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January 12, 2018

Objection Reviewing Officer
Regional Forester
U.S. Forest Service Rocky Mountain Region
1617 Cole Blvd., Building 17
Golden, CO 80401

Submitted via email only to: r02admin_review@fs.fed.us

Also sent via email to D. Padilla, D. Kill

Re: OBJECTION By Dunton Hot Springs, Inc. and Christoph Henkel (collectively referred herein as “Dunton”) for the Rico-West Dolores Roads and Trails (Travel Management) Project Forest Plan Amendment

To the Reviewing Officer:

The purpose of this letter is to submit an Objection to the Draft Record of Decision (DROD) for the Rico-West Dolores Roads and Trails (Travel Management) Project Forest Plan Amendment dated November, 2017. Dunton submits this objection to the U.S. Forest Service’s decision to select Alternative B for the Rico West Dolores Forest Plan Amendment, which would amend the San Juan National Forest Land and Resource Management Plan (Forest Plan). Dunton adopts the following description of the action to which this Objection is asserted, as submitted by Wild Earth Guardians:

Forest Supervisor Kara Chadwick will sign the Record of Decision (ROD) for the project-specific forest plan amendments. The draft Record of Decision (DROD) for the Rico West Dolores Roads and Trails Project Forest Plan Amendment includes (1) changes to the Forest Plan summer recreation opportunity spectrum (ROS) classes, and (2) changes to the Forest Plan overground travel suitability and OHV area designations (OGTS) for the Rico West Dolores area, as reflected in new ROS and OGTS maps for the RWD area. For ROS, the DROD states this amendment would add 4,464 acres of semi-primitive non-motorized recreation DROD, page 4. For OGTS, the DROD states this amendment would select “suitable” for a large portion of the Rico West Dolores area, from “suitable opportunity” to “suitable.” DROD at 5. And it would identify “unsuitable” areas in many areas with ROS semi-primitive non-motorized settings. Id. The Forest Service does not propose any text changes to the Forest Plan.

As required by 36 C.F.R. § 219.54(c), the objectors’ names, address, and telephone number are:

Dunton Hot Springs, Inc.
PO Box 818
Dolores, CO 81323
Tel. No. 970-882-4800

&

Christoph Henkel
25 Dawson Place
Notting Hill, England W2 4th
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I. Interests and participation of objecting party.

This Objection is submitted on behalf of our clients: Dunton Hot Springs, Inc., and Christoph Henkel (collectively referred to herein as “Dunton”). Dunton owns a significant amount of property in the West Fork of the Dolores River and on Lizard Head Meadows within the RWD-TMP planning area in the Dolores Ranger District of the San Juan National Forest (“Forest”). Specifically, Dunton owns the Dunton Hot Springs Resort and numerous individual parcels along the West Dolores River (“West Fork”), notably including the 480 acre Cresto Ranch at the mouth of Johnny Bull Creek (“Cresto Ranch”); an 80 acre in-holding east of Dunton Hot Springs which is traversed by the East Fall Creek trail (“Timber Tract”); the 320-acre inholding approximately 4.5 miles southwest of Lizard Head Peak and approximately 6.5 miles northeast of Rico (“Lizard Head Tract”). The Lizard Head Tract is located less than one mile from the Lizard Head Wilderness Area, and received a Private Road Easement following a seven year Environmental Impact Statement process (necessitated by erroneous RARE II classification of the Lizard Head Tract and access road as “roadless area”). Dunton has an outfitters permit from the USFS for tourist-related hiking, horseback riding and mountain biking in the Forest. At the Cresto Ranch, Dunton operates the Dunton River Camp, where an elevated, luxury 8-tent camp is set up with en-suite bathrooms, and a restaurant and bar about 4 miles down-river from the Resort.

The Dunton Hot Springs Resort (“Resort”) is a five-star resort¹ located at the historic Dunton Townsite, a former hard-rock mining camp. The Resort consists of a collection of historic buildings, now restored, a spa which features the Dunton Hot Springs (with an indoor and outdoor geothermal spring), yoga and massage, a bar and restaurant, and numerous outbuildings. The Resort is now considered a luxury, high end tourist accommodation which sees year-round

¹ Bon Appetit Magazine recently chose Dunton Hot Springs as the Fourth Best Hotel for Food Lovers in America. Conde Nast Traveler Magazine listed it on their 2014 and 2016 Gold List, and the resort is now affiliated with Relais & Chateaux Restaurant and Hotel guide. Gayot chose Dunton as a Top 10 Remote Hotel worldwide.

occupancy. The Resort owners and guests frequently (and often independently) recreate in the surrounding San Juan National Forest, enjoying horse-back riding, hiking, cross-country skiing, snowmobiling, hunting, fishing, bicycle-riding, mushroom foraging, picnicking, photography, wildlife watching, and the like. Dunton regularly employs approximately forty-seven employees and numerous independent contractors, and generates annual sales tax revenues, payrolls and property taxes of at least \$ 1.5 million per year.

Dunton also owns the Paradise Hot Springs near the Geyser Trail, which is a unique geothermal hotsprings near the West Fork occasionally used by the Resort's guests. Christoph Henkel, the President of Dunton Hot Springs, Inc., and also owns a private residence adjacent to the Dunton Hot Springs resort. Dunton also owns numerous decreed water rights on the West Fork, including geothermal water rights, associated with its various properties. Dunton's property includes at least several river miles of the West Fork and significant tributaries such as Fall Creek and Johnny Bull Creek. Dunton is the largest private employer and private landowner on the West Fork.

Ever since it acquired the Dunton Hot Springs in the early 1990's, Dunton has welcomed and supported certain Forest actions, including the Burro Bridge upgrade, Burro Bridge and West Fork campgrounds rehabilitation, etc. Dunton conceived and financed the extension of high speed internet service up the West Fork. Dunton has previously been actively engaged in various Forest service proposals and projects, including comment on the proposed expansion/upgrade of Dolores County Road 38 (since abandoned), Geyser Trail trailhead relocation proposal (since modified and mitigated), and has informally discussed potential land exchanges with Forest personnel over the years.

Dunton is actively trying to increase its resort business at Dunton Hot Springs and has a business plan aiming to increase existing business. The success of this effort will depend in large part on the quality of the guest experience. That experience, in turn, is dependent upon resort amenities, and the natural beauty, solitude, and relatively pristine quality of the surrounding Forest and potentially abundant wildlife. Thus, Dunton's economic future is directly tied to the preservation and enjoyment of the San Juan National Forest Lands in the West Fork and Lizard Head Meadows area, and the ability to enjoy quiet, non-motorized summer uses in those areas and surrounding areas.

By virtue of its land and water right holdings, demonstrated history of involvement with the Forest Service, extensive use of Forest lands, and economic benefit to the West Fork and Dolores County, Dunton considers itself to be a major stakeholder in the RWD-TMP revision process. Indeed, Dunton has actively participated in the RWD-TMP planning process since 2008.

Dunton welcomes this opportunity to continue to participate in RWD-TMP Forest Plan amendment process. Because of various emerging land management issues, increasing recreational impacts and user conflicts, and actual and threatened degradation of Forest resources and values and private property values and resources, as further discussed below, the RWD-TMP DROD Forest Plan amendment process is a critically important step for the San Juan National Forest.

Dunton has in the past routinely suffered numerous and repeated incidents of trespass by motorcyclists who enter Dunton from the Fall Creek or Winter trails. There is no authorized public access or easement for these motorized users through Dunton. (Non-guest hikers and mountain bikers have been allowed to pass-through with no problems). These incidents disrupt the quiet and

relaxing resort guest experience offered by Dunton, adversely affect its business, and have in the past led to physical confrontations. Dunton appreciates that following these discussions, signage was erected near Dunton Hot Springs's boundaries advising that the trails end and enter private property. That has reduced but not entirely eliminated the trespass problem. While trespass incidents have recently diminished, the threat to Dunton remains as there are increasing amounts of non-local dirtbikers unfamiliar with Dunton's property travel on the northern-Calico trail system.

Just this year two dirtbikers rode into Dunton from Fall Creek Trail. Private property signage has once again been vandalized or removed from Forest land.

Outside of the Dunton resort properties, the negative environmental effects of single-track motorized uses are great. Extensive erosion on the steep western portions of the West Fall Creek and Winter Trails and in the Northern Calico trail meadows has in some cases caused rutting so severe that hiking and pedaling bicycles is extremely difficult if not impossible (trails are too cupped to hike in, tires sink into the ruts and the pedals can't rotate past the remaining trail surface). The erosion has caused adverse water quality impacts, and negatively affects the Papoose Creek and Fall Creek watershed, where Dunton has water rights and relies upon its water supply.

The sound of motorcycles significantly disrupts the backcountry experience for "quiet users". This noise is often negatively commented on by Dunton Hot Springs resort guests, who have historically hiked, rode bikes, and took horseback rides on area trails, especially including Northern Calico, Winter and Winter Connector, East and West Fall Creek, and Johnny Bull trails. Dunton's horse-back ride outfitter has curtailed taking horseback rider guests on the northern Calico and Johnny Bull trails due to safety and existing resource damage concerns. Due to the steepness and wetland areas on these trails, horseback riding, hiking and motorcycle use are highly incompatible and in direct user conflict.

Dunton has provided the Forest Service with extensive documentation of the trail damage and bad conditions on the Winter, Johnny Bull, East and West Fall Creek and northern Calico trails. See my letters to Dolores District Ranger Derek Padilla dated September 24, 2014 (Johnny Bull), November 13, 2014 (Winter Trail), and my emails to D. Padilla transmitting pictures of northern-Calico trail damage taken on June 12, 2016.

The extent of motorized use and abuse of these trails has gotten to the point that the motorized uses are incompatible with hiking, horse-back riding, hunting and mountain-biking, to the extreme detriment to and displacement of the non-motorized users. Motorized uses on single-track trails are increasingly out of control in the Dunton area (including the Lizard Head Meadows and West Fork), as witnessed by the recent multi-year closure of the northern Calico Trail due to motorcycle damage to wetlands, wet meadows and trails. Yet the Forest Service stubbornly refuses to acknowledge that this closure was necessitated primarily by motorized activity.

This extensive trail and wetland damage represents a disturbing Forest Service resource management failure, especially considering that initial authorizations for motorized use of these trails in some instances failed to comply with NEPA process, as noted in Mr. Robert Marion's (CBHA) FEIS comment letters and Objection.

Dunton submitted a sixteen page comment letter on the Draft Environmental Impact Statement (DEIS) by letter to District Ranger Derek Padilla dated July 14, 2016, together with the following attachments:

- Letter 9-24-14 to D. Padilla from SBJLF
- Letter 11-13-14 to D. Padilla from SBJLF
- Letter 2-13-08 to P. Wu from SBJLF
- Calico Trail Reconstruction
- Decision Memo for Calico/Winter Trail Reconstruction
- Calico Trail Establishment Report
- Letter 12-14-09 to S. Johnson from USDA
- Response to Informal Appeal Resolution Summary
- Memo 12-11-09 to Appeal Deciding Officer from USDA
- Letter 11-06-09 to Appeals Deciding Officer from SBJLF
- 2016 - 2-17 Off-Highway Vehicle Program State Trail Grant Application
- Letter 7-11-16 to S. Johnson from Bio-Logic
- Various Outfitter User Reports from FOIA response
(**Comment #1**).

Dunton also submitted a twenty page comment letter on the Supplemental Draft Environmental Impact Statement by letter to D. Padilla dated August 18, 2017² (**Comment #2**). Dunton also submitted a scoping comment letter to Mr. Padilla dated July 6, 2015 (**Comment #3**). Dunton also submitted an Objection to the RWD-TMP FEIS dated December 28, 2017 (**Comment #4**). Dunton has submitted various additional comments and photographs by email to Mr. Padilla.

The impacts of motorized trails upon Dunton do not just relate to Forest lands in the immediate vicinity of Dunton properties. Dunton believes that the impacts of motorized trails, particularly in semi-primitive, non-motorized area ‘corridors’ and Colorado roadless areas (CRAs), are a landscape-level concern, particularly where wildlife is concerned. For that reason, Dunton stands with and supports the comment and recommendation letters of the San Juan Citizens Alliance (SJCA)³, Colorado Chapter of Backcountry Hunters and Anglers (CBHA), Rico residents, and the owner of the High Camp inholding on the East Fork. These commenters have all requested that the northern Calico Trail system (north of Priest Gulch intersection), Bear Creek, and East Fork should be designated as non-motorized. Dunton also supports the FEIS Objections filed by CBHA and WildEarth Guardians.

For reasons more specifically set forth below, Dunton believes the DROD for the Forest Plan amendment does not adequately meet National Environmental Policy Act (NEPA) standards, and either an improved in the DROD with additional environmental analysis is required, or the proposed plan amendments should be withdrawn.

² Incorrectly dated August 18, 2016 on page 1 but see header stating August 18, 2017.

³ Dunton specifically incorporated the SJCA comment letter authored by Jimbo Buickerood dated July 14, 2016, and the letter dated June 6, 2016 and supplemental letter from Robert Marion (CBHA) dated August 8, 2017. The Marion letters provide an extensive and well-documented critique of SDEIS deficiencies and is fully supported by Dunton, except only that Dunton believes that user data specific to the RWD-TMP would be helpful for analysis.

Dunton adopts and incorporates by reference the Forest Plan DROD Objection letters submitted by Wild Earth Guardians (“WEG”) dated January 12, 2018 and Robert Marion/Colorado Backcountry Hunters and Anglers (“CBHA”) dated January 12, 2018.

FOREST PLAN AMENDMENTS AFFECTING JOHNNY BULL TRAIL TO FALL CREEK AREA

Amendment #11 to the 1983 Forest Plan signed 9/7/90 (before the 1992 Plan redo) stated the following:

Johnny Bull - changed from 2A to #a - said "Topography is too steep for motorized recreation".

In its Comment #4, Dunton stated that it supports and incorporates CBHA Objection #10 and suggestions as to the Over Ground Travel Suitability Map for Alternative B Modified that is given on Map 20 in Appendix A to the FEIS. There is no practical need to re-designate lands up to two miles⁴ south of Johnny Bull trail and extending over the Johnny Bull Creek as Semi-Primitive Motorized (SPM) on the ROS maps. Johnny Bull Creek is described as high-gradient stream. FEIS at p. 83. The Johnny Bull drainage is described as having “little anthropogenic use due to difficult access”.

Johnny Bull Creek water quality was not evaluated through a formal site assessment or visit. FEIS at p. 84. A tributary into Johnny Bull drainage, Silver Creek, which could likely be in the SPM/Suitable for motorized area south of Johnny Bull trail (but this is unclear as this drainage is not shown in the mapping), contains a mine which has poisonous, sulphurous and acid mine effluent. Signs show signs of skull and bones and warn humans away. I sent Mr. Padilla pictures of this unregulated discharge, which also occurs in the form of a small black-colored geyser nearby. I enclose two photos of this mine area.

The area south and west of Johnny Bull trail is extremely rugged and too steep for trails in most areas. I enclose a picture looking south and west from Johnny Bull trail that I took in September of 2014. I have personally explored both Johnny Bull and Silver Creek drainages. Surely this is not an area that could possibly be suitable for motorized use, especially near the mine in Silver Creek. There was never any discussion of this possible re-designation to suitable for motorized or to SPM in the DEIS or SDEIS, so the public has not had a fair opportunity to comment on this proposal.

As noted in the CBHA Forest Plan amendment Objection letter (and slightly revised herein):

On p. 187 of the FEIS there is a short discussion of the methodology used for the changes that were made in the ROS map for the current condition, Alternative A – but no specific site related information. Examples of some of the changes that occurred but are not specifically analyzed or discussed are:

- 1- The Johnny Bull drainage (an area exceeding 4000 acres) was changed from Semi-primitive Nonmotorized (SPNM) to Semi-primitive motorized (SPM). We presume this may be due to the motorized use occurring on Johnny Bull trail in this drainage – but in the 2013 Forest

⁴ While the large area covered by the small page map makes scaling difficult, Dunton initially assumed a SPM designation distance of 0.75 miles south of Johnny Bull trail. Dunton now believes that Mr. Marion’s estimate of 2 miles is more accurate.

Plan ROS map only a narrow strip adjacent to the trail was so recently considered to be necessary to be designated as SPM. This drainage has many sub-valleys with steep ridges in-between – and extreme remoteness in areas in the drainage removed from the trail. Areas that were changed to SPM south and west, and north and east of Johnny Bull trail are more than 2 miles from the motorized Johnny Bull trail.

Dunton now notes that the Plan amendment would redesignate a large area north of Johnny Bull trail and east of the West Dolores River extending to Fall Creek from SPNM to SPM. Lower Fall Creek passes through the Dunton Hot Springs resort. This was not clearly apparent to Dunton when Dunton made its Objection on the FEIS. This change was not discussed in the text of DEIS or SDEIS. Hence no justification was given for this proposed change and there has been no opportunity for public comment on this proposal.

Suggestion: The following areas should remain designated as Unsuitable: (1) The Johnny Bull drainage area and (2) drainages north of Johnny Bull trail to extending to Fall Creek should remain designated as Unsuitable in the Map for Alternative B Modified (Map 1 in FEIS Appendix A) except for a narrow strip adjacent to the Johnny Bull trail that should be designated Suitable (has designated trail). This would make the Alternative B modified map the same for the Johnny Bull area as it is for Alternative A on Map 14 in Appendix A of the FEIS. Similarly, Appendix A Map 9 SPM designation south of Johnny Bull trail (Fall Creek south to Eagle Peak Trail should be restricted to a narrow strip along Johnny Bull Trail. This would effectively restore the Forest Plan designations adopted as recently as 2013.

Alternatively, withdraw the Forest Plan amendments to ROS and OGTS maps.

CONCLUSION

As a major stakeholder, Dunton encourages the Forest Service to carefully consider this Objection and those of CBHA and WEG, revisit the DROD, and correct the deficiencies we have noted prior to proceeding to a final ROD.

Dunton thanks you in advance for your attention to and consideration of the information and concerns addressed in this Objection. Pursuant to 36 C.F.R. § 218.11, Dunton requests that it be allowed to separately meet with the objection reviewing officer to discuss Dunton's concerns and suggestions. Should you have any questions, please do not hesitate to contact me.

Very Truly Yours,



Stephen B. Johnson Law Firm, P.C.

c. Christoph Henkel
Ed Rossi