been included (FEIS, Chapter 2, Table 2-3).

The Forest Service adequately analyzed and documented the effects of project activities on riparian areas (FEIS, Chapter 3, Section J – Watershed, Wetlands and Soils). The analysis includes an estimate of the number of acres of riparian areas under each action alternative that would be directly, indirectly, and temporarily affected by the project (FEIS, Chapter 3, Appendix D).

The Forest Service has sufficiently analyzed impacts to riparian areas and fulfills requirements for protection of riparian areas found in Executive Order 11990 and the Rocky Mountain Region Watershed Conservation Practices Handbook (WCPH) by avoiding and minimizing impacts to riparian areas to the extent possible.

Issue 62a: Riparian – Alternative 2’s activity on the south side of Middle Boulder Creek could have a negative impact on overall health of riparian ecosystem and recreational experience for anglers and others.

Response: There is no rule regarding the quality of recreation experiences for various users. With respect to the overall health of the riparian ecosystem, the Forest Service included PDC specific to riparian areas and wetlands (FEIS, Chapter 2, and Table 2-3). PDC are also included for watershed and aquatic resources that are designed to limit soil erosion and sediment transport, which will also minimize impacts to riparian areas.

The Forest Service disclosed and analyzed the effects of project activities on riparian areas (FEIS, Chapter 3, Section J – Watershed, Wetlands and Soils). This analysis includes an estimate of the number of acres of riparian areas under each action alternative that would be directly, indirectly, and temporarily affected by the project. The analysis concludes that implementation of projects following PDC as outlined in Table 2-3 would

be consistent with the Rocky Mountain Region Watershed Conservation Practices Handbook (WCPH) and Forest Plan direction (FEIS, Chapter 3). Impacts to riparian areas are also addressed in Response to Comments (FEIS, Appendix D).

The Forest Service has adequately analyzed impacts to riparian areas and fulfills requirements for protection of riparian areas found in Executive Order 11990 and the Rocky Mountain Region Watershed Conservation Practices Handbook by avoiding and minimizing impacts to riparian areas to the extent possible.

Issue 63: Safety - Proposed Jolly Jug lift creates downhill trails which cross Nordic trails, posing a safety risk.

Response: Impacts of Alternative 3 on dispersed recreation have been analyzed (FEIS, Table 2-5) and impact on dispersed recreation is disclosed under Alternative 3 (FEIS, Chapter 3-Dispersed Recreation). PDC are listed for the Jenny Creek Trail interface between Nordic and downhill intersections (FEIS, Table 2-3). The analysis discloses the impacts of the Jolly Jug lift on Nordic trail use, and maintains the safety issues can be managed.

Issue 64: Safety - Assure safe skier and hiker access to trails and the Colorado Mountain Club's Arestua hut

Response: The impacts the selected alternative will have on the Jenny Creek trail, which accesses the Arestua Hut, are disclosed (FEIS, Chapter 3). Safety and access issues on the Jenny Creek Trail are addressed with PDC (FEIS, Chapter 2, and Table 2-3). The assessment of avalanche safety hazards and other hazards for those accessing the Arestua Hut via Rollins Pass is outside the scope of this analysis.

Issue 65: Safety - Bridge and Eldora Ave for construction vehicles, emergency vehicles and maintenance vehicles impact locals' safety.

Response: Traffic and Parking, and Access are addressed (FEIS, Chapter 3). The expected number of truck loads related to tree removal is disclosed, and the impact of construction activities with respect to noise and the expected number of truck trips through the town for other construction related activities are all disclosed (FEIS, Chapter 3, and Appendix D). The proposed gate/sign on Placer lift access bridge are included in PDC (FEIS, Chapter 2, Table 2-3 - Recreation). Impact on dispersed recreation is disclosed as are the cumulative effects for recreational use outside the ski area (FEIS, Chapter 3). The FEIS disclosed and analyzed this issue in sufficient detail.

Issue 66: Safety - Proposed lift will be temptation for skiers to access from CR-130 which is not maintained in the winter. With the bridge closed by barriers, skiers will try to cross a frozen/semi-frozen river.

Response: Proposed gate/sign on Placer terminal access bridge are addressed in PDC (FEIS, Chapter 2, Table 2-3 - Recreation). Impact on dispersed recreation is disclosed as are cumulative effects for recreational use outside the ski area (FEIS, Chapter 3, Appendix D). The Forest Service is not obligated to analyze the impacts of illegal activity. Additional PDC have been included to monitor this situation (FEIS, Chapter 2, Table 2-3). The FEIS discloses and analyzes sufficient information about this issue, and PDC are included to minimize the impacts.

Issue 67: Scenery - Forest Service has failed to show the true impacts of scenery and beauty of the area along the Fourth of July Road into Hessie, and views of P-5 and P-6.

Response: The selection of critical viewpoints for this project was based on the context of viewers, the duration of view, the degree of discernible detail, seasonal variations, and the number of potential viewers (FEIS, Chapter 3, Section C). The analysis of scenery resources in Section C acknowledges that there will be impacts to the scenic resource and that EMR existing and proposed ski trails would be the major contributing factor to the low Scenic Integrity Objectives (SIO). Both alternatives 2 and 3 will meet the SIO objectives for Management Area 8.22 – Ski-Based Resorts (FEIS, Chapter 3). Impacts to scenery are also discussed in the response to comments (FEIS, Appendix D). PDC are included that are intended to minimize impacts to scenery (FEIS, Chapter 2, Table 2-3). The FEIS discloses and analyzes sufficient information concerning impacts to scenery, and PDC are included to minimize the impacts.

Issue 68: Scenery - FEIS fails to consider sightline analysis or light pollution from the Challenge Mountain facility.

Response: The analysis contains a disclosure of impacts to the scenery resources. Impacts from lights associated with snow making and night time grooming are also disclosed (FEIS, Chapter 3, Section C, and Appendix D). The analysis adequately addresses impacts to scenery.

Issue 69: Soils - In the Placer pod, limited rock blasting through the use of dynamite would occur. This passage appears in the section on noise, but there is no analysis of what effects on soil movement might occur from this activity.

Response: Impacts to soils resulting from blasting would be the same as grading, and topsoil handling/reclamation. Areas of blasting were captured as grading in the analysis and impacts to soils and water quality were disclosed in the analysis (FEIS, Chapter 3, Section J – Watershed, Wetlands, and Soils, and Appendix D). Impacts from grading on water quality and soil resources would be minimized through the implementation of PDC (FEIS, Table 2-3). As far as slope stability, blasting apart large boulders to remove from

the site or blasting bedrock would likely increase the risk of rock slides (FEIS, Appendix D).

The Rocky Mountain Region WCPH includes conservation practices to protect soil, aquatic, and riparian systems to ensure applicable federal and State laws are met on National Forest System land in the Rocky Mountain Region.

The analysis adequately disclosed and analyzed the impacts to soils and fulfills requirements for protection of soils pursuant to WCPH.

Issue 70: Soils - The Forest Service asserts that applying project design criteria to minimize impacts would make the project consistent with the WCPH. However, even in a best-case scenario, frequent maintenance and costly erosion control measures would be required to sufficiently reduce impact. In addition, the expert report establishes that areas that have been previously disturbed have not been fully rehabilitated, especially where grading occurred. This refutes the reliance on design criteria to adequately mitigate impacts or achieve WCPH compliance.

Response: The Rocky Mountain Region WCPH includes conservation practices to protect soil, aquatic, and riparian systems to ensure applicable federal and State laws are met on National Forest System lands in the Rocky Mountain Region.

A thorough analysis of impacts to soils has been included (FEIS, Chapter 3, Section J - Watersheds, Wetlands, and Soils). The analysis discloses the severe limitation for re-establishment of vegetation and natural recovery following disturbance on some of the soils in the analysis area. However, with the proper applications of approved mulch and seed, and with proper implementation and maintenance of surface stabilizing BMPs, re-establishment of vegetation, and natural recovery of disturbed areas would be expedited and would more quickly provide a stabilized ground surface (FEIS, Chapter 3, Section J – Watersheds, Wetlands, and Soils). Responsibility for ensuring that required PDC are implemented rests with EMR and the Forest Service. The enforcement mechanism for implementation of the specified PDC would be the terms and conditions of the Special Use Permit (SUP), and would extend to the Forest Service SUP Administrator, the District Ranger, and the Forest Supervisor (FEIS, Chapter 2). Impacts to soils are also addressed in Response to Comments (FEIS, Appendix D).

The impact to soils has been adequately disclosed and analyzed the impacts to soils and fulfills requirements for protection of soils pursuant to WCPH.

Issue 71: Traffic - There will be increased vehicle traffic due to expansion, impacting noise, air quality, the environment, and mountain habitat in the town of Eldora.

Response: The analysis discloses that future PM peak hour volumes are assessed at SH 119/Eldora Road, and along SH 119 in the vicinity for the initial year of EMR expansion operation, and 20 years in the future per Boulder County and CDOT traffic analysis standards. None of the alternatives result in 10th Highest Day volumes that would exceed Colorado Department of Transportation's (CDOT) Design Capacity of 1,700 vehicles per hour for this segment of highway. Project Design Criteria (PDC) would: 1) develop a transportation program with Boulder County to reduce vehicle emissions; and 2) include a host of guest incentive programs (FEIS, Table 2-3).

The FEIS adequately discloses and analyzes the impact of increased traffic as a result of the project.

Issue 72: Traffic - The FEIS and DEIS never really look at tools and solutions for traffic congestion.

Response: The analysis discloses that future PM peak hour volumes are assessed at the SH 119/Eldora Road, and along SH 119 in the vicinity for the initial year of EMR expansion operation, and 20 years in the future per Boulder County and CDOT traffic analysis standards. None of the alternatives result in 10th Highest Day volumes that would exceed CDOT's Design Capacity of 1,700 vehicles per hour for this segment of highway. PDC would: 1) develop a transportation program with Boulder County to reduce vehicle emissions; and 2) include a host of guest incentive programs (FEIS, Table 2-3 and Tables 3B-1 through 9).

The FEIS adequately discloses and analyzes the impacts of increased traffic as a result of the project.

Issue 73: Traffic – There is no consideration of future parking scenarios that may have different transportation mode splits.

Response: Parking scenarios are addressed with PDC (FEIS, Table 2-3). PDC would: 1) manage ski area parking to provide adequate parking spaces for guests; and 2) continue and increase (possibly through the use of guest incentives) the amount of mass transportation and ride sharing to manage traffic and parking capacities (FEIS Chapter 2, Table 2-3).

The FEIS adequately discloses and analyzes the impacts of future parking scenarios that could result as because of the project.

Issue 74: Traffic - In this case, should the proposal be granted, how long will it take to proclaim the need for expanded road access, public parking, etc. to afford safer access to new runs?

Response: This issue was not identified in previous timely comments and is not based on new information. Issues raised in objections must be based on previously submitted

specific written comments regarding the proposed project or activity, and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8(c)).

Issue 75: Traffic – The FEIS does not adequately address the impacts of increased traffic on the Eldora Ski Road (County Road 140). It does not address an increase in traffic by 31 percent in the morning and afternoon peak hours.

Response: The impacts of increased traffic as a result of this project are disclosed and analyzed (FEIS, Chapter 3 and Tables 3B-1 through 9). PDCs would: 1) manage ski area parking to provide adequate parking spaces for guests; and 2) continue and increase (possibly through the use of guest incentives) the amount of mass transportation and ride sharing to manage traffic, and parking capacities (FEIS Chapter 2, Table 2-3). The FEIS adequately analyzes the impact of increased traffic and demonstrates it will not substantially contribute to overall traffic levels.

Issue 76: Traffic - There will be impacts related to required major earthwork and physical improvements for logging trucks to use the road during the construction phase, or for use in the winter for emergency access; and impacts associated with widening Country Road 130.

Response: It is not anticipated that this segment of road would need to be widened or otherwise improved (FEIS Appendix D). There is no alleged violation of law, regulation, or policy with respect to this issue.

Issue 77: Transportation Demand Management – There has been no consideration of the requirement for a program that uses Transportation Demand Management (TDM) measures.

Response: The PDC that were used to develop a transportation program with Boulder County to reduce emissions, addressing sustainability, traffic parking and ski area access, and incentive programs are included in the analysis (FEIS, Chapter 2, Table 2-3). This issue was also addressed in Response to Comments (FEIS, Appendix D).

The FEIS adequately analyzes this issue and PDC will incorporate elements to satisfy transportation design management measures.

Issue 78: Future Funding Responsibility – The FEIS does not adequately address responsibility for continued maintenance and future capital improvement upgrades.

Response: The specific concern is directed at County Road 130 between the end of the pavement and the proposed bridge. County Road 130 has not been proposed for future capital improvement upgrading or continued maintenance. There is no alleged violation of law, regulation, or policy.

Issue 79: Global Warming - I oppose development into the Hessie area due to global warming.

Response: The impacts this project could have on climate change have been disclosed and analyzed (FEIS, Chapter 3 and Appendix D).

The impacts of climate change on wildlife are discussed in the fish and wildlife section (FEIS, Chapter 3). The Colorado Climate Change Vulnerability Study produced in 2015 addresses this issue, and is a part of the record for this project. A discussion of EMR's impact on greenhouse gas emissions are found in the analysis (FEIS, Chapter 3). The discussion states that it is not currently possible to accurately discern the effects of the EMR's operations under Alternatives 1, 2, or 3 from the effects of all other greenhouse gas sources worldwide, nor is it expected that attempting to do so would provide a practical or meaningful analysis of project effects. The project record discloses an adequate analysis of the impacts to and from climate change for this action.

Issue 80: Infill Alt - The Infill Alternative is reasonable and warrants full analysis under governing law and court decisions - *The Wilderness Society v. Wisely*; *NRDC v. U.S. Forest Service*; *Colorado Environmental Coalition v Salazar*; *Dubois v. United States Department of Agriculture*. The Forest Service relied on inaccurate, conclusory statements that the Infill Alternative was inconsistent with the agency objectives and little different than those alternatives analyzed in the DEIS. The purpose and need could be met with the Infill Alternative and it would have less environmental impacts.

Issue 81: Infill Alternative - The Forest Service rationale for eliminating the Infill Alternative does not pass muster from either a legal or common-sense perspective. The Forest Service inexplicably insisted on only analyzing action alternatives that would expand the Resort's footprints to new, environmentally sensitive lands outside the current permit boundary and in violation of the existing Forest Plan. That is unreasonable and violates NEPA because an Infill Alternative should have been, but was not, analyzed.

Issue 82: Infill Alternative - At least one alternative needs to address the ski area meeting its perceived deficiencies (lack of intermediate terrain, inadequate uphill capacity of lifts and problems with wind) within their current permit boundary. The Infill Alternative was designed to meet the purpose and need without expanding outside the current SUP, by focusing upgrades, improvements, and additional runs and terrain within the current permitted boundary. The Infill Alternative is reasonable, it differs significantly from those alternatives the Forest Service chose to analyze, and it warrants full consideration.

Issue 83: Infill Alternative - The Forest Service Organic Act, Multiple Use Sustained Yield Act of 1960 (MUSY), and NFMA of 1976 all support the need to analyze the Infill Alternative under relevant case law. The current decision has not analyzed how various alternatives would achieve these purposes in this context (MUSY Act purposes); and certainly failed to evaluate whether the Infill Alternative might best meet the congressionally established purposes. NFMA focuses on

renewable resources, and it must be acknowledged that unchecked ski area expansions conflict with healthy renewable resource conditions.

Issue 84: Infill Alt - The Forest Service has failed to take account of broad public and stakeholder support for: 1) adhering to the existing Forest Plan, and 2) denying proposed amendments that seek to allow highly controversial expansions to the detriment of competing values and uses. Failing to analyze such an alternative violates NEPA by depriving the public of a meaningful opportunity to comment on a viable action alternative, which is consistent with the existing Forest Plan, and local plans and policies.

Response to Issues 80-84: The Forest Service is required to study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. Regulations require the Environmental Impact Statement to document and examine all reasonable alternatives to the proposed action. An alternative should meet the purpose and need and address one or more significant issues related to the proposed action. Since an alternative may be developed to address more than one significant issue, no specific number of alternatives is required or prescribed.

The Forest included a detailed description of the Infill Alternative and the reasons for dismissing it from detailed study (FEIS, Chapter 3, Section D - Alternatives Considered but not Analyzed in Detail). Alternative configurations for certain chairlifts were also considered to maintain the alignment within the existing special-use boundary; however, these configurations were found to present construction, operational, and maintenance issues that could result in other resource issues. Additional discussion related to dismissing the Infill Alternative from detailed study is provided (FEIS, Appendix D – Response to Comments).

The reasons for eliminating the infill alternative from detailed study are disclosed and analyzed in the record.

Issue 85: Light - The light from the proposed expansion would impact residents, visitors, and wildlife.

Response: The impacts from lights associated with snow making and night time grooming are disclosed (FEIS, Chapter 3, and Appendix D). The FEIS discloses that light emitted by snow guns and night-time grooming operations would be visible from viewpoints beyond the ski area. Lighting could be visible during nighttime hours from CR 130 immediately adjacent to the proposed Special Use Permit boundary near Middle Boulder Creek. EMR currently operates night skiing on the eastern-facing trails and does not extend past the lower mountain. It is anticipated that outdoor lights on the proposed guest service facilities would be turned off by approximately 9 p.m. and additional lighting created by the proposed changes is minimal. EMR already creates light pollution

in the evenings through its grooming process and night ski activities. Under a NEPA cumulative effects analysis, the EIS must give a sufficiently detailed catalogue of past, present, and future projects and provide an adequate analysis of how the differences between projects are thought to have impacted the environment. The FEIS analyzes these cumulative effects and gives sufficient documentation of potential light impacts to areas surrounding EMR.

Issue 86: Lynx - The project violates the Forest Plan requirements for lynx. Specifically HU G1, and Objective HU O1.

Response: The Proposed Action would increase EMR's snow compaction by approximately 120.6 acres, mostly on the south side of Middle Boulder Creek, in Moose, Salto, and Jolly Jug Glades, and along the proposed Placer chairlift access road north of Middle Boulder Creek. While the three glades are currently skied and while there are a few skiers that duck the ropes defining the ski area's administrative boundary and illegally ski outside the above terrain, those areas are currently mapped and considered as "uncompacted" lynx habitat. Therefore, Alternative 2 would result in additional snow compaction that would not be consistent with this guideline. Alternative 2's collective effects on lynx foraging, sheltering, and breeding would exceed the definitions of insignificant and discountable. Therefore, Alternative 2 warrants a "may affect, likely to adversely affect" determination for Canada lynx includes lynx discussion of effects (FEIS- Chapter 3). Wildlife PDC discuss retaining Course Woody Debris (CWD) and standing dead, and by improving forest health with removing mountain pine beetle infected trees to slow the progression of the MPB epidemic, which could improve lynx habitat.

Forest Supervisors have the authority to deviate from Forest Plan guidelines so long as the deviations are documented during the analysis process and the rationale for the deviations is documented in a decision document.

Issue 87: Management Area (MA) 8.22 - I object to the Forest Plan amendment to change to MA 8.22, ski area, and it is highly speculative to say that the Middle Boulder Creek area would have been MA 8.22 if they were National Forest Service land.

Response: The Middle Boulder Creek area was allocated as Management Area 8.22 because it is naturally suited for ski area use (DROD). The area at issue is immediately adjacent to Management Area 8.22 (FEIS, Figure 2). It is within the discretion of the Forest Service to determine what management allocation for lands acquired via a land exchange, purchase or gift. There is no violation of law, regulation, or policy with respect to this issue.

Issue 88: Miscellaneous - The foreseeable development in Eldora, Hessie and Nederland statement is an indication that the Forest Service plans on EMR asking for future amendments to allow for development in Hessie.

Response: A listing of past, present and reasonably foreseeable future projects to be considered in the cumulative effects analysis for this project is disclosed (FEIS, Appendix A). The analysis discloses that it is reasonably foreseeable that the towns of Nederland, Eldora, and the Hessie Townsite could experience future growth and development. These areas could see both increased residential and commercial development in the future. This disclosure does not suggest that the Forest Service plans allow for development in Hessie. The contention that the Forest Service plans on EMR requesting amendments to develop into Hessie is speculative and not supported by the record. This issue presents no alleged violation of law, regulation, or policy.

Issue 89: Mitigation - FEIS mitigation measures are so vague or imprecise that it is impossible to evaluate whether they will be effective in preserving habitat. Moreover, the decision does not ensure that those measures will be implemented to achieve the intended results. By statute and regulation, an EIS must include a discussion of possible mitigation measures to avoid adverse environmental impacts and explain how effective the measures would be.

Response: The issue of mitigation, as presented by objector, appears to be confused with PDC. The FEIS and DROD discuss design criteria, not mitigation (FEIS, Chapter 2, Table 2-3). The FEIS included sufficient analysis. However, I agree the design criteria specific to habitat are uncertain. I instruct the Forest to rewrite the project design criteria dealing with habitat for flammulated owls, boreal owls, olive-sided flycatcher and American marten to make certain that the PDC will be applied.

Issue 90: Negative Impacts - The proposal with all the improvements would cause negative impacts to natural resources and local communities.

Issue 91: Negative Impacts – Insufficient analysis including cumulative and secondary effects on wildlife; global warming; increased human population; increased human recreation; insect outbreaks; more frequent and intense fires. The bridge will destroy fishing holes.

Response to Issues 90 and 91: The effects of the alternatives to the human and biological environment are disclosed (FEIS, Chapter 2, Section F). Direct, indirect, and cumulative effects are also disclosed (FEIS, Chapter 3). Details of potential projects and the resources potentially affected are disclosed (FEIS, Appendix A). The Response to comments also addresses effects (FEIS, Appendix D). Project design criteria are included to reduce negative impacts (FEIS, Table 2-3). The analysis adequately discloses effects of the alternatives, both positive and negative.

Issue 92: NEPA - Supplemental NEPA is required because the FEIS failed to disclose the combined impacts of Alternative 2 and 3, and newly available information indicates the Responsible Official pre-determined the outcome of the public process. In addition, supplemental review is triggered by significant information not previously analyzed, which in this case includes the following: (3) Unique characteristics of the geographic area such as proximity to . . . ecologically critical areas; (4) The degree to which the effects on the quality of the human environment are likely to be highly controversial; (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; (6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Issue 93: NEPA - The rationale for combining the most aggressive expansion aspects of the two action alternatives was stated, as follows, in the Draft Record of Decision (DROD). This rationale fails both logically and legally. First, it again shows that the decision-maker appears to be solely concerned with the “recreational experience” at the expense of other uses and values, and only one aspect of recreation at that (downhill skiing at EMR). Second, absent supplemental NEPA analysis on the alleged cumulative impacts being “nearly the same,” this assertion is unsupported by the current record. Third, the existing decision fails to adequately weigh the environmental, socio-economic, and other costs of the proposed expansion proposed for the first time in the DROD against the purported benefits to the Resort and its customers.

Response to Issues 92 & 93: The DROD combines the two action alternatives analyzed. This combined alternative was not presented to the public until the DROD was made available; however, the DEIS and the FEIS disclose that the Forest Supervisor might select components of an action alternative or develop an entirely new alternative created from components of each action alternative (FEIS, Chapter 1, and DEIS Chapter 1). The Responsible Official has chosen elements of expansion contained within both the action alternatives. The DROD includes rationale for the decision from the Responsible Official.

The Responsible Official has weighed the beneficial and adverse environmental impacts of the alternative presented in the DROD and considered the thorough analysis presented in the FEIS in making his decision. The FEIS discloses, using the best available science and information, the qualitative and quantitative effects on the human and biological environment that are anticipated to result with the implementation of the approved projects (FEIS, Chapter 3).

The effects in the FEIS have been adequately addressed and disclosed throughout the analysis. Resource issues and concerns described in the FEIS and the rationale for approving these projects is based on careful consideration of several key elements addressed during the public involvement and analysis process, including consistency

with the project Purpose and Need; consistency with the Forest Plan; and environmental and social impacts (DROD).

Supplementation of NEPA would occur when new information or changed circumstances occur that would affect the analysis.

Issue 94: NHPA - The EIS and proposed project do not comply with the NHPA because a proper survey for historic and archaeological resources has not been conducted. The lift site is the final resting place of two of Fremont's men but no analysis is included in relocating the remains.

Response: In a July 2, 2013 letter to State Historic Preservation Office (SHPO), the Forest recommended to SHPO that site 5GL.22 is not eligible for the NRHP, and further states that no construction, tree removal or other ground disturbing activity would occur in the vicinity of the site. A SHPO finding of "No Adverse Effect" was made for this site. In a July 15, 2013 letter, SHPO responded to the Forest's consultation for this project. They concurred with a finding of "No Adverse Effect" for all known sites, except for site 5GL.22. For this site, SHPO recommended a finding of "Needs Data." Additional data was collected and provided to SHPO for further consultation on this matter (Forest Service Letter, March 30, 2015). A response letter from SHPO, dated April 2, 2015, was received. In this letter, SHPO concurred with a finding of "No Adverse Effect" for this site.

The Forest completed the necessary survey and consultation required under the NHPA, and there is no violation of law, regulation, or policy with respect to this issue.

Issue 95: Noise - Noise from snowmaking operations, blasting, lift operations, snowmobiles/snowcats and road use were not studied and would impact residents, visitors, and wildlife.

Response: It was recognized that snowmaking and isolated rock blasting for trail construction has the potential to generate additional noise audible in the Town of Eldora (FEIS, Executive Summary). A detailed analysis of noise impacts was included (FEIS, Chapter 3, Section F – Noise). To help reduce noise impacts, PDC related to reducing noise during construction activities are included (FEIS in Table 2-3). This includes direction to minimize trips to construction sites, and, if possible, only conducting blasting necessary for the Placer terrain pod in the springtime when snow is present to reduce noise impacts. Noise impacts related to wildlife are also disclosed (FEIS, Chapter , Section H – Fish and Wildlife). Noise impacts related to dispersed recreation are disclosed (FEIS, Chapter 3, Section A - Recreation, Mountain Operations, and Guest Services). Comments concerning noise are addressed (FEIS, Appendix D – Response to Comments).

The FEIS contains an adequate disclosure and analysis of potential noise impacts as a result of this project.

Issue 96: Nordic - Expansion will destroy excellent Nordic skiing in the Deadman Gulch area, and would create a safety concern at intersection with the downhill ski slope. The FEIS ignored the negative impacts to Nordic users and snowshoers, including the safety; winter maintenance of County Road 130; and naturalness and solitude.

Response: Under the Proposed Action, users of the Jenny Creek Trail would encounter ski trails, a chairlift, and tree and gladed skiing terrain while on property owned by EMR. During the winter while EMR is open, conflicts between dispersed recreationalists and alpine skiers would be mitigated through signage and the creation of uphill travel corridors and ski trail crossing zones. The designated route for users of the Jenny Creek Trail would provide a safe path to traverse EMR. A PDC is incorporated into the project for the ARP to pursue an easement for the current location of Jenny Creek Trail on private land owned by EMR. Should this occur, the Arapaho and Roosevelt National Forests and Pawnee National Grassland would manage the Jenny Creek Trail where it crosses private lands. The trail would remain in its current alignment.

This project would impact scenic resources in this area, and could take away from the experience of remoteness and primitiveness (FEIS, Chapter 3). The visibility of proposed infrastructure would detract from the naturalness of the visual setting, thereby impacting the recreational experience. However, the landscape at EMR is already affected by ski area infrastructure, and changes associated with the action alternatives would be incremental (FEIS, Chapter 3, Section C – Scenery Resources). Additional noise could also detract from the experience of remoteness and primitiveness in this area.

The Indian Peaks Wilderness, where the characteristics of remoteness, primitiveness, and solitude are expressly protected through Forest Service management, is approximately 1.3 miles from the proposed projects at its closest point. The Recreation Opportunity Spectrum (ROS) classification in the vicinity of Hessie Road, and Fourth of July Road, is Roaded Natural, and the area west of the Hessie townsite is Semi-Primitive Non-Motorized. An area with an ROS classification of “Roaded Natural” would have a high level of access, management, facilities, and social encounters and a lesser degree of remoteness compared to ROS classifications of Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized. Both action alternatives would be consistent with these ROS designations.

The safety of both alpine and Nordic trail users would be protected through PDC (FEIS, Table 2-3). It is anticipated that the level of expected use can be effectively managed through PDC (FEIS, Table 2-3).

The recreational experience of users of the Jenny Creek Trail would be impacted by both action alternatives (FEIS, Chapter 3). The presence of ski area infrastructure would detract from the experience of remoteness and solitude. Under both alternatives, approximately 1.2 miles of the trail would be in the vicinity of EMR ski area infrastructure, as opposed to approximately 0.7 mile under the existing conditions. Thus, the recreational experience of the Jenny Creek Trail would be influenced for an additional 0.5 mile by EMR ski area infrastructure.

The Jenny Creek trailhead and trail access would not change as a result of any alternatives analyzed. A PDC is included in both action alternatives for Arapaho and Roosevelt National Forests and Pawnee National Grassland to pursue an easement for the current location of the Jenny Creek Trail (FEIS, Table 2-3).

The FEIS contains an adequate analysis and disclosure of potential impacts. Project design criteria address safety concerns for Nordic users. Impacts to Nordic users and other dispersed recreationists are disclosed, as are impacts to solitude. Winter maintenance of County Road 130 is not under consideration for this project.

Issue 97: Wind - No supporting evidence that wind-speeds diminish significantly, if at all, with the reduction in elevation where the new lift and runs are planned. The DEIS at 3-19 "aligned to avoid the highest elevation and ridges to stay out of the highest winds" is without merit.

Issue 98: Wind - The analysis did not attempt to determine if the proposed new lift locations would be less susceptible to high winds. Wind performance of new chairlifts is questionable and many of the proposed components of the alternatives are affected by wind. The Forest Service deliberately ignored this issue, as shown by its Response to Comments.

Issue 99: Wind - No wind analysis was done and no data was collected. The objector's data was not considered. There was no analysis to show that this area is less windy than other areas of the mountain. Instead, this is one of the windiest regions of Eldora.

Issue 100: Wind - The record fails to establish that the agency independently evaluated wind assertions by the proponent and/or consultant that were relied on to support the proposed decision, or made a reasonable effort to either obtain relevant data, or consider the relevance of information submitted by knowledgeable commenters. Currently, there is substantial uncertainty and attendant public controversy as to whether the proposed new lifts would be significantly less susceptible to high winds, and/or if existing lifts could be made more wind resistant. For instance, design, location, and other factors considered when upgrading existing lifts could reasonably be expected to address wind concerns as effectively as the proposed Placer Lift, while avoiding the most controversial impacts of the expansion.

Response to 97-100: The Placer Express is aligned to avoid the highest elevations and ridges to stay out of the highest winds. Detachable chairlifts are also heavier and less

easily impacted by wind. The existing Indian Peaks and Corona chairlifts are located in exposed alignments, and the old, lightweight fixed-grip infrastructure is easily blown around (FEIS, Chapter 3).

The Forest Service determined that there is no need for wind data to validate the Purpose and Need because EMR proposed the project locations based on an operational understanding. EMR understands the prevailing wind direction, wind speeds in the area, and how this affects lift operations. EMR operates the ski area with these factors in mind and used this knowledge to develop their proposed project locations in the 2011 Master Plan. Figure 3 in the Master Plan also displays a slope analysis combined with a display of prevailing wind direction and topography.

The wind data the public provided to the Forest Service and SE Group through comments was not used in the analysis because it was collected approximately 0.5 mile away from the bottom terminal of the proposed Placer Express chairlift, in the Town of Eldora. There is a ridgeline between the proposed project location and the site where the data was collected which could create notably different conditions. While wind speed data was not collected for inclusion in the DEIS, data from EMR regarding wind closure incidents was included and demonstrates that wind is an issue at EMR (FEIS, Chapter 3).

The replaced chairlifts would be heavier, detachable chairlifts that would be less susceptible to wind (FEIS, Chapter 3). The DROD discusses the placement and design of the Placer, Corona, and Challenge lifts with the intent of mitigating wind effects.

The placement of lifts in the selected Alternative was analyzed by using professional knowledge of wind effects on lift operations at EMR, engineering knowledge of design mitigations for wind effects, and knowledge and evidence of wind closures with EMR's existing lift network. Wind speed evidence presented by the public was not used in the analysis because the data was collected at a site with different conditions than found at EMR. The Forest Service responded to comments regarding this issue. There is no violation of law, regulation, or policy with respect to this issue.

Issue 101: Winter Backcountry Trailhead - FEIS does not adequately address the new location of a winter backcountry trailhead due to the maintenance of County Road 130.

Response: There is no winter backcountry trailhead on County Road 130. The county plows the road and people establish a parking lot at the location where plowing stops. There is no proposal to maintain (plow) County Road 130, during the winter, under either of the alternatives. As a result, there will be no new location for a winter backcountry trailhead.

CONCLUSION

Based on my review of the objections, the Final Environmental Impact Statement, and project record, I find no violation of law, regulation or policy. By copy of this letter, and based on the objections, I am issuing the instructions below to the Responsible Official (Arapaho and Roosevelt National Forest and Pawnee National Grassland Supervisor) who must comply with the instructions if he chooses to continue with this proposal unchanged. If his decision does not include the Forest Plan Amendment, Instruction 1 would not be required to change the boundary.

Instruction 1:

The Forest Plan contains a statement (see below) subject to multiple interpretations.

“Further improvements of the base facilities, infrastructure, and ski runs within the current boundary are expected. There will be no expansion of the area outside the boundaries currently specified in the Master Development Plan.”

I instruct the Forest to expand the scope of the forest plan amendment to remove these two sentences from the plan.

Instruction 2:

Project Design Criteria (PDC) are contained in Table 2-3 of the Final Environment Impact Statement and in Appendix A of the Draft Record of Decision. I find the language in the design criteria specific to habitat make application of the PDC uncertain. I instruct the Forest to rewrite the project design criteria dealing with habitat for flammulated owls, boreal owls, olive-sided flycatcher and American marten to make certain that the PDCs will be applied.

As required by 36 CFR 218.12(a), the Arapaho and Roosevelt National Forest and Pawnee National Grassland Supervisor cannot sign a decision for this project until all instructions have been addressed. If you have any questions or concerns regarding this response, please contact Nancy Miller at 303-275-5373 or njmiller@fs.fed.us. This response is not subject to further administrative review by the Forest Service or the Department of Agriculture pursuant to 36 CFR 218.11(b)(2).