

High Country Citizens' Alliance ♦ Colorado Wild ♦ Colorado Environmental Coalition ♦  
Sheep Mountain Alliance ♦ Sierra Club, Rocky Mountain Chapter ♦  
Rocky Mountain Recreation Initiative ♦ Western Resource Advocates ♦  
Wilderness Workshop ♦ San Juan Citizens Alliance ♦ The Wilderness Society ♦  
Great Old Broads for Wilderness ♦

December 9, 2009

Senator Mark Udall  
999 Eighteenth Street  
North Tower, Suite 1525  
Denver, CO 80202

Senator Michael Bennet  
2300 15th Street, Suite 450  
Denver, CO 80202

Representative John Salazar  
225 North 5th Street, Suite 702  
Grand Junction, CO 81501

**RE: USFS Snodgrass Expansion Denial – Crested Butte, CO**

*Delivered via electronic mail*

Dear Senator Udall, Senator Bennet and Representative Salazar:

On November 5<sup>th</sup>, 2009, Forest Supervisor Charlie Richmond sent a letter of denial to Tim Mueller of Crested Butte Mountain Resort (CBMR) and Tammie Quinlan of CNL Lifestyle Properties regarding the proposal to expand lift-served skiing onto Snodgrass Mountain. The undersigned organizations would like to express our support for the Forest Service decision and the process used to reach it.

As the local conservation organization in Crested Butte and the Gunnison Valley, High Country Citizens' Alliance's (HCCA) mission is to champion the protection and conservation of the natural ecosystems within the Upper Gunnison River Basin. We have actively participated in the discussion and analysis of the proposed ski area expansion onto Snodgrass Mountain since it was first included in CBMR's Special Use Permit Boundary in 1982. During that time HCCA has worked extensively with the undersigned members of the Colorado conservation community in protecting public lands in Colorado, including Snodgrass Mountain. Together we represent members both in Colorado and around the country that value Colorado's forests and abundant natural resources.

HCCA has worked with the Colorado conservation community to understand the environmental issues related to a Snodgrass expansion. We have focused on three areas of concern: 1) Roadless Area protection, 2) geologic instability and 3) Canada Lynx habitat protection.

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The Snodgrass Mountain portion of CBMR's Special Use Permit area is within the Gothic Inventoried Roadless Area. On August 5th, 2009, the 9th Circuit Court of Appeals affirmed a court ruling that the Bush administration had unlawfully repealed the 2001 National Roadless Rule. Now that the appeal has been favorably resolved, the reinstatement of the 2001 Rule is nationwide (including Colorado), but not including the Tongass in Alaska (excepted in separate rule) and Idaho (separate roadless rule). It is our understanding that any proposed development within an Inventoried Roadless Area (IRA) would have been held to the standards and regulations of the 2001 Roadless Area Conservation Rule. While we are strongly of the opinion that the 2001 Roadless Rule would have applied to a Snodgrass expansion we understand that CBMR had asserted that the 2001 Roadless Rule would not have applied to the Snodgrass expansion due to the area being included in the ski area permit boundary prior to adoption of the 2001 Roadless Rule. Therefore we had significant concerns about the protection of the Gothic IRA given the apparent inconsistency between the 2001 Rule and the CBMR proposal for development of Snodgrass Mountain.

In regard to the geology of Snodgrass Mountain, we made significant efforts to gain an understanding of the degree of risk associated with a ski area expansion on what has long been known to be a potentially unstable mountain by hiring an independent, third-party geologic and geotechnical engineering firm – Cotton Shires and Associates (CSA). Our work with CSA has enabled us to more thoroughly analyze the geologic information produced by CBMR and the USFS as well as historical geologic reports on the area. Our conclusions, based on analyses performed by CSA, were that multiple areas on Snodgrass Mountain were geologically unstable and posed a risk to property, human life and natural resources on the mountain.

We agree with Forest Supervisor Richmond's conclusion that the mitigation measures proposed to address these unstable slopes are uncertain and could have altered the mountain's hydrology in unpredictable ways. Implementation of the proposed mitigation measures would have involved substantial disturbance of already unstable slopes and would themselves have led to significant environmental effects.

In addition, Snodgrass Mountain contains an area of potentially suitable lynx habitat as determined by the USFS (Gothic Lynx Analysis Unit). Lynx are currently listed as a federally threatened wildlife species under the Endangered Species Act. The Colorado Division of Wildlife (CDOW) lists them as endangered within the state. Lynx were once native to Colorado but had long been gone from the state (early 1970s) until successful reintroduction efforts by CDOW a decade ago. We agree with Forest Supervisor Richmond's assessment that permanent loss of suitable lynx habitat would occur as a result of development which could result in "take" to the species. As citizens of this country and residents of this state, we have a moral obligation to prevent the permanent loss of wildlife species under our watch.

In addition to the environmental issues associated with the Snodgrass expansion proposal there were concerns identified by community members that we agree were important factors for the Forest Service to consider. Investigations into the suitability of Snodgrass Mountain for

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intermediate ski terrain indicated that relatively little of the mountain has appropriate slope angles for intermediate skiers. Community discussions also centered on the potential economic effects of ski area expansion onto Snodgrass and the community clearly remains divided over whether the expansion would have the positive economic effects touted by the proponents.

We have reviewed the USFS decision letter, the applicable sections of the Code of Federal Regulations and agency policies and believe that the Forest Service has followed the required procedures appropriately. We have noted with concern that some individuals and groups are asserting that the US Forest Service has violated due process by not allowing the proposal to proceed into a review under the National Environmental Policy Act (NEPA). As you are aware NEPA is not the only law the Forest Service must follow in managing public lands. Other laws and regulations, such as the National Forest Management Act, have been appropriately applied in reaching this decision. The notion that this decision lacked due process is simply inaccurate.

Before any project is accepted into NEPA, it must meet specific requirements in both a Level 1 and Level 2 screening as described in regulation (36 CFR 251.54). Supervisor Richmond and his staff followed this compulsory screening process and after finding that the proposal met the requirements of the Level 1 screening, found that it did not meet all the requirements of the Level 2 screening. CFR 251.54 (e)(5) specifically states that the authorizing officer shall reject any proposal, if, upon further consideration, the officer determines that the proposed use would not be in the public interest. Supervisor Richmond made this determination and followed protocol without exception.

This process appears to be designed precisely for this sort of circumstance, that is, to avoid public and private resources being needlessly expended on a NEPA process when a proposal is not in the public's interest. CFR 251.54 (e)(6) continues, "A request for a special use authorization that does not meet the criteria established in paragraphs (e)(5)(i) through (e)(5)(v) of this section does not constitute an agency proposal as defined in 40 CFR 1508.23 and, therefore, does not require environmental analysis and documentation."

Despite the legitimacy of the process used to arrive at Supervisor Richmond's decision, and despite the clear authority under which his decision was rendered, we are aware that some individuals and entities have requested that the Forest Service reverse its decision in hopes of triggering NEPA review and consideration of the Snodgrass expansion. Such requests undermine appropriate agency authority and the decision making process, not to mention erode the public's trust in its Forest Service decision-makers. We support the process used by the Forest Service in reaching this decision and agree that the agency has reached a conclusion that best protects National Forest resources. Clearly the public interest and protection of forest resources is not served by continued controversy and we must now work together with CBMR and the Forest Service to support the ski area's success within its existing footprint.

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In conclusion, the undersigned organizations support the Forest Service decision on the Snodgrass expansion proposal and the process used to reach it. We hope that you will also support the Forest Service's well-reasoned, albeit difficult, decision on this important matter. We appreciate the opportunity to explain our perspective on this decision and would be happy to discuss it with you further at your convenience.

Sincerely,



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