



March 23, 2020

USDA Forest Service, Region 2
Rocky Mountain Regional Office
Attn: Objection Reviewing Officer
1617 Cole Blvd, Building 17
Lakewood, CO 80401

Submitted electronically via SM.FS.r02admin-rev@usda.gov

Re: Objection to Loveland Dry Gulch Snowcat Tours project EA

To whom it may concern,

Objectors Colorado Mountain Club (CMC), Winter Wildlands Alliance (WWA), Endangered Species Coalition and Great Old Broads for Wilderness file this objection to the Loveland Dry Gulch Snowcat Tours project environmental assessment (EA), finding of no significant impact (FONSI) and draft decision notice (DN), noticed February 7, 2020. Monte Williams, Arapaho and Roosevelt National Forests and Pawnee National Grassland Supervisor, Responsible Official.

CMC WWA filed timely scoping comments on this project on August 10, 2018 following publication of the July 11, 2018 scoping notice. We have standing to object, and our objections pertain to the substantive issues that we raised during scoping.

We offer the following objections and resolutions to improve the final decision:

- I. THIS DECISION PERMITS AN UNNECESSARY USE THAT WILL HAVE UNACCEPTABLE IMPACTS ON NON-MOTORIZED WINTER RECREATIONISTS.**

The Forest Service's decision to permit snowcat ski guiding in Dry Gulch will drastically impact members of the public who enjoy undeveloped, non-motorized, un-guided backcountry skiing on the Arapaho and Roosevelt National Forests. As we detailed in our scoping comments, Dry Gulch is unique among backcountry ski areas in Colorado. In the EA, the Forest Service inappropriately dismisses the value of Dry Gulch for backcountry skiing, stating incorrectly that "Several valleys and mountain slopes in the Clear Creek Ranger District have similar settings and opportunities."¹ While it is true that the areas listed in Table 2, Berthoud Pass, Butler Gulch, Herman Gulch, Guanella Pass, Grizzly Gulch, Grays Peak, and Loveland Pass, are backcountry ski destinations as well, Dry Gulch possesses unique attributes that differentiate it from these

¹ Loveland Dry Gulch Guided Snowcat Tours Environmental Assessment, page 7



other areas. Several peaks – including Hagar Mountain and Citadel Peak (Snoopy’s) – are frequently accessed via Dry Gulch because it offers the safest route in the winter but the EA fails to assess how the project, and particularly avalanche mitigation, would impact skiers both in and outside of the permit area. On a recent March visit, 3 separate groups of backcountry skiers (7 totally users) were observed in just one hour skiing in the upper reaches of Dry Gulch into the areas where avalanche mitigation is proposed. Additionally, lower Dry Gulch and Trelease are extremely popular sites and it is unclear whether they would be impacted by this project. Though the SUP is only 580 acres, the entire gulch is several thousand acres and probably closer to 10% of skiable terrain in the Clear Creek district. Displacing skiers from Dry Gulch would compound the overuse problem facing areas like Berthoud and Loveland Pass (where several hundred skiers were counted on a Saturday in March).

Given the rapid pace in the growth of backcountry skiing in Colorado, all of these areas are facing pressure from increasing use. Dry Gulch is valued in part because it is an area where skiers can find solitude without having to tour for many hours into the backcountry. Skiers who are displaced from Dry Gulch will not simply go ski in some yet to be discovered area. Instead, displacement from Dry Gulch will contribute to backcountry crowding and growing use conflict elsewhere on the Clear Creek Ranger District. The visitor use camera data cited in the EA was averaged over a time period very late in the ski season (April through June) so the forest really does not have sufficient information to understand current visitor use and the amount of displacement that would take place during the busiest winter months (December through April)

Those skiers who continue to visit Dry Gulch will no longer experience the solitude that the area currently provides. The proposed snowcat guiding in Dry Gulch will more than double the amount of winter use in this area, from an average of 13 people per weekend day to 32.² This is not an insignificant difference. The EA so much as admits that solitude and seclusion will be lost, stating that “People seeking seclusion during backcountry skiing would be limited to the lower part of Dry Gulch up to two miles from the parking lot”.³ Anybody who has ever skied, hiked, or otherwise visited public lands knows that the closer one gets to the parking lot, the less solitude they will find. It’s almost unbelievable that this EA claims skiers seeking solitude will be able to find it within two miles of the parking lot, rather than the more distant reaches of Dry Gulch where this experience is currently found. However, this does point to how snowcat guiding in Dry Gulch will impact the backcountry experience. In short, it will no longer be a place where one can find solitude.

Though noise is cited as an insignificant impact because of the adjacent highway, snowcat use will still increase the overall ambient noise and will reverberate well outside the boundary of the SUP area. Noise significantly alters the remote experience backcountry skiers are seeking. This is especially true for early-morning skiers who may be skiing when there is less highway traffic to find a quieter experience.

² Loveland Dry Gulch Guided Snowcat Tours Environmental Assessment, page 8: “Camera counts from a three-month period (April –June 2018) showed that 312 people entered the lower Dry Gulch through that period, for an average of 26 people per weekend. The proposed action would bring up to 32 people *per day*...” (emphasis added)

³ *Id*



Not only will snowcat guiding in Dry Gulch have a significant impact on backcountry skiers, it will make little difference to Loveland Ski Area. The EA states that “Visits to Loveland Ski Area would not change appreciably, as the backcountry ski tours would be a small percentage of the visitors to Loveland Ski Area.”⁴ This proposal is not a make-or-break project for the success and viability of the ski area, but it will drastically impact skiers who are not seeking a resort experience.

Remedy

- Do not permit snowcat guiding in Dry Gulch

II. THE EA AND DECISION DO NOT ADEQUATELY CONSIDER PUBLIC SAFETY CONCERNS

We raised concerns about public access and safety starting on page 3 of our 2018 scoping comments. While we appreciate that the EA explains that Loveland Ski Area will carry out avalanche mitigation by tossing handheld charges, there is no discussion of how unexploded ordinances will be managed to eliminate risks to the public, and no details on what the action and communication plans will be to ensure that guides are communicating with non-tour backcountry skiers to avoid risk and injury during avalanche mitigation operations. The project design criteria for Recreation are severely inadequate to assess the potential public safety risks: they do not outline when avalanche mitigation will take place, how skiers will be notified or whether mitigation would restrict access to lower Dry Gulch or the parking areas. Without additional details, there is no way to assess whether snowcat guiding in Dry Gulch can be done in a manner that is safe for clients and the general public. In our scoping comments we raised a number of factors that must be considered, including: how often explosives may be used, where explosives may be used, how unexploded ordinances would be recovered, what alternative measures could be used for avalanche mitigation, and how avalanche control work will be communicated to the public. None of these factors or questions were addressed in the EA. This is a significant issue, and to fully consider what the project impacts are for public safety, and how they will be addressed, the Forest Service must complete an Environmental Impact Statement (EIS). We are also concerned that Loveland does not have enough adequately trained staff to consistently conduct avalanche mitigation in Dry Gulch. Frequently their current hikeable and snowcat terrain is not open because there are understaffed or staff are underqualified to complete the mitigation. If the public is now expecting avalanche control Dry Gulch but Loveland has not completed mitigation, backcountry users may be at risk of entering an area underprepared or with false information. Because there is no outline to clearly communicate the mitigation status, this project poses a significant public safety risk.

Remedies

- Complete an EIS that thoroughly describes, and analyzes the efficacy of, avalanche mitigation and consequences for public access and safety.

⁴ Loveland Dry Gulch Guided Snowcat Tours Environmental Assessment, page 7



- Require an in-depth avalanche mitigation plan, schedule and public communications plan before the project is approved.
- Do not permit snowcat guiding in Dry Gulch.

III. SNOWCAT GUIDING IN DRY GULCH WILL ADVERSELY AND SIGNIFICANTLY AFFECT WILDLIFE

We raised our concerns about how the proposed action will impact wildlife on page 8 of our scoping comments. In addition to sharing concerns, we also shared solutions, including suggesting that snowcat use and other motor vehicle use in Dry Gulch be limited to daylight hours (9am-3pm). The EA, however, allows for snowcat use one hour before and after sunset which may still interfere with nocturnal wildlife behavior. Again the Project Design Criteria are severely inadequate. For example, “the guide and clients will attempt to avoid any wildlife present” is implausible when the snowcat is restricted to designated routes and clients have paid to get as many laps in as possible. The agency has no method or means to monitor or enforce this. Furthermore, the EA incorrectly states that lynx do not tend to avoid areas with winter recreation. Rather, Olson et al. (2018) and Squires et al. (2019) show while lynx didn’t avoid a low-to-moderate level of dispersed recreation, there is likely a recreation threshold and that lynx appear to avoid high intensity use, such as at a developed ski area. Expanding Loveland Ski Area via snowcat guiding, likely will have more of an impact to lynx than is described in the EA.

The Environmental Assessments conclusions regarding the project’s impact on Canada lynx is based on the “Biological Assessment of the Loveland - Dry Gulch Snowcat Tours Proposal” originally submitted in September 2018 and revised in November 2019 (the “BA”). The revised BA fails to consider the best available lynx data and repeatedly contradicts its own statements and accepted science. It appears the BA was written to minimize the project’s impact on Canada lynx:

- 1) While the BA mentions consultation with Colorado Parks and Wildlife regarding greenback cutthroat trout (see, *e.g.*, BA p. 21), it nowhere mentions consultation with CPW regarding Canada lynx. CPW personnel, especially those based near the project area, are the best-informed individuals regarding Canada lynx presence, resource use, and behavior in the area, and the BA is inherently incomplete if these experts were not consulted.
- 2) The BA acknowledges that in connection with the 2018 BA “Forest Supervisor Williams declared that the Forest Service had determined that the project . . . “*may affect, likely to adversely affect*” the Canada lynx,” noting that “the adverse determination for the Canada lynx was based primarily on the conclusion at the time that some snow compaction caused by snowcat and skiing activities in the project area outside the Loveland Ski Area permit area would be inconsistent with Southern Rockies Lynx Amendment management direction, and, consequently, predisposed the project to an adverse effect determination for the Canada lynx.” (BA, p. 20). In the current BA, the Forest Service admits that “there are also parts of the project area on the baseline compaction map for the national forest and other areas that will likely experience new snow compaction due to snowcat and skiing [sic] activities under this project” (BA, p. 28), totaling about 200 acres. (BA, p. 44). The BA then repeatedly



asserts an invalid argument that this substantial increase should be excused on the basis that the Forest Service's (not project-related) road and trail closures throughout the *entire* Arapaho & Roosevelt National Forests over the last 20 years may have resulted in net reduced compaction. (BA, pp. 48-49). This argument is specious for two reasons: First, the BA admits that the effect on compaction of these closures "has not been updated and quantified on the baseline compaction map," and so there is no way to determine if there has been any reduction in compaction whatsoever in the project area or even the Loveland LAU. (BA, p. 44). Second, even were there to be evidence of these closures having had a positive effect in the project area or LAU, nothing in Guideline HU G10 ("Designated over-the-snow routes or designated play areas should not expand outside baseline areas of consistent snow compaction") allows the inference that these non-project related activities that are remote in time (and perhaps location) from the project can be used to offset the project's verifiable negative effects. Although Guideline HU G10 is "merely" a guideline, it effectively implements Objectives HU O3 ("Concentrate activities in existing developed areas, rather than developing new areas in lynx habitat") and HU 04 ("Provide for lynx habitat needs and connectivity when developing new or expanding existing developed recreation sites or ski areas"), neither of which permits the inference that these non-project related activities can be used to offset the project's negative effects.

- 3) The BA repeatedly mischaracterizes the effect on Canada lynx of the increased human and vehicle presence that will be caused by the project. As a baseline, the Forest Service concedes that "the Clear Creek Ranger District estimates that current backcountry skiing use in the area is *low*." (BA, p.21; emphasis added). The Forest Service is clearly aware of the negative effects on lynx of increased use of this backcountry area. When discussing the most current research in the area (Olson et al. (2018) and Squires et al. (2019)), the BA observes that "the authors did find that lynx modified their behavior in some cases, primarily by slowing their movement or increasing time they spent stationary in areas with high-intensity back-country skiing and snowmobiling." (BA, p. 39). The BA also acknowledges that "there may be a threshold of human disturbance above which lynx become increasingly intolerant of human activity." (BA, p. 40). The BA then admits that the important forest corridor between the Johnson-Eisenhower tunnel and the tree line—which provides lynx access to the only safe crossing of I-70 in hundreds of miles--would be cut through by the snowcat route. (BA, pp. 40-41). The Forest Service goes on to admit that diurnal habitat use by lynx will be disrupted by snowcats, skiing, ski patrols, and avalanche control associated with the project. (BA, p.42). It further admits that the project "would result in *increased dispersed recreation* in an area that currently receives *minimal* backcountry winter use and snow compaction" and that "at some point some threshold of disturbance could be reached beyond which lynx become increasingly intolerant of human activity in the area of the Loveland Ski Resort (Squires et al. 2019)." (BA pp. 42-43; emphasis added). The Forest Service also acknowledges that "it is possible that the additional activity, trails, and compaction even temporarily each year during the winter could facilitate additional human access and public use of the basin otherwise unrelated directly to activities associated with the snowcat proposal." (BA, p. 52). Flying in the face of all of this evidence and its own characterization of the project area, the Forest Service inexplicably dismisses all of these effects as "highly speculative" and based only on "occasional use" by snowcats. (BA, p. 41). The research cited



- by the Forest Service makes it clear that these effects are not speculative (let alone “highly speculative”), but certain to occur if a certain degree of backcountry activity occurs in the area; the sole reason for the plan is to *increase* backcountry activity. The Forest Service determination that the level of snowcat use is only “occasional” is also entirely arbitrary, and not based on any research that finds what level of use triggers behavioral or other effects on lynx. The effect of this substantially increased backcountry skiing and motorized vehicle activity will be increased habitat fragmentation and decreased habitat effectiveness.
- 4) The Forest Service goes on to use its mischaracterizations to argue that the project complies with the requirements of the standards and guidelines laid out in the Southern Rockies Lynx Management Direction Record of Decision (2008):
 - a. Standard All S1 (“*New or expanded permanent developments and vegetation management projects must maintain habitat connectivity in an LAU and/or linkage area.*”): The Forest Service grudgingly admits that “the project area’s proximity to the Loveland Pass linkage could result in some temporary changes in lynx movement [sic] behavior and avoidance at times,” but then arbitrarily and capriciously states that the project is nevertheless consistent with the standard. (BA, pp. 47-48). Avoidance by lynx of an identified linkage area that permits small and large-scale movement is clearly a violation of this standard.
 - b. Guideline HU G3 (“*Recreation development and recreational operational uses should be planned to provide for lynx movement and to maintain the effectiveness of lynx habitat.*”): The Forest Service reuses its unsupported conclusion that the project will not diminish habitat effectiveness to claim compliance with the guideline. (BA, pp. 48-49; see paragraph 3 above).
 - 5) The Forest Service also errs when evaluating the project pursuant to the August 2014 Inter-Agency Southern Rockies Lynx Project Decision Screens. (BA, p. 51):
 - a. It errs in its application of Screen 1 when it finds the project will *not* “directly, indirectly, or cumulatively affect use of linkage area by lynx,” while at the same time admitting that the project could “alter movement behavior in the vicinity of the Loveland Pass linkage.” (BA, p. 51). Similarly, it concludes that the project “maintains or restores lynx habitat connectivity in and between LAUs,” despite having cited research that indicates the project could in fact diminish connectivity
 - b. It errs in its application of Screen 1 when it again claims that there will be no net increase in snow compaction, apparently relying on the invalid argument it applied when interpreting Guideline HU G10 (see paragraph 2 above).

Based on the foregoing errors and mischaracterizations, the Forest Service now determines that the project should be characterized as “*May affect, not likely to adversely affect*” the Canada lynx (BA, p. 55). The Forest Service then goes on to disparage its own scientists to argue that the original BA’s finding of “*Likely to adversely affect* the Canada lynx” was largely based on a misunderstanding by the lead author of the original document that new snow compaction would represent a net increase in compaction for the forest compared to the baseline map, would be inconsistent with forest plan guideline HU G10, and automatically predisposed the project to an adverse effect determination for the lynx.” (BA p. 56). As paragraphs 2 and 4(b) above prove, it is the Forest Service, in the 2019 BA, that misrepresents the increased snow compaction that it



admits will result from the project; in fact, the scientists who authored the 2018 BA were entirely correct. For this reason, and in light of the numerous adverse effects described in paragraphs 1 through 4 above, the 2018 BA's determination of "*Likely to adversely affect*" should be reinstated.

In our scoping comments we asked that the Forest Service consider how the proposed action will impact elk. There is no mention of elk in the EA, leaving our questions unanswered. Further, the EA describes impacts to a variety of other sensitive species including Boreal toad, American marten, and Pygmy shrews, among others, that seem quite substantial and are not mitigated in the project design criteria (e.g. "ground disturbing action that would crush [pygmy shrews].")

Remedies

- Complete an EIS to more completely analyze impacts to wildlife.
- Do not permit snowcat guiding in Dry Gulch.

CONCLUSION

The cost that this project brings to other forest visitors, wildlife, and the environment are not worth the negligible benefit it may bring for the ski area and we urge you to overturn the proposed decision. Thank you very much for your consideration of the above objections. We would appreciate the opportunity to meet with the Reviewing Officer at a mutually convenient time to discuss our objections and proposed remedies. Please inform us in writing of any responses to these objections, opportunities to participate in an objection resolution meeting, or opportunities to submit additional comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Mach".

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