



United States
Department of
Agriculture

Forest
Service

Grand Mesa,
Uncompahgre and
Gunnison
National Forests

2250 Highway 50
Delta, CO 81416
Voice: 970-874-6600
TDD: 970-874-6660

File Code: 2720

Date: November 5, 2009

TIMOTHY T MUELLER
PRESIDENT
CRESTED BUTTE LLC
PO BOX 5700
CRESTED BUTTE, CO 81225

TAMMIE A QUINLAN
CHIEF FINANCIAL OFFICER
CNL INCOME CRESTED BUTTE LLC
450 SOUTH ORANGE AVE 12TH FLOOR
ORLANDO, FL 32801

Dear Mr. Mueller and Ms. Quinlan:

This letter follows my recent telephone conversation with you on October 16, 2009, and my meeting with you on November 3, 2009, held at your request, and documents my determinations regarding the submittal of 1) your Master Development Plan (MDP), and 2) your proposal to develop lift served skiing on Snodgrass Mountain.

On May 20, 2009, Michael Kraatz, on behalf of Crested Butte Mountain Resort (CBMR), submitted a Master Development Plan. On June 18, 2009, CBMR submitted a "Proposal for the Development of Snodgrass." The Forest Service agreed to review both submittals concurrently. In the course of our review, we have considered a number of factors leading to my determination with regard to what is in the "public interest".

Generally the Forest Service accepts a MDP prior to considering a site-specific proposal. We opted to consider both concurrently to expedite the process. Because of this concurrent review, I have reached two conclusions.

First, I am not accepting your Master Development Plan which includes a proposal to develop Snodgrass Mountain for lift-served skiing. A revised MDP, excluding the proposed lift-served skiing on Snodgrass Mountain, will need to be submitted in accordance with the requirements of your permit.

Second, your site-specific proposal to build and operate lift-served ski facilities on Snodgrass Mountain is rejected.

These conclusions will not affect the current Forest Plan allocation of Snodgrass Mountain to downhill skiing (Management Prescription 1B) and your Special Use Permit boundary. However; both may be reexamined at such time as the Forest Land and Resource Management Plan is revised.

RATIONALE

In considering your proposal to develop Snodgrass Mountain, I have applied both the Initial and Second-level Screening criteria as outlined in 36 Code of Federal Regulations (CFR), Subpart B, Special Uses, Section 251.54 and in the Forest Service Handbook FSH 2709.11, Chapter 10.



Upon review, I have found that your Snodgrass proposal meets all of the initial screening criteria. As instructed in CFR 251.54, “A proposal which passes the initial screening set forth in paragraph (e)(1) and for which the proponent has submitted information as required in paragraph (d)(2)(ii) of this section, proceeds to second-level screening and consideration.”

It further states at 36 CFR 251.54(e)(5) that: “An authorized officer shall reject any proposal ... if, upon further consideration, the officer determines that:

(ii) The proposed use would not be in the public interest ...”

This requirement imposes on me a serious responsibility to make the determination as to what is in the “public interest” fairly, and deliberately, and considering all factors at my disposal. What follows below are the factors I have considered.

- **Community Support:** Ski area development on National Forest lands and adjacent private lands have the potential to change communities perhaps more than anything else the Forest Service authorizes, as described in the Community/Social/Economic Effects section below. Consequently, it is imperative that proposals such as the expansion onto Snodgrass Mountain have community and public support. While total agreement for the project may never be possible, it is reasonable to expect that there be a clear indication of general support.

As I have said in written correspondence with you and in numerous communications through my staff, there is no clear science that can be applied to determining public opinion. It falls to me to make a judgment in this regard based on all sources of information available to me. I have been listening for a long time.

In my letter of January 9, 2009, I expressed my view that public support for this proposal did not exist. At that time I did not see enough opposition to reject a proposal strictly based upon public opposition.

Since then; however, polarization in the community has increased and organized opposition to development of Snodgrass has intensified. There is opposition from the Town of Crested Butte. Gunnison County is unable to submit a letter of support or opposition. Gunnison County also recently adopted Special Development Project Regulations that limit the County’s ability to be involved in and comment on the conceptual ideas presented in the MDP. I continue to receive numerous letters from people with an interest in the Crested Butte area who have diverse and heart-felt opinions about this special place where they live and recreate.

Based on what I have heard and read, I am convinced that the community is deeply divided over the proposed development of Snodgrass Mountain.

- **Community/Social/Economic Effects:** While we are well aware of the economic benefits that ski areas bring to communities, there are also economic and social costs. Development of Snodgrass Mountain on the scale proposed would permanently alter this portion of the Upper Gunnison Valley. The direct impact of up to 250,000 additional skier visits would be felt in all sectors of the community. Transportation impacts would occur to roads and highways, city streets and surrounding National Forest roads and lands. Demand for public services including medical/social services, housing, schools, fire, police, water, sewer would not only result from the increased visitation, but would also come from the increased worker base necessary to accommodate this growth.

Many residents in the Crested Butte area and recreational visitors to the area currently use Snodgrass Mountain for hiking, mountain biking and backcountry skiing. Development of the mountain as proposed would alter this use and, in some cases, displace these users to other areas on the National Forest. Many of the hundreds of comments that I have received opposed to CBMR's proposal have expressed their desire to keep Snodgrass Mountain in its undeveloped status. A lift-served skiing proposal would likely adversely affect existing recreation use and visual quality in Washington Gulch and on Snodgrass Mountain.

- **Land Use Changes:** Development of Snodgrass Mountain would place long-term pressure on the adjacent and nearby private lands to shift from ranching toward commercial ski base and housing development both in the Washington Gulch and Upper East River areas. Based on comments received and my knowledge, these shifts in land use would generally be undesired by land owners or those who frequent these areas. Rocky Mountain Biological Laboratory and other private land owners would be adversely affected.
- **Limitations of Snodgrass Mountain for Lift-Served Ski Development:** As we have discussed on numerous occasions, I have significant concerns about the limitations of Snodgrass Mountain for lift-served skiing development based on the numerous studies and environmental issues that have been identified over the years. Following are some of my concerns.

Geologic Hazard: As noted in my January 29, 2009 letter, geologic hazards presented by unstable soils and unpredictable hydrology have eliminated those slopes nearest to North Village from consideration as skiable terrain. Additional areas that exhibit signs of instability remain. These areas would require further study, perhaps resulting in further restrictions. Mitigation measures to address these unstable slopes are uncertain and may alter the mountain's hydrology in unpredictable ways. Implementation of proposed mitigation measures would involve substantial disturbance of already unstable slopes and would have significant environmental effects. The potential for impacts to the lower slopes near private lands from management of water on upper slopes is unknown.

If we learned anything from studies of geology and hydrology on the mountain it is that the interrelationships between underlying geology, hydrology and soil stability are uncertain, and that unforeseen consequences have the potential to be significant. Slope failures in the area and other areas with similar geology highlight the nature of my concern.

Slope/Terrain: Snodgrass Mountain has terrain which would likely require substantial alteration to construct and maintain ski trails. That terrain grading may further alter slope stability and the hydrologic function of the mountain. Also any mitigation measures will have uncertain success.

Avalanche: There continues to be uncertainty over the potential for the increase of avalanche frequency and severity along Gothic Road. Concerns persistently raised by knowledgeable locals perpetuate the issue. Among three commissioned studies there is little agreement.

Boundary Management Issues: Your proposal for Snodgrass Mountain would increase the frequency of backcountry access into known avalanche areas such as the Glory Hole. There will be a resulting uncertainty of success of boundary management efforts.

- **Limits to Public Access to the Snodgrass Mountain Base:** Easy access to Snodgrass Mountain by the general public would be an important goal for the Forest Service. I find that such access would be difficult to establish and see that in your proposal. While you propose bus transportation to North Village from which skiers can load a gondola, skiers on Mount Crested Butte would have a long transport of lifts and runs to access and return from Snodgrass Mountain.
- **Other Environmental Concerns:** There are additional areas of environmental impact that are of concern and affect the public.

Roadless: The majority of the area proposed for development on Snodgrass Mountain is in an Inventoried Roadless Area (IRA). Several Federal Circuit Courts are currently considering the future management of IRAs. A final decision on how ski areas can develop ski facilities in IRAs may be several years away. It is very reasonable to expect; however, that any decision to develop Snodgrass Mountain will be challenged based upon consistency with both the intent and ecological values of roadless areas.

Lynx: The upper portions of Snodgrass Mountain are lynx habitat. Permanent loss of suitable lynx habitat would occur as a result of development. Effects would, we believe, be measurable, leading to an adverse effect to Canada lynx and possibly result in “take” to the species.

- **Gunnison County Coordination:** Gunnison County recently established Special Development Project Regulations asserting procedural and substantive authorities which are at odds with cooperative planning of large projects on National Forest lands. Timing and procedures required by the County would likely result in sequential rather than concurrent reviews. Also, inability of a county to participate in the “front end loading” of a project or in NEPA scoping is unprecedented on the GMUG NF and will not contribute toward joint resolution of complex and controversial off-site impacts.
- **Use of the NEPA Process to Continue the Consideration:** Acceptance of your proposal would require a large commitment of both our resources and yours. In addition, local governments, stakeholders, and interested parties would need to expend time and energy engaging in the NEPA process. To proceed, I must be convinced that such an effort could lead to a decision which serves the public interest and for which there is a high likelihood of success. I am not convinced of this but rather am convinced otherwise.

I believe that perpetuation of the debate in the NEPA process would further deepen the division that exists in the community and would likely uncover additional environmental concerns. Relationships among all interests and all parties would be taxed, if not damaged.

PUBLIC INTEREST DETERMINATION

I believe that the factors discussed above, taken together, lead to only one conclusion. To proceed with consideration and approval of development which would have the social and community effects I summarize above, in the face of the inherent limitations and challenges of the mountain, considering potential environmental effects we already know of, without the clear support of the affected community, would not be in the public interest.

It is my finding that it is not in the public interest to continue to consider development on Snodgrass Mountain any further.

ADMINISTRATIVE APPEAL

Rejection of your proposal is not subject to administrative appeal. Forest Service Handbook 2709.11.12.4 states, "Denial of unsolicited proposals is not subject to administrative appeal under 36 CFR part 215 or part 251, subpart C, and does not constitute a proposed action pursuant to 36 CFR 251.54(e)(6) and the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347)."

CONCLUSION

I understand that my rejection of your proposal does not align with your business and development plans. I come to my conclusion having weighed this against the much broader public interest that I serve. I am hopeful that we can maintain a productive dialogue about the future of CBMR and find ways to enhance the ski area offerings in ways that are more acceptable to the community and the environment.

Sincerely,

A handwritten signature in blue ink that reads "Charles S. Richmond".

CHARLES S. RICHMOND
Forest Supervisor