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December 28, 2017

Kara Chadwick, Forest Supervisor  
Objection Reviewing Officer  
San Juan National Forest  
15 Burnett Court  
Durango, CO 81301

*Submitted via email to:* r02admin\_review@fs.fed.us

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

**Re: OBJECTION By Dunton Hot Springs, Inc. and Christoph Henkel – Draft Record of Decision (DROD) and Final Environmental Impact Statement (FEIS) for the Rico-West Dolores Roads and Trails (Travel Management) Project dated November, 2017**

To Forest Supervisor Chadwick:

This letter constitutes an Objection to the Draft Record of Decision (DROD) and Final Environmental Impact Statement (FEIS) for the Rico-West Dolores Roads and Trails (Travel Management) Project dated November, 2017, and specifically to the U.S. Forest Service's decision to select Alternative B Modified as the project-level decision for the Rico West Dolores Roads and Trails (Travel Management) Project analyzed in the FEIS pursuant to the National Environmental Policy Act (NEPA). I am submitting this Objection as counsel for objectors Dunton Hot Springs, Inc. and Christoph Henkel, individually.

As required by 36 C.F.R. § 218.8(d), the objector's name, address, and telephone number:

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PO Box 818  
Dolores, CO 81323  
Tel. No. 970-882-4800

&

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c/o

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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 resort<sup>1</sup> 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 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 hot springs 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.

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<sup>1</sup> 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.

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 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 DEIS 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 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 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, 2017<sup>2</sup> (**Comment #2**). Dunton also submitted a scoping comment letter to Mr. Padilla dated July 6, 2015 (**Comment #3**). 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)<sup>3</sup>, 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 Objections filed by CBHA and WildEarth Guardians.

For reasons more specifically set forth below, Dunton believes the FEIS does not adequately meet Environmental Impact Statement standards, and an improved FEIS and/or change in the DROD in the is required. Without waiving the right to challenge the sufficiency of the FEIS, if a new FEIS is not legally required or prepared, Dunton supports Alternative E with modifications. Such support conditionally supports modification of Alternative E to eliminate motorized designation for the northern Calico trail, motorized trail connections to the West Dolores River including upper East and West Fall Creek, Johnny Bull, and Eagle Peak trails, with stricter seasonal use limitations and improved dispersed camping regulations and trailhead camping restrictions. Dunton also supports East Fork, Rico-area, and Bear Creek non-motorized trail designations.

Dunton agrees with the proposed action that the Winter Trail and the lower East and lower West Fall Creek trails (below Eagle Creek Road) be designated as non-motorized. DROD at p. 14. Dunton and other quiet use commenters on the original TMP proposal have provided the Forest Service with ample evidence of resource destruction, user conflict and displacement of quiet trail users, and non-sustainable use to justify this part of the proposal pursuant to 36 CFR § 212.55(b)(5), below.<sup>4</sup> Not designating these trails as motorized is also consistent with the Forest

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

<sup>3</sup> 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.

<sup>4</sup> From the Proposed Action: “East and West Fall Creek Trails (646 & 640) cross a section of private land before they connect with the Calico Trail. Research into the easement for this private land revealed that the landowner provided an easement specifically for “quiet uses” across the private land.

Winter Trail (202) runs between FR471 and the private lands along the West Fork of the Dolores (Dunton) road. Private landowners in the vicinity of the Winter Trail include the Dunton Hot Springs resort. The resort owners want to limit motor vehicle noise on the trails where they currently or historically provided guided horse rides and hikes. Hikers and equestrian users have also expressed the desire to have more non-motorized trail options available in this area that are not at high elevations in the Lizard Head Wilderness area.

The current alignment of the Winter trail through wetland areas presents maintenance difficulties regardless of the type of use. It will be necessary to maintain turnpikes or other trail features to support a non-motorized trail through the area without damaging the wetlands.”

Service's obligations under the Good Neighbor Policy, see below. While these trails have many issues common with other motorized trails in steep and wet terrain elsewhere in the RWD TMP area, their proximity to the Resort and the negative impact of motorized use upon Resort ownership and guests is unique.

Many of the comments below were originally focused on the DEIS or SDEIS. Since the modifications to preferred alternative B – other than change to seasonal closure dates – have little to no impact on Dunton or were not responsive to Dunton's comments, some of those earlier Dunton comments and previous NEPA documents are carried forward here as part of Dunton's Objection.

## II. REGULATORY CONTEXT

### A. THE 2005 TRAVEL MANAGEMENT RULE.

The stated purpose of the Travel Management Rule is to designate a socially, economically and environmentally sustainable forest transportation system that will accommodate motorized access needs in NFS lands. 36 CFR § 212.5 (emphasis added).

As you are aware, 36 CFR § 212.55, Criteria for designation of roads, trails, and areas, provides:

(a) General criteria for designation of National Forest System roads, National Forest System trails, and areas on National Forest System lands. In designating National Forest System roads, National Forest System trails, and areas on National Forest System lands for motor vehicle use, the responsible official shall consider effects on National Forest System natural and cultural resources, public safety, provision of recreational opportunities, access needs, conflicts among uses of National Forest System lands, the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration.

(b) Specific criteria for designation of trails and areas. In addition to the criteria in paragraph (a) of this section, in designating National Forest System trails and areas on National Forest System lands, *the responsible official shall consider effects on the following, with the objective of minimizing:*

- (1) *Damage to soil, watershed, vegetation, and other forest resources;*
- (2) *Harassment of wildlife and significant disruption of wildlife habitats;*
- (3) *Conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands or neighboring Federal lands; and*
- (4) *Conflicts among different classes of motor vehicle uses of National Forest System lands or neighboring Federal lands.*

In addition, the responsible official shall consider:

- (5) *Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors.*

(emphasis added).

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<sup>4</sup> 36 CFR § 220.4 General requirements makes this regulation section applicable to the USFS.

## B. GOOD NEIGHBOR AND REGULATORY CONSIDERATIONS

Forest Service regulations at 36 CFR Part 212, governing off-highway travel, implement Executive Order (E.O.)11644 (February 8, 1972), “Use of Off-Road Vehicles on the Public Lands,” as amended by E.O. 11989 (May 24, 1977). More specifically, 36 CFR Sec. 212.55 “Criteria for designation of roads, trails, and areas” provides:

(b) Specific criteria for designation of trails and areas... [I]n designating NFS roads, NFS trails, and areas on NFS lands [for motor vehicle use], the *responsible official...shall consider* : (5) *Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors.*

We are also aware from the Forest Service’s litigation with the Griffith’s Trust that led to the Geyser trailhead relocation, that the Forest Service has a “good neighbor policy” intended to minimize trespass into and impacts to private property from Forest land.

Dunton believes that the Forest Service has fulfilled its mandate to consider the compatibility of continued designation of motorized uses for the Winter, lower East and lower West Fall Creek trails, and its good neighbor policy, with respect to Dunton Hot Springs, insofar as the impacts are continuing. This is not the case, however, with respect to the northern Calico and Johnny Bull trails.

## III. HISTORICAL PRO-MOTORIZED BIAS AT DOLORES RANGER DISTRICT AND RECENT CALICO TRAIL GRANT APPLICATIONS OBJECTION

Dunton believes that your review and resolution of the Objections should be informed by the history of pro-motorized bias at the Dolores Ranger District, and the illegal (non-NEPA’d) signage and mapping of 14 trails as motorized (see CBHA Objection letter #4, which is incorporated herein by this reference).

Mr. Padilla’s predecessor Steve Beverlin and former Recreation Planner Penny Wu were notoriously biased in favor of motorized designations. We documented in our comments on the EA that Ms. Wu was a member of the San Juan Trail Riders; she solicited support letter for OHV grant application from her husband who concealed his relationship to her; she stated to the Colorado Department of Parks that DOLDO was pursuing massive hardening of the norther Calico trail; Mr. Beverlin prepared draft Trail Management Objectives (TMOs) with motorized designations for Calico and Fall Creek trails *before* his final decision that contained motorized designations for Calico and Johnny Bull. In the Informal Appeal Resolution process, Mr. Beverlin and Ms. Wu’s meeting summary contained deliberate distortions and incorrect quotes in an attempt to discredit my client’s anti-motorized condition. We provided a Response to Informal Appeal Resolution Summary dated Dec. 4, 2009 which outlines these distortions. Mr. Jimbo Buickerood of the SJCA experienced similar treatment.

Mr. Padilla’s office submitted an OHV State Trail Grant Application dated Nov. 3, 2015 for a \$218,000 Calico Trail Project, copy enclosed, to reconstruct and harden the northern Calico trail, with grant funding to come from OHV license fees. The full scope of this project would not be

required if the trail were designated as non-motorized, and by seeking OHV grant funds, if granted Mr. Padilla could hardly then decide to designate that portion of the northern Calico trail as non-motorized. At Dunton and SJCA's and CBHA's urging he withdrew that grant application, but that does not change the fact that he appears to have already decided to designate the northern Calico trail as motorized.

Mr. Padilla has repeated this mistake, demonstrating continuing pre-decisional bias, in submitting to Colorado Parks and Wildlife ("CPW") this year, before a final decision has been issued, a new 2018 grant-cycle application for motorized trail funding on the northern Calico trail. See WEG Objection at pp. 15-18, CBHA Objection at #13. The Forest Service pro-motorized bias continues, and the dependency of the Dolores District on OHV funding for trail maintenance has only increased since early 2000s.

As for the "hard" closure of the northern Calico trail in 2016, the closure authority that Mr. Padilla relied upon was a general authority. He could have relied upon the more-specific emergency closure authority in the Travel Management Rule to protect against impacts of motorized uses, but chose not to. Perhaps for the same reason, he did not impose a hard closure to motorized uses in 2015 summer when the extent of the damage was already apparent. In both cases, the actions appear intended to avoid antagonism of the motorized users, while the resource suffered. Yet another example of pro-motorized bias.

During the open houses and scoping meetings Mr. Padilla promised a "fresh look" at each trail. With few exceptions, the DEIS and the SDEIS and now FEIS fail to provide site-specific analysis of each trail and area proposed to be designated as motorized. Despite identifying certain Best Management Practices in the SDEIS and FEIS, no attempt was made to determine if individual trails complied.

Appendix G is entitled Trail Diagrams and Photos and provides some evidence of significant trail damage. The only diagrams are conceptual schematics. There is no analysis of trail grades or side slopes to determine compliance with BMP or Trail Management Objectives. It is very disappointing that after promising a "fresh look" at the 14 trails involved in the litigation, only northern Calico received any semi-specific analysis, and then only for reconstruction/relocation/grant support purposes. We can only conclude that the Forest Service was unwilling to document to what extent many trails proposed to be designated as motorized violate Best Management Practices.

There has been a "sea change" in trail uses in the upper RWD-TMP area since early 2000. Dirtbikers have multiplied, horseback riders have left, hikers confront extremely damaged trail caused by motorized users with fewer non-motorized trails available, hunters have lost hunting opportunities due to OHV disturbance, and during this same period elk have declined and trends are against restoring a poorly-performing herd. The FEIS should have put this picture together, but did not. It all goes back to the Forest Service illegally signing and mapping 14 trails as motorized without conducting NEPA analysis and going through a public comment process, while turning a blind eye to Colorado Department of Wildlife and now CPW recommendations.<sup>5</sup>

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<sup>5</sup> The trails in the RWD area that have never had NEPA analysis involving the public prior to designation for motorized use are: Burnett Creek, Calico North, Calico South, Eagle Peak, East Fall Creek, Horse Creek, Johnny Bull, Priest Gulch, Ryman Creek, Stoner Creek, Wildcat, Morrison, Sharktooth, Grindstone Loop, Salt Creek, Section House, School House, Sockrider, Fish Creek, and Geyser Spring.

This Objection process is your opportunity as Supervisor to rectify the damage that rogue Forest Service officials have enabled increasing numbers of single-track dirtbikers to inflict on the RWD-TMP area. This can occur through requiring analysis of a better range of different alternatives, using a different baseline excluding motorized trails that never received NEPA analysis, re-analyzing wildlife concerns including big game habitat potential, disturbance and security area connectivity, requiring more site-specific trail analysis, and restoring traditional quiet trail use opportunities in a manner consistent with the minimization criteria of the Travel Management Rule.

This Objection incorporates the WEG Objection arguments and suggestions at pp. 15-18.

#### **IV. OBJECTION CALICO TRAIL - NATIONAL RECREATION TRAIL STATUS AND PURPOSE AND NEED REQUIRE NON-MOTORIZED TRAIL DESIGNATION**

The various maps depicting the Calico Trail properly excludes certain private land owned by Mr. Richard Lincoln located at the junction of the upper Johnny Bull and Calico Trails. Mr. Lincoln has expressed to your office on numerous occasions that motorcycles crossing his property are trespassing. He has posted anti-trespassing signs, only to see them repeatedly disappear.

Forest Service Manual § 2353.32 - National Recreation Trails provides:

Regional Foresters shall designate National Recreation Trails (FSM 2353.04) as provided in sections 4 and 6 of the National Trails System Act. These trails must:

1. Represent the more outstanding trail opportunities of the Forest Development Trail System.
2. Provide a day-use or extended trail experience for a variety of outdoor recreation opportunities reasonably accessible to population centers.
3. Emphasize designation of an interconnecting network of National Trails.

Also Forest Service Manual § 2353.33b - National Recreation Trail Designation Criteria, provides:

A trail or a network of trails must meet the following criteria to be designated for the National Recreation Trail System.

1. Readiness. Designate a trail only if it is in place and available for public use.
2. Use and Availability. The trail must provide a variety of trail-related recreation opportunities within approximately 2 hours of automobile travel time from the population centers of the Region under consideration.
3. Length. The length of a proposed National Recreation Trail or Trail System may vary, depending upon its use and purpose, but it must be continuous.

According to the enclosed Calico Trail Establishment Report approval dated Nov. 16, 1979, the Calico trail “receives very light use ... a small amount of trail bike also occurs along this trail...Little or no change in use, over present conditions, is anticipated as a result of NRT designation”. The trail was described as only 6.5 miles long and goes down Fall Creek Trail #640 and terminates at Forest Road #471.

The May 13, 1997 Decision Memo for Calico/Winter Trail Reconstruction stated that “The entire Calico Trail receives light motorcycle use from Calico Trailhead to Priest Gulch.” It stated “The

Calico Trail 3208, Winter Trail #202, and Fall Creek Trail #640 form the 14 mile Calico National Recreation Trail...Using another section of the Calico Trail numbered #649, users can also travel 13 miles to the Priest Gulch trailhead.” As the portion of the Calico Trail that physically extends through private land at the junction of Johnny Bull Trail and Calico Trail cannot be bypassed due to steep terrain, this statement reflects the Forest Service’s invitation to the public to trespass across the private property.

The Calico Trail is not continuous between the north Calico trailhead and Priest Gulch and so does not meet the Designation Criteria. Accordingly, the National Recreation Trail Designation of the northern Calico Trail is not reason in and of itself to designate the northern Calico Trail as motorized, particularly when the historically-anticipated ‘small use’ by motorized users and overall Designation values have not been maintained. The reliance upon the “loop” or trail “system” as a rationale for a northern Calico motorized trail designation fails because the Calico Trail sections end on the north and south sides of Mr. Lincoln’s Johnny Bull claims.

For reasons of brevity, Dunton adopts, supports, and incorporates by reference but does not restate in full WEG Objection pp. 11-13.

Suggestion: Close northern Calico trail unless and until it is continuous, has fewer motorized trail connections, complies with BMPs, and more non-motorized, quiet use trail connections. Include the physical characteristics and details of every Calico and Calico connector trail considered for motorized designation including all grade, side-slope degree and length, wetland, erosion, related trail data and most-recently-observed trail conditions in a table with comparison between alternatives. Assume East Fall Creek, Johnny Bull, and Calico Trails north and south are non-motorized for baseline and alternatives analysis. Provide more detailed analysis as to whether the proposed designations as well as trail ‘mitigation’ maintenance can comply with BMPs and trail standards whether currently or with proposed improvements.

## **V. Inadequate seasonal motorized use closure dates.**

We stated at page 19 of Comment #2:

As a major stakeholder, Dunton requests that the impacts of motorized uses and dispersed camping in the Rico – West Dolores TMP area be more carefully and fully assessed, that proposed designations be substantially modified to further restrict motorized uses and trailhead camping, as described more fully above. Alternatively, if this is not legally required, *Dunton supports the selection of Alternative E, with strictest seasonal closure dates (Sept. 9 – June 30)*, deletion of motorized connections to Rico, and trail closure of East Fork, Calico from the northern trailhead to the junction with Priest Gulch and Bear Creek to motorized use. (emphasis added).

As Terry Hershey noted, “Every travel management decision on elk summer range is an elk management decision.” p.38.<sup>6</sup>

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<sup>6</sup> Implications of Back-country Travel on Key Big Game Summer Range in the Bighorn-Weitas Roadless Area, Clearwater National Forest by Terry Hershey, Wildlife Biologist, Salmon, Idaho 18 January 2011.

For reasons of brevity, we incorporate herein and adopt (but do not repeat with certain exceptions) the seasonal closure objection arguments and suggestions set forth in the WildEarth Guardian Objection letter dated December 22, 2017 by staff attorney Marla Fox (“WEG Objection”) at pp. 2-6, and the Colorado Backcountry Hunter and Anglers Objection letter submitted by Forest Watchman Robert Marion dated December 20, 2017 (“CBHA Objection”) in Objection No. 1.

Dunton wishes to underscore that the decision to adopt seasonal closure dates allowing motorized use from June 1 until Oct. 31 is a shocking but wholly unsupportable reversal of the dates proposed in the DEIS and SDEIS for proposed action Alternative B (and B modified), which were 9/9 to 6/30. Those dates were consistent with recent Colorado Parks and Wildlife recommendations, were science-based (although one could argue that the ten week post-calving nursing period should require closure extended through July), and were well justified in the DEIS and SDEIS as being in compliance with Forest Plan. The chosen closure dates are clearly inconsistent with San Juan Forest Plan at 40, Guideline 2.3.59, which directs the Forest Service to keep management activities from negatively impacting reproductive success by using access restrictions from May 15 until June 30.

The rationale relied upon by the Forest Service to allow motorized activity on designated trails for five months, June through October, is unfounded. Virtually no analysis is offered as to the impacts of the extended open-to-motorized dates, including potential additional user days, on trail conditions or wildlife, other than to say that habitat effectiveness is maintained across all alternatives. *See* Draft ROD at 12.

Habitat effectiveness needs to be analyzed from multiple perspectives. The FEIS only addressed impact on connections from security areas to migration routes, concluding that there are none that affect elk her viability. What about daily connections between security areas isolated by motorized loops that sterilize areas along motorized trails (50 mile loop ridden by a single dirtbiker displacing wildlife over 50 square miles, assuming ½ mile elk displacement, which is actually greater in areas above tree-line), and impacts on nursing and fall rutting? This was not addressed at all. The spirit of the TMR requiring the objective of minimizing harassment of wildlife requires a closer, harder look.

Seasonal closures serve an important role in not only wildlife and wildlife habitat protection, but also for required minimization of user conflicts. Horseback riders and hikers in particular deserve to use some of the Calico trail system trails during part of the summer and fall without fear of unsafe interaction with speeding dirtbikers, assuming the trail can be restored and re-constructed to usable condition. Some of the displacement of horseback and hikers riders from these trails could be reversed by imposition of seasonal closures. While hunting is not an opportunity for Dunton guests at present, Dunton guests who enjoy viewing wildlife would also be benefitted by such seasonal closures.

Suggestion for resolving this Objection;

The Forest Service should revise its DROD to apply the seasonal restriction dates set forth in Alternative B, allowing motorized use from July 1 until Sept. 8 (closed to motorized use from Sept. 9 until June 30) for the entire project area.

## **VI. INSUFFICIENT NEPA ANALYSIS**

Dunton believes that each of the impacts (trespass, noise, erosion, water quality, wildlife disruption, socio-economic, conflict with non-motorized users) of the motorized trail designations, including existing management, is inadequately addressed in the DEIS and SDEIS and FEIS. Dunton requests that the proposed action include actions to specifically protect the Dunton Hot Springs resort and surrounding area as well as other private properties in the West Fork, Lizard Head Meadows, East Fork and Bear Creek.

### **A. Wetlands.**

In Dunton's letter Nov. 5, 2009 to the Appeals Deciding Officer (appealing the 2009 Environmental Assessment or EA), we stated:

The EA failed to address the following questions:

- To what extent has the Forest Service drained wetlands along the upper Calico? The cumulative damage cannot be assessed with first determining previous drainage.
- Can these wetlands be reclaimed? How?
- How many unbridged, unhardened creek crossings exist?
- What is the resulting sedimentation, and effects on fisheries and amphibians?

None of these issues were addressed in the FEIS on any kind of site specific basis. For example, one of the most egregious sources of sedimentation in the West Fork is the unbridged motorized crossing of the West Fork and extensive willows on the east bank. While a bridge is proposed as future mitigation, there was no analysis of the current and cumulative effects of such crossing. Without this kind of information, it is easy but false to assert absence of scientific controversy and absence of significant resource damage. The Appeals Deciding Officer ruled in our favor on virtually all appeal points.<sup>7</sup> See Dec. 11, 2009 Recommendation Memorandum for Rico-West Dolores Appeals, copy enclosed. Supervisor Mark Stiles accepted the Recommendation and reversed Mr. Beverlin's decision on the EA by letter dated December 14, 2009, copies were previously provided as attachments to Dunton's comment #1.

A review of the SDEIS reveals virtually no data or analysis of these issues/questions. We agree with the EPA's letter dated June 20, 2016 from Phil Stroebel that the DEIS lacked sufficient information to address environmental concerns, and that the wetlands and fens deserve the highest degree of protection, namely Alternative E (closure of northern Calico and Winter Trails) or Alternative B, which would re-align northern Calico Trail. Other than addressing fens, the FEIS is little improved in this regard. We recognize that the analysis of fens was improved in the SDEIS.

Suggestion: Revise analysis to fully comply with EPA recommendations. Close Johnny Bull trail to motorized use until a bridge is installed over the West Fork east bank wetlands.

### **B. Wildlife**

The analysis in section 3.6 of the SDEIS and FEIS, Terrestrial Wildlife, is severely flawed.

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<sup>7</sup> Other appellants included Gene Story, Robert and Nancy Marion, Trout Unlimited, and San Juan Citizens Alliance and Colorado Mountain Club.

First, here is an overview of some of the issues.

According to Hershey, *Implications of Back-country Travel on Key Big Game Summer Range in the Bighorn-Weitas Roadless Area, Clearwater National Forest* by Terry Hershey, Wildlife Biologist, Salmon, Idaho 18 January 2011:

Habitat potential and effectiveness are two primary considerations of elk habitat assessment and management. Habitat potential is defined as the combination of ecological factors (e.g., existing vegetation, climate, landform) that influence the inherent ability of a landscape to produce and sustain elk in the absence of human disturbance. Habitat effectiveness is defined as the spatial use of potential habitats in the context of human disturbance. Knowledge of both components is necessary for resource planners to address three general questions: 1) can the planning landscape inherently support elk, 2) is elk use of potential habitat being limited, and 3) if elk use of potential habitat is being limited, what environmental factors are limiting (Roloff 1998)? p.4

Invoking the Precautionary Principle, limited evidence of proof of population impacts associated with human disturbances should not be confused as evidence of the relative absence of such an effect. Intuitively, elk populations may be negatively affected by human disturbance and the level or threshold of population level impacts is likely related to the intensity, frequency, extent and duration of disturbance. Elk may be able to avoid immediate population impacts by avoiding disturbed areas, but displacement could have potential cascading effects and cumulative negative impact through increased animal density and competition with other elk in their habitats for limited forage resources. The effects and impacts of linear travel routes and off-road travel on elk herds and their habitat are realized not only on a site-by-site basis at the scale of the individual route segment, or at intermediate scales across a route network, but through the cumulative effects of recreational disturbances over a large landscape of variable density and spaced interconnected route networks across federal/private land boundaries. As demands for back-country recreation increase, so do the cumulative effects on elk and their seasonal habitats over time and space. p.41

I previously provided Mr. Padilla with a copy of Rico-West Dolores Travel Management Project, Draft Environmental Impact Statement: Review of Wildlife Impacts and Analysis prepared by: Steve Boyle, Senior Scientist BIO-Logic, Inc. dated July 11, 2016. Mr. Boyle's comments focus on elk. Notwithstanding that the SDEIS now acknowledges to a limited degree that the elk population is not as healthy as suggested in the DEIS, few additional elk-protective measures were incorporated in the FEIS. So it is worthwhile to re-iterate Mr. Boyle's major points.

Mr. Boyle stated: "The assertion that such human disturbance" (referring to disturbance associated with road density on summer range) "probably does not affect elk populations" is not supported by any scientific study of which I am aware, and should be substantiated by the Forest Service or withdrawn from the DEIS."

Mr. Boyle also stated: "In the DEIS, pages 116-117, the Forest Service acknowledges that elk could potentially be adversely affected by motorcycle use on trails, but concludes that none of the alternatives would cause significant impacts to elk because the elk population of concern is increasing or stable, and at or above the CPW population objective. The DEIS also states that all

of the alternatives maintain adequate habitat effectiveness for elk. I have concerns about the accuracy of these statements as presented in the DEIS, and in the following sections I address the elk population and the Forest Service habitat effectiveness issues.”

Drilling down, Mr. Boyle took issue with the DEIS findings concerning elk population, trends, and habitat effectiveness:

In the DEIS (page 112, Elk, Background), the statement “Elk populations have grown in the past two or three decades, and currently exceed the Colorado Parks and Wildlife objectives” is not true. The population estimation data from CPW covers the period 1987-2015 are shown in Table 1.

DAU E-24 has a population objective of 17,000-19,000. Looking at the population estimates for 2015 and projected for 2016 in Table 1, the population is “at objective”, slowly declining, and cannot be considered “above objective”. It is also misleading to say that the elk population has been growing the last two or three decades. The population increased from low numbers in 1987 to a peak in about 2007-2009, then has steadily decreased, partly in response to increased cow licenses intended to bring the herd into objective. However, some of the population decrease has also been in response to declining recruitment, as indicated by the declining cow/calf ratios in Table 1...

The trails of concern in the West Fork Dolores and upper Dolores watersheds are in GMU 71. According to Scott Wait of CPW, while elk numbers in the DAU as a whole are within objective, he and other CPW wildlife staff in the region agree that elk numbers in units 71 and 711 are well below what CPW and a majority of the public would like. CPW has been reducing cow license numbers in those units in recent years to encourage higher elk numbers. So while the overall DAU herd is at objective, the portion of the elk population within the DEIS project area is below CPW desired numbers.

In DAU E-24, and in the adjacent elk DAUs to the north and east, there has been a recurring problem of poor calf survival and recruitment. For example, in 2015 the post-hunt calf/cow ratio in DAU E-24 was 28/100, and the 3-year average is 30/100. CPW believes that a ratio at least in the 40s is necessary for a healthy population capable of population increase and able to support robust hunter harvest and withstand considerable stochastic mortality such as from harsh winters or disease. The low calf recruitment in the DAU has been evident during the last 15 years (Table 1). CPW is quite concerned, and is planning a research project in the Uncompahgre DAU to the north to investigate causes and seek remedies. What is known is that elk cows are apparently experiencing normal conception and birth rates, but calves are experiencing poor survivorship between birth and early winter. Of particular concern in DAU 24 is the poor reproductive performance of elk in Units 71 and 711, the part of the DAU where elk numbers appear to CPW to be considerably below what the habitat appears capable of supporting.

Cow elk with calves in summer are vulnerable to motorized vehicle use, because disturbance can cause changes in distribution and forced relocation to suboptimal habitats. This in turn can cause increased mortality, particularly of calves. Failing to consider such impacts to this poor-performing herd is a serious oversight in the DEIS environmental analysis.

Finally, it must be noted that sport harvest of elk and mule deer is based on the concept of a harvestable population surplus. Explained simply, a big game population has an intrinsic capability to increase, depending on habitat and other environmental factors. The greater the intrinsic rate of population increase, the more animals can be harvested, particularly cow elk, the reproductive producers in the population. Therefore, any decline in environmental conditions such as habitat quality or availability that reduces population performance can reduce the rate of population growth, and allow less sport harvest. In other words, even a population “at objective” can be negatively affected by declines in habitat quality, with the result not of a population decline, but of fewer surplus animals available for harvest, reduced hunting opportunity, and reduced economic activity generated by hunting in local communities, an extremely important factor in the project area. Therefore, the DEIS is remiss in dismissing potential impacts of the alternatives on elk based on the population being “at or over objective”.

On page 113, first paragraph: the DEIS description of elk population dynamics contains some serious omissions of fact, and a misleading conclusion. The DEIS fails to point out that the elk population has been decreasing since a peak in about 2007-2009, and incorrectly describes the elk population as over the population objective. The DEIS fails to include the 2015 CPW population estimate, understandable given the time of writing, but now this information should be added.

While it isn't clear to me in the DEIS, apparently the habitat effectiveness analysis GIS procedure did not include motorized routes where seasonal closures to motorized use were applied. If this is true, it seems incorrect to me. To do so assumes that there are no impacts to elk during the period when motorized use is allowed, which cannot be true. If the seasonally closed routes were not included in the analysis, the analysis is not valid and should be repeated to include all routes that are open at least seasonally to motorized use.

The Forest Plan at section 2.3.59 states: “Projects or activities that adversely impact pronghorn and elk production areas should be limited or avoided. This will keep reproductive success from being negatively impacted from management activities by using access restrictions during the following periods:

- Elk: May 15–June 30

To be most consistent with existing Forest Plan direction to minimize impacts of motorized recreation on elk, Alternative E provides the greatest minimization of impacts of motorcycle trail use on elk, provided that seasonal restrictions are modified to be consistent with alternative B; that is, closure from Sept. 8 to July 1. (emphasis added).

To summarize Mr. Boyle's report, the DEIS incorrectly stated the elk population in the RWD-TMP area has been growing for two decades, contrary to CPW data. The statement in the DEIS that the elk herd is meeting current CPW target population guidelines (for a much larger analysis area) may be correct, but that is not the important fact. The important fact is CPW data shows that elk herd size is declining (by 15% over the last 10 years), and calf:cow ratios are decreasing (by 25% over the last 10 years). The elk herd reduction is particularly acute in Game Management Unit 71, where the motorized trails of concern in the West Fork and upper Dolores watersheds are

located. Antlerless elk rifle licenses have been reduced, with attendant socio-economic impacts. Habitat effectiveness analysis is flawed by disregarding motorized trails with seasonal closures.

The CPW is concerned enough about this trend that in the 10 years preceding 2016, CPW has reduced the number of antlerless rifle licenses in GMU 71 from 900 permits in 2005 to 195 permits in 2015. The Tables and hunting license analysis at DEIS pp. 164 and 165 only goes back to 2012, and the FEIS only to 2014, and mask the true extent of the decline in hunting opportunity that has already occurred.

CPW clearly believes that there is an elk herd problem in the RWD TMP area. This trend means fewer elk and deer hunters in the RWD area, with attendant socio-economic impacts. This contradicts the statement at page 167 that “Although the alternatives vary in terms of enhancing or detracting from elk habitat, the elk herd is anticipated to remain visible and *numerous* to hunters.” That is already not the case. In 2008 the Division of Wildlife recommended closure of the northern-Calico trail system to motorized uses, a recommendation ignored by the Forest Service.

The SDEIS at page 186 noted a steady decline in the number of hunters in GMU 71 over the last three years. It identifies a number of possible causes, including decrease in hunter satisfaction, increase in off road motorized use, or numerous other factors. Yet the SDEIS and FEIS makes no effort to explore these causes, and notably avoids analysis of the reasons for the decline trend in the elk population. The SDEIS merely treats motorized trail activity as affecting distribution of elk but not population viability. The correlation of elk herd decline trend with significantly increased single-track activity over the last 10-15 years is unmistakable, but this correlation is not even addressed in the SDEIS. The Forest Service is remiss in not obtaining sufficient user data and user trends to help determine reasons for elk population decrease and lower calf recruitment causation. In the absence of a causation study by the Forest Service, it should defer to CPW recommendations as to seasonal closures, and historical CDOW comments recommending that the northern Calico trail system north of Priest Gulch be non-motorized.

Unlike the DEIS, the SDEIS and FEIS finally acknowledges a problem with elk populations. See FEIS at p. 50. At page 127 the SDEIS states: “Although populations are currently meeting objectives for DAU-E24, there has been a downward trend in elk numbers across southwest Colorado. fn14”. This finding requires additional efforts at minimization of harm to elk herds and habitat. Forest Service did not address the fact that this trend is greater in the RWD-TMP area than the rest of DAU-E24 as noted by Mr. Boyle. And despite this acknowledgement, there is no substantial difference in the proposed action in terms of designation of motorized trails. Forest Service has the opportunity consistent with the Forest Plan direction and desired conditions to create larger elk security areas. This could be best achieved along the West Fork by not designating upper East Fall Creek, Johnny Bull and Eagle Peak trails as motorized. These motorized trails needlessly bisect and fragment high-value elk habitat.

The SDEIS fails to utilize the best available science. The undated American Elk Species Assessment for the San Juan National Forest was apparently updated by Gary Vos on May 16, 2016, merely by highlighting certain sections. Yet its citations to scientific literature are all pre-2002. At page 17 this document states: “Changes in habitat on Forest land do not appear to affect elk numbers.” This is contrary to the findings of the CPW that are mentioned only in a footnote 14 at page 127. This footnote noted the following correspondence from CPW:

“Recent flight data indicates calf to cow ratios [in DAU E-24] are 28:100. A minimum ratio of 30 calves per 100 is needed to sustain current elk population levels with zero cow hunter harvest. An exact cause for the decline and poor reproduction within the herd isn’t clear and is likely cumulative. Disturbance associated with roads and trails, degradation of habitat and reduction of the forest’s functionality as useful elk habitat, have all been identified as having negative impacts to elk and production.” (emphasis added).

At page 128 in the SDEIS it is stated: None of the alternatives, including alternative A – no action - would cause route densities to rise above 1 mile per square mile.

While this may be true on a Forest-wide basis, based on the polygon analysis, this is not true in certain discrete elk production areas, such as areas where the Calico Trail is intersected by the Johnny Bull, West Fall Creek, and Eagle Peak trails. As noted by biologist J. Profitt, “Providing adequate security areas makes elk harder for hunters to find, increases elk survival during the hunting season, and therefore allows liberal hunting opportunities that are less costly in terms of elk vulnerability (Hurley and Sargeant 1991, Leptich and Zager 1991, Unsworth and Kuck 1991).”

According to Profitt, “Habitat potential and effectiveness are two primary considerations of elk habitat assessment and management. Habitat potential is defined as the combination of ecological factors (e.g., existing vegetation, climate, landform) that influence the inherent ability of a landscape to produce and sustain elk in the absence of human disturbance. Habitat effectiveness is defined as the spatial use of potential habitats in the context of human disturbance. Knowledge of both components is necessary for resource planners to address three general questions: 1) can the planning landscape inherently support elk, 2) is elk use of potential habitat being limited, and 3) if elk use of potential habitat is being limited, what environmental factors are limiting (Roloff 1998)?...

There is virtually no analysis of habitat potential in Section 3.6 of the FEIS. Instead, the Forest Service appears content with a road/motorized trail density of 1 mile per square mile as maintaining habitat effectiveness across all alternatives as per Forest Plan Guidelines. FEIS at p. 139. But according to Hershey:

The extent of reduced habitat use can be very substantial. Lyon (1983) reported that “habitat effectiveness can be expected to decline by at least 25 percent with a density of 1 mile of road per square mile and by at least 50 percent with two miles of road per square mile . . . As road densities increased to five to six miles per square mile, elk use declined to less than 25 percent of potential.” Road effects can saturate a landscape even at relatively low road density (Forman et al. 2003).

Hershey at p. 12. In order to comply with the TMR to “minimize harassment of wildlife and *significant disruption of wildlife habitats*”, consideration needs to be given to increasing size and connectivity security areas by reducing unnecessary motorized connector trails that are part of the Calico trail system.

Furthermore, the analysis in the FEIS at p. 139 assumes that elk displacement from roads and motorized trails stops after one-half mile. This is unlikely to be true where the trails are above timberline and there is no cover, as with parts of the Calico trail, Fall Creek Trails, and Johnny

Bull trails. Dirtbike noise simply impacts a greater area in these locations. This was not taken into account in the Terrestrial Wildlife habitat effectiveness analysis.

Many variables influence elk habitat use relative to open roads. Avoidance of open roads was greatest when less cover was present, during the hunting season when use of forest roads peaks, and on high-standard primary roads (Lyon et al. 1985:6). Topography also influences elk habitat use near roads (Frederick 1991:22, Edge and Marcum 1991).

Hershey at p. 12.

In summer, cows with calves must balance habitat selection between areas that provide security from human disturbance and predators for neonates and high-quality forage for milk production and accumulation of sufficient body reserves for future reproduction (Geist 1982). The elk calving/nursery period is a critical time when elk may be most compromised by disturbance. Maternal.

Hershey at p. 20.

Factors that govern annual calf survival are largely responsible for changes in elk population abundance both within herds over time and across herds (Raithel 2005 and Raithel et al. 2007). Furthermore, factors that influence elk population size (i.e., habitat quality, elk density, predators) are likely predominately acting upon calf survival. Geist (1982) suggested that female ungulates differentially used habitats that maximized offspring survival.

Hershey at p. 27.

If human disturbance results in elk inhabiting habitats not previously used or causes elk to avoid habitats that would otherwise be beneficial, the health or reproductive success of elk could be compromised (Geist 1982, Skovlin 1982, Hutchins 2006). Elk avoided even highly preferred foraging habitats within 500m of human activity of all types in western Montana (Edge 1982). Witmer and deCalesta (1985) found that Roosevelt cow elk in the Oregon Coast Range were observed farthest from roads during the calving season. **They suggested that if managers wish to reduce harassment of elk, their efforts might be most effective during calving . . .** (emphasis added).

Hershey at p. 27-28.

Human disturbance from back-country travel is one of several environmental conditions that potentially can directly and/or indirectly impact elk calf survival. As reported earlier in this review, Phillips and Alldredge (2000) and Shively et al. (2005) found direct, repeated human harassment reduced calf survival and population growth rate.

Hershey at p. 28.

Best Management Practices. Switalski and Jones, eds., (2008) developed Best Management Practices to aid land managers in travel planning and implementation related to off-

road vehicle management on forest lands. Their science-based criteria and standards applicable to the potential effects of ORV recreation on elk biology include:

- If routes are already in important native wildlife habitat, seasonally close during sensitive seasons.
- Calving/fawning period for known key ungulate calving/fawning areas (e.g. May 15 through June in the Rocky Mountain West)
- Reduce road/route density to below 1 mile/square mile in important wildlife areas
- Maintain and improve habitat security by protecting whole areas rather than individual route closures.
- Maintain large unfragmented, undisturbed blocks of forest land where no routes are designated.
- Avoid creating loop routes that would isolate wildlife habitat within interior loops.
- Close routes that are duplicative.
- ORV event permits shall ensure use of routes that can sustain such a level of use without leading to an increase in wildlife habitat degradation and/or wildlife displacement that no longer meets desired ecological conditions. (emphasis added).

Hershey at page 33.

Finally, the issue of isolation of elk within security areas bounded by roads and motorized trails as that relates to connectivity should be addressed. Motorized activity hampers elk movement across roads and motorized trails during production, summer grazing and rutting. The FEIS only addresses connectivity from the standpoint of migration to winter habitat. FEIS at p. 140. This is an unnecessarily-restrictive and non-science-based approach to minimization of harassment to wildlife and avoidance of significant disruption of wildlife.

#### Suggested Action:

The wildlife and habitat effectiveness analysis needs to be redone, and the impacts on hunters need to be addressed over a longer term. Acknowledge that motorized activity in elk calving and production areas constitutes harassment of wildlife and a significant disruption of wildlife habitat. Demonstrate how this harassment and disruption has been minimized by motorized trail designations and seasonal closures. A management target for elk of 100% habitat potential should be set for the upper RWD-TMP area. A discussion of minimization (as promised on page 66 of the SDEIS) and how each motorized trail designation (not just by Alternative) minimizes harm to wildlife and wildlife habitat needs to be added. The new analysis should also inform the decision on seasonal trail closures and maintenance of habitat effectiveness.

### C. SOCIO-ECONOMIC IMPACT ANALYSIS IS FLAWED

The DEIS stated on page 177 that “Insufficient information exists to project changes in nonmotorized (sic) and motorized use that may result following implementation of the alternatives analyzed in this report.” The Forest Service has an obligation to make scientifically-based analysis and decisions; gathering data or relying on existing data from the SJNF or elsewhere was therefore

required. This effort can and should have been based on examining trends to date, either by site-specific surveys or inference from NVUM, SCORP (CPW Outdoor Recreation Survey, 2013), San Juan Interviews, as noted by Mr. Marion's letters. The refusal to rely on NVUM or other available information, as indicated in section 3.2.5, Map Accuracy and Data Limitations, evidences an approach to the DEIS that is ignorance-based, and concern has been expressed that this is perhaps intentionally so.

In the Economic Contributions discussion at DEIS page 172, there should have been an analysis about how the local and non-local expenditures might vary among the alternatives. Would less or closure to motorized use on single-track trails lead to more (resumed) use by quiet users, reversing the displacement that has occurred? What would be the economic impacts on the local economy? These questions should be addressed in greater detail.

The statement on FEIS page 186 that "Hikers and backpackers take short ½ day or less trips" is nonsensical. Only rarely do backpackers backpack for a half day or less; these are generally overnight trips.

#### D. USER CONFLICT ISSUE IS IMPROPERLY DISREGARDED

In a 2016 meeting Mr. Padilla stated to the undersigned author that there is no real documentation of user conflict, suggesting for an example of user conflict a fist-fight that leads to law-enforcement intervention. I respectfully submit that this is a too narrow of view of user conflict, and that such documentation is extensive. Asymmetrical user conflict has resulted in displacement and avoidance of quiet users on motorized trails during periods of motorized use. Mr. Marion's comment letters addressing this topic is most insightful and I incorporate but will not restate all of his points here. At least this asymmetrical perception of user conflict is acknowledged in the SDEIS. However, at page 197 of the SDEIS it is stated: "Often the situation is defined as "conflict of use," but there generally is not physical or safety conflict associated with one party encountering another party on the trail."

Numerous public comments have documented safety concerns and dangerous encounters with speeding dirtbikers. The displacement of horse-back riders from the northern Calico and Johnny Bull trails is the direct result of safety concerns.

At page 203 of the FEIS the Forest Service states after a discussion of quiet user displacement: "This displacement cannot be quantified but is noted." Not so. This displacement can be demonstrated by the outfitter user day data that I received pursuant to my FOIA request. I asked for hunting, hiking and horse-back rider outfitter user day data over the last ten years for Calico and Johnny Bull trails. I received very sparse responsive information, attached (2006, 2010 SJNF Post-Use Report), 2010 Mountain adventures hiking report, Dunton's 2013 Reports. Either the FOIA document search was inadequate, or my point about hunter and horse-back ride outfitter displacement is proven. No hunter and horse-back ride outfitter user days for Johnny Bull and Calico trails were documented in the information that I received. We know that outfitters like Gene Story and Alison Ecklund used to work both these trails. Apparently no longer on the northern Calico, and not so much as before on Johnny Bull, where some drop camps are still done. Deteriorated trail conditions are too dangerous for horses, or potential encounters with speeding

dirt-bike riders too unsafe to risk. The Trail Use conflict summary at page 205 of the FEIS failed to note this safety concern for Johnny Bull trail (only noise was noted).

Analysis of these types of outfitter user days should be performed for all trails. This analysis should go back to before 2004, when many of the trails of concern began to be signed for motorized. Where is the use, what are the trends?

The DEIS states that that motorized users generally ride at low to moderate speeds. That is contrary to virtually every motorized user that I have witnessed, except on some steep rock sections or in bog-holes. The video that I have previously provided to you demonstrates these high speeds, riding on closed trails, and an arrogant attitude against non-motorized users.

<http://www.youtube.com/watch?v=LmO4VYjXTKY>

Staff observation that trails are successfully shared is flatly contradicted by public comments witnessing quiet user displacement, SCORP and San Juan Interview survey data, the White River National Forest EIS, and by the public comments on the 2009 EA and the 2016 DEIS that Mr. Padilla promised would be considered. Public comments are direct, even best evidence of user conflicts. See *Northwest Motorcycle Association v. USDA, 18 F.3d (1994)*. Not every trail should be shared, or can be successfully shared, with motorized users.

An example of user conflict is the northern Calico Trail. The Forest Service closed this trail to all trail users starting June 13, 2016 after a “soft” closure the preceding year was ignored, resulting in great tire-track damage to wetlands and wet meadows. The closure continues in effect. The ostensible reason was wet soil conditions and prevention of rutting. The real culprit in Dunton’s opinion is dirt-bikers as well as lax Forest Service regulation. Many of these riders are non-local with tight schedules who ride big loops in large groups regardless of wet trail conditions.

2015 apparently saw a 200% increase in precipitation on the northern Calico Trail area. Many dirtbikers did not respect a voluntary “soft” closure requested by the Dolores District Ranger. The Forest Service now estimates it will cost over \$277,000 to reconstruct and realign the Calico Trail and repair historical and recent trail damage.

Beginning in the late 1990’s and early 2000’s up to 14 trails in the RWD area were signed by the previous administrations of the Dolores Ranger District as allowing motorized uses. This signage occurred without any public comment or environmental analysis required by the National Environmental Protection Act (NEPA). Adding insult to injury, the Forest Service now considers these motorized trails as part of the existing environmental “baseline” based on current management. The cumulative impacts of these designations are not well acknowledged because they are now part of the Baseline, they are not analyzed, nor is there any real demonstrated attempt to minimize the impacts from these trails under the Travel Management Rule.

The proposed action in the SDEIS and FEIS maintains most of the northern Calico Trail system (north of Priest Gulch Trail) as motorized, contrary to the last recommendation of the Colorado Division of Wildlife (now Colorado Parks and Wildlife).

Whole sections of the northern Calico trail are currently trashed. The June 12, 2016 pictures that I sent to Mr. Padilla show examples within the first few miles. There is no question that dirtbikers

riding in wet conditions are responsible for the vast majority of that trail damage. The SDEIS stubbornly refuses to address the relative impacts of the various user groups.

So the actions of the dirtbikers, particularly in the absence of large amount of current horse-back use, on the northern Calico and its connectors, has effectively displaced hikers, horse-back riders, and mountain bikers from the northern Calico Trail for several summers. If that is not an example of 'documented' user conflict and displacement, I don't know what is.

Peer-reviewed studies indicate that public lands elk typically react to motorized activity by moving *at least* one-half mile from the noise and motion. Each single-track rider who rides a 50 mile loop displaces elk from over fifty-square miles and impairs quiet use opportunities in those same 50 square miles or more. People who want to see wildlife cannot do so where and when this motorized activity occurs.

Many Telluride-area, Rico-area and West Fork of the Dolores River residents and owners want to restore our illegally-lost opportunities for traditional, quiet backcountry uses. Motorized activity has its place, but dirt-bikes should not be routinely allowed to cross rivers and streams, wetlands, wet meadows, steep slopes, tundra, or be allowed to excessively fragment big-game habitat. Single-track motorcycle riding in the Rico-West Dolores area has simply gotten out of hand over the last fifteen years.

#### E. INCORRECT BASELINE

The baseline for the analysis and no-action alternative uses current management direction. For reasons stated in Mr. Marion's Objection letter at Objection #4 letter and the WEG Objection at pp. 13-14, it is improper to consider motorized trails that never had previous NEPA analysis prior to signing them as motorized. I know this is a point of contention, but I recall and reported to others that Mr. Padilla promised you would take a fresh look at the impacts of each of those trails. Yet by including these 14 trails in the baseline for purposes of alternatives comparison, the Forest Service has obscured the cumulative impacts of their current motorized status in relation to the other alternatives. If Forest Service feels constrained against using a different baseline, because as Ms. Kill stated to undersigned with reference to lack of prior NEPA analysis, "we can't admit that", then one suggestion is to develop and consider an alternative that considers each of the 14 trails described by Mr. Marion as non-motorized. Given the history of what I consider illegal, non-NEPA compliant initial motorized trail designations for the 14 trails, such an action would be the only fair and honest thing to do.

Conversely the decision to eliminate the no-action alternative from further analysis is legally erroneous. Forest Services needs to determine, and preferably describe the cumulative effects of past agency actions, including these trail designations, to adequately inform the DEIS and the public.<sup>8</sup> Failure to do so is a violation of the cumulative effects analysis requirements.

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<sup>8</sup> 36 CFR§ 220.4 General requirements.

(f) Cumulative effects considerations of past actions. Cumulative effects analysis shall be carried out in accordance with 40 CFR 1508.7 and in accordance with "The Council on Environmental Quality Guidance Memorandum on Consideration of Past Actions in Cumulative Effects Analysis" dated June 24, 2005. The analysis of cumulative effects begins with consideration of the direct and indirect effects on the environment that are expected or likely to result from the alternative proposals for agency action. Agencies then look for present effects of past actions that are, in the judgment of the agency, relevant and useful because they have a significant cause-and-effect relationship with the direct and indirect effects of the proposal for agency

## VII. CALICO, EAST FALL CREEK AND JOHNNY BULL TRAILS

Page 37 of the 2015 Scoping Notice stated that “Preliminary review shows grades on the John Bull Trail are manageable”. Grades were not quantified however in the DEIS, SDEIS, or FEIS. Amendment #11 to the 1983 Forest Plan signed 9/7/90 (before the 1992 Plan redo) stated the following:

**Landslip Mt/Calico Pk - changed from 2A to 3A - said "Topography is too steep and soils too erosive for motorized recreation".**

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

Just what does ‘manageable’ mean? That excessive steepness can be changed in the future? We have provided the Forest Service with extensive photo-documentation of extremely bad and steep conditions on the Johnny Bull trail and its sideslopes. Given this apparent inconsistency in your own agency’s interpretations of the same landscape, the question of whether Johnny Bull and Calico trails are sustainable and can comply with Best Management Practices must be considered key. We expected a specific examination of this issue steepness, extensive trail sections with steep side slopes that inhibit passage of dirtbikers and quiet users, erosion, water drainage, and stream and wetland crossings. Unfortunately the SDEIS and FEIS includes only general discussions of this issue. Management actions to achieve ‘manageability’ and funding availability for these actions (including a bridge over the West Fork of the Dolores) must be demonstrated to support this proposed action.

Forest Service Manual states:

### 2353.12 - Trail Management Objectives (TMOs)

Manage each trail to meet the TMOs identified for that trail, based on applicable land management plan direction, travel management decisions, trail-specific decisions, and other related direction, as well as management priorities and available resources. For each NFS trail or NFS trail segment, identify and document its TMOs, including the five Trail Fundamentals, Recreation Opportunity Spectrum classifications, design criteria, travel management strategies, and maintenance criteria.

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action and its alternatives. CEQ regulations do not require the consideration of the individual effects of all past actions to determine the present effects of past actions. Once the agency has identified those present effects of past actions that warrant consideration, the agency assesses the extent that the effects of the proposal for agency action or its alternatives will add to, modify, or mitigate those effects. The final analysis documents an agency assessment of the cumulative effects of the actions considered (including past, present, and reasonable foreseeable future actions) on the affected environment. With respect to past actions, during the scoping process and subsequent preparation of the analysis, the agency must determine what information regarding past actions is useful and relevant to the required analysis of cumulative effects. Cataloging past actions and specific information about the direct and indirect effects of their design and implementation could in some contexts be useful to predict the cumulative effects of the proposal. The CEQ regulations, however, do not require agencies to catalogue or exhaustively list and analyze all individual past actions. Simply because information about past actions may be available or obtained with reasonable effort does not mean that it is relevant and necessary to inform decisionmaking. (40 CFR 1508.7)

Given that Calico and Johnny Bull trails have previous trail-specific decisions confirming excessive steepness for motorized uses, and that former District Ranger Steve Beverlin proposed in a previous environmental assessment that Johnny Bull trail be non-motorized, Forest Service must not only address the issue of their steepness and sustainability, but also provide analysis demonstrating that a motorized designation for these trails will comply with trail design constraints such as BMPs and TMOs.

Dunton supports incorporates CBHA Objection #8 and suggestions as to East Fall Creek.

Suggestion: Revise the DROD to designate Calico Trail and Johnny Bull Trail and East Fall Creek Trail as non-motorized. If not so designated, Johnny Bull Trail should be designated as closed until (a) the re-route around the Lincoln Property is completed or that property is acquired by the Forest Service, and (b) a bridge is installed at the trailhead over the West Fork and east bank willows.

In addition, Dunton 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 .75 miles 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". Again, 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"**. 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. 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. These proposals deserves no further consideration.

Suggestion: The following areas should designated as Unsuitable (there may be more areas incorrectly designated): The Johnny Bull drainage area should be designated as Unsuitable in the Map for Alternative B Modified (Map 20 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 should be restricted to a narrow strip along Johnny Bull Trail.

## **VIII. AVAILABILITY OF RESOURCES FOR TRAIL MAINTENANCE AND ADMINISTRATION**

As you know the Travel Management Rule requires consideration of the availability of resources for trail maintenance and administration. Section 3.20 of the DEIS beginning at page 195 addresses costs of road maintenance only. See Table 3-49. There is incomplete discussion of trail maintenance costs, rendering the analysis insufficient. Any such analysis would need to discuss

historical (last 15 years) trail maintenance, repair and reconstruction costs, per trail, and include a discussion of anticipated future costs, such as the \$277K proposed in the DEIS to be spent on northern Calico Trail reconstruction, Johnny Bull bridge and re-route, etc. at page 202 of the SDEIS this number is now \$440,000. There is very limited discussion of available and anticipated future maintenance sources of funding for such costs, rendering the analysis insufficient. There needs to be a discussion of long-term funding expectations for trail maintenance and capital improvements under each alternative.

The discussion at DEIS page 191 that trenching or braiding through wet areas “may” occur at a slower rate when motorcycles are removed, fails to quantify the rate or extent of reduction of impacts between motorized and non-motorized uses. How much trail maintenance cost reduction per mile would occur without motorized trail designations among the alternatives? How much less of a financial impact would non-motorized designation achieve? There is no meaningful data or analysis provided.

The discussion of Trail Maintenance Feasibility beginning at DEIS page 187 should define short term and long term maintenance periods. What do these terms mean in terms of years?

San Juan Citizens Alliance aptly commented in June of 2016 (ltr. from C. Tuell):

#### FISCAL ISSUES

The travel management rule and the roads rule, require the Forest Service to consider the long-term fiscal implications of travel proposals. Trails that are not properly maintained can and do cause considerable adverse impacts to natural resources. The June 2013 GAO report to Congress (found in the DEIS record for this project) titled “Forest Service Trails: Long- and Short-Term Improvements Could Reduce Maintenance Backlog and Enhance System Sustainability,” at page 2, verifies this statement:

“The Forest Service has more miles of trail than it has been able to maintain, resulting in a persistent maintenance backlog with a range of negative effects. In fiscal year 2012, the agency reported that it accomplished at least some maintenance on about 37 percent of its 158,000 trail miles and that about one quarter of its trail miles met the agency’s standards. The Forest Service estimated the value of its trail maintenance backlog to be \$314 million in fiscal year 2012, with an additional \$210 million for annual maintenance, capital improvement, and operations. Trails not maintained to quality standards have a range of negative effects, such as inhibiting trail use and harming natural resources, and deferring maintenance can add to maintenance costs.”

The environmental impacts of improperly maintained trails include erosion, sediment deposition into streams, degraded water quality, impacts to aquatic species such as cutthroat trout, impediments to species recovery efforts due to trail obstruction, OHV users going off-trail to avoid obstacles and waterlogged trails (causing damage to meadows and other near-by areas). (GAO 2013, page 14-15.) As the graphic from the 2013 GAO report clearly shows, the trail maintenance budget for all national forests is woefully inadequate and an increase in trail funding is extremely unlikely. (GAO 2013, page 18.)

“The origin of many system trails as legacy trails, roads converted to trails, or user-created trails...complicate trail maintenance by requiring more frequent and resource-intensive trail maintenance efforts.” (GAO 2013, page 27.) “Many legacy and user-created trails are not sustainable over the long term, according to recent research and agency officials and stakeholders. These trails occupy terrain that is subject to severe erosion, require considerable ongoing maintenance, and do not meet users’ needs without ecological damage. As a result, such trails require a disproportionate share of resources to maintain—akin to bandaging a wound that will never heal, in the words of one official.” (GAO 2013, page 29.)

The Rico-West Dolores Travel Management Planning process provided the Rico-West Dolores Ranger District an opportunity to bring the designated motorized trail system into line with past, current, and anticipated funding, which necessarily would require a reduction in the number of designated motorized trails. This is also referred to as “rightsizing” the motorized trail system and is applicable to roads within the unit. This recommendation to “rightsizing” is found in the 2013 (GAO report at pages 35-37.) In the GAO report, “rightsizing” is described: “units should assess their trail inventories in light of the resources available for maintenance and take steps, such as closing trails or portions of trails or reducing the maintenance on certain trails, so as to narrow the gap between funding and maintenance needs consistent with the Framework.” (GAO 2013, page 37.) Unfortunately, the DEIS does not provide for a “rightsized” motorized trail system and, as a result, the serious negative impacts of a poorly maintained motorized trail system cannot be minimized, as required by the Travel Management Rule and associated Executive Orders.

This GOA rightsizing assessment could be applied like a mirror to the Calico National Trail and connector trail system within the Dolores Ranger District. How has the Forest Service shown in the FEIS that it can sustainably fund the necessary motorized and non-motorized trail reconstruction and maintenance and resource impact mitigation (since it apparently chooses to not engage in much precautionary minimization) to support Alternative B modified? There was not real comprehensive trail funding needs assessment over likely future budget periods and assessment of fund availability over time. Nor were the capital projects (trail reconstruction, road storage and decommissioning) discussed in a reasonably likely capital projects budget timeframe. Instead most every trail project future time frame was discussed as ‘future’ maintenance.

Johnny Bull re-reroute, however, was identified in the FIES as a two year out project, but no funds were positively identified to perform such activity, and no costs, or appraisal figures to alternatively acquire the property, were provided. The potential for acquisition of the Lincoln Property through which north and south Calico Trails illegally intersect and Johnny Bull Trail all currently trespass, was not assessed from a cost or budget standpoint. The appraisal for acquisition of the Lincoln Property exists and should be disclosed as a potential cost of the trail program.

Most every dollar the Forest Service obtains or relies on from external funding sources depends on motorized trail designations for grant eligibility. The burden of proof here to demonstrate minimization of impacts and sustainable trail maintenance and (backlog) reconstruction capability is on the Forest Service, not the Objectors, and the burden is not even close to being met.

The Johnny Bull re-route proposal (around the R. Lincoln property) is not well-defined in terms of location, cost estimates in relation to probable time frame, or funding sources. The projected future cost of trail (re-route) repair and re-construction, in accordance with overall Dolores District trail budget availability over a defined capital budget period, needs to be provided in order to demonstrate minimizations and to allow informed public comment. The Forest Service continues, ever since the 2008 EA, to fail to accurately project and disclose to the public what it can and cannot afford to do in terms of sustainable motorized trail and road system maintenance and reconstruction.

The cost of re-route of the Calico trail must also be addressed for the same reason that Johnny Bull re-route was addressed, albeit that was done with insufficient physical and cost detail.

Dunton supports decommissioning NFSR 538 along Johnny Bull Creek. Dunton also suggest that NSFR 471 be de-commissioned south of East Fall Creek.

It would be most helpful if you would quantify the project-specific and not just general estimates of total costs of the capital projects by Alternative required or anticipated for motorized designations each alternative by Alternative. Providing only a general total estimate does not comply with the Travel Management Rule directive to consider “the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration.”

Trail sustainability and the cost of trail maintenance and upgrades is not well analyzed or estimated. For example, at SDEIS page 202 it states for Alternative C: “A general estimate for ‘up front’ cost for trail developments and realignments is \$497,000.” This general aggregate number cannot be analyzed as there is no data except for northern Calico for specific project costs. As Mr. Marion pointed out in one of his most recent letters, “The above 8 projects, out of a total of 21 projects in Table 2-8 for Alternative C, exceed a cost estimate of \$640,000-\$740,000.” The costs are severely underestimated. Since not all trail projects would be accomplished in a single year, inflation and timing also should be factored in in estimating costs.

The SDEIS describes this Johnny Bull Trail project:

Add a bridge across the West Fork of the Dolores River near the trailhead on Cty Rd 38 - and - Reroute a portion of Johnny Bull Trail so that it does not cross private land (see map). A similar bridge project at the Geyser Springs trail crossing of the Dolores River a few years ago cost in excess of \$100,000.

A precise cost comparison should be used. The Johnny Bull bridge project would also have to be significantly longer than the Geyser Spring bridge order to cross extensive wetlands on the east bank, with an attendant likely increased cost of at least 30-40% over that older Geyser project.

## **X. DESIGNATED ROUTES, CAMPING AND DISPERSED ROUTES**

Dunton supports restrictions against dispersed camping in connection with motorized access (particularly single-track motorcycles), but believes dispersed camping should be limited to within 100’ (not 300’) of roads and trails, and with further restrictions for riparian areas as recommended below.

We find it concerning that in Section 3.2 of the FEIS, Watershed, Riparian and Water Resources, the summaries of Desired Conditions from the Forest Plan make no mention of Section 3.13.12, which recommends dispersed camping should not occur within 300' of stream bank. The FEIS allows dispersed camping within 300' of roads and trails, with no exclusion for riparian zones that are less than 300'. DROD at p. 15. Mr. Padilla declined to study possible effects of dispersed camping on riparian zones during the scoping process, citing a lack of funds. See **Comment #3** at page 1. Plan standards and Guidelines cited in FEIS at p. 86 suggest that activities should not be allowed that would adversely affect riparian zones. In the absence of such study, the default of 300' distance from riparian zones accessible for dispersed camping as established in the Forest Plan should be imposed in order to minimize impacts to the riparian environment.

The Johnny Bull Trailhead is a completely inappropriate place for dispersed camping, as it is located on top of the west bank of the West Dolores River. Why does the Forest Service require outfitters but not dispersed campers to camp at least 100 feet away from riparian areas? The same (if not greater 300') standards should apply to dispersed camping, in this case enabled by the proposed addition of the Johnny Bull trailhead road to the road system. Dunton's concerns are not just scenic, as described in FEIS Table 3-43 at page 205. The campers at this location cause bank destabilization, leave trash and open fire pits, and extensively worm-fish and remove trout, excessively depleting the local trout population. Dunton stocks trout in the West Fork below this section. Good neighbor policies would also suggest this riverbank should not be allowed to be used for overnight camping.

Suggestion: Do not add the Johnny Bull trailhead access road to the road system. Sign and enforce Johnny Bull trailhead against overnight camping.

Dunton suggests that FSR 205, which leads to Dunton's Lizard head Meadows property from the intersection with FSR 535, also be identified as closed to motorized uses except in-holders, gated, that no campground will be placed at the intersection, and that the existing casual parking area and campground there be reclaimed.

Dunton supports camping prohibition at the Calico and Kilpacker trailheads. Johnny Bull and Geyser trailheads should be included in this prohibition.

Dunton further supports restriction of dispersed camping within one mile of Burro Bridge, most of which is literally on the bank on the West Fork amid desecrated foliage and riverbanks.

## **XI. CONCLUSION**

As a major stakeholder, Dunton requests that the impacts of motorized uses and dispersed camping in the Rico – West Dolores TMP area be more carefully and fully analyzed, that proposed designations be substantially modified to further restrict motorized uses and trailhead camping, as described more fully above. Alternatively, if this is not legally required, Dunton supports the selection of Alternative E, with strictest seasonal closure dates (Sept. 9 – June 30), deletion of motorized connections to Rico, and trail closure of East Fork, Calico from the northern trailhead to the junction with Priest Gulch, upper East Fall Creek, Johnny Bull, and Bear Creek trails to motorized use.

It is worth restating Terry Hershey's comment: "Every travel management decision on elk summer range is an elk management decision." Hershey at p.38.

We are once again disappointed in the lack of data, paucity of minimization demonstration, and insufficient analysis as outlined above. Certain analyses need to be re-performed and refined, new data-collection performed, and fewer trails designated as motorized in order to have a NEPA-compliant and Travel Management Rule-compliant FEIS and DROD.

Dunton encourages you and the Dolores Ranger District carefully consider this Objection and those of CBHA and WEG, revisit the FEIS and FROD, 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 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