



File Code: 1570; 1920; 2720
Control Number: 21-0200-11-218B
Date: February 24, 2022

Mr. Bryan Meador
President
San Juan Sledders Snowmobile Club
PO Box 591
Durango, CO 81302
bkmeador70@yahoo.com

Dear Mr. Meador:

This letter is in response to your objection to the proposed Purgatory Resort Ice Creek Pod Project on the San Juan National Forest (Reviewing Officer's Response, CFR 218.11 b). Thank you for providing your objections and suggested remedies. I value your engagement, time, and participation in the management of our public lands.

PROJECT DESCRIPTION

On October 27, 2021, the Forest Supervisor of the San Juan National Forest, Ms. Kara Chadwick, released the Purgatory Resort Ice Creek Pod Project Environmental Analysis (EA), Draft Decision Notice, and Finding of No Significant Impact for the objection process (CFR 218). The Forest Supervisor proposes to implement the proposed action, which authorizes the installation of the Ice Creek lift and permanent access roads to the lift terminals, the construction of four ski trails to create the Ice Creek ski terrain, and the reroute of an existing snowmobile bypass trail. The selected alternative was determined to adequately address the purpose and need for action as identified in the EA.

OBJECTION ISSUES RECEIVED AND RESPONSE

Objections raised for the proposed Purgatory Resort Ice Creek Pod Project fall within the following general categories: National Environmental Policy Act adequacy, recreation and user group conflict, and issues related to stream health, water quality and aquatic resources.

An objection resolution meeting was held on February 9, 2022. This meeting allowed me to better understand the objection issues being raised and their corresponding remedies.

I have reviewed and carefully considered your objections and suggested remedies. I have also reviewed the attendant project record, EA, and draft Decision Notice and Finding of No Significant Impact that was issued by Kara Chadwick, the Responsible Official, for the Purgatory Resort Ice Creek Pod Project. My review was conducted in accordance with the regulation at 36 CFR 218 (2013). Please see Enclosure-1, *Response to Objections on the Purgatory Resort Ice Creek Pod Project, San Juan National Forest*.

Based on my review, I have identified several instructions for the Responsible Official. In accordance with CFR 218.12, these instructions must be addressed before a decision notice can be signed, unless otherwise explicitly noted.

- I instruct the responsible official to clarify that the Ice Creek Pod Project was originally analyzed in the 2008 Durango Mountain Resort Improvement Plan Final Environmental Impact Statement,



that the project was deemed approvable and found to appropriately respond to the purpose and need of the 2008 EIS, but that the responsible official elected to defer implementation of the project at that time.

- Although construction of the snowmobile parking area is not within the scope of this decision, I instruct the responsible official to arrange an on-site meeting with objectors from the snowmobile community in the spring or summer of 2022 to review user group conflict concerns and to assess the viability and location of a snowmobile parking area. This instruction can be addressed prior to or after the responsible official's final decision on this project.
- I instruct the responsible official to amend preconstruction Project Design Criterion 9 to clarify that the agency, working with Purgatory Ski Resort, will determine what is practicable for avoidance of the water influence zone.
- I instruct the responsible official to clarify that for this proposed project, the "Ice Creek" watershed is a tributary to East Fork Hermosa Creek and that it is a 7th-field subdrainage which was delineated for analysis convenience in the 2008 Final EIS.
- I instruct the responsible official to edit the Draft Decision Notice to ensure that it correctly summarizes findings from the watershed analysis in the Environmental Assessment and attendant project record.
- I also instruct the responsible official to arrange an on-site meeting with the objector in the spring or summer of 2022 to assess conditions in the project area as they relate to stream health and water quality. This instruction can be addressed prior to or after the responsible official's final decision on this project.

CONCLUSION

This concludes my review and written response of the project. By copy of this letter and the enclosed response document, the Responsible Official may sign the decision after addressing the instructions noted above. This written response is the final administrative review by the Forest Service and the Department of Agriculture [36 CFR 218.11(b)(2)].

If you have questions or concerns, please contact Dr. Lillis Urban, Administrative Review Coordinator, at lillis.urban@usda.gov or (575) 740-3404.

Sincerely,

STEVEN
LOHR

Digitally signed by
STEVEN LOHR
Date: 2022.02.24 12:59:22
-07'00'

STEVE M. LOHR
Acting Deputy Regional Forester

Enclosure

cc: Lillis Urban, Kara Chadwick, Josh Sidon



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

Rocky Mountain Regional Office

February 2022

San Juan National Forest

Response to Objections on the Purgatory Resort Ice Creek Pod Project, San Juan National Forest

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Objectors

Objector Names and Assigned Objection Letter Number

- San Juan Sledders Snowmobile Club (1)
- Kevin Walters (3)
- Colorado Snowmobile Association, Inc (4)
- Bryan Meador (5)
- Mountain Capital Partners (6)
- San Juan Citizens Alliance (7)

Note, an additional objection letter was received from Ken Hilfiker (2) but was set aside from review as directed by 36 CFR 218.10 because the Forest Service did not receive written comments from Mr. Hilfiker regarding the proposed project during scoping or another designated opportunity for public comment.

Organization of Responses

Objection issues have been consolidated for response in accordance with 36 CFR 218.11.

NEPA and Planning

Issue 1: Range of Alternatives

The objector is concerned that the environmental analysis provided only two alternatives for consideration (the no-action and action alternatives). During the scoping period, the objector notes that they had provided an alternative to the agency to consider but that the alternative they provided was not carried forward into the subsequent National Environmental Policy Act (NEPA) document, while the (one) alternative provided by the proponent was carried forward and considered.

Response

36 CFR 220.7 (b)(2) and Forest Service Handbook 1909.15 Chapter 41.22 state no specific requirement for the number of alternatives that must be analyzed in a NEPA document. However, Federal agencies are required to analyze a reasonable range of alternatives, which means a range of alternatives that are technically and economically feasible, meet the purpose and need for the proposed action, and, where applicable, meet the goals of the applicant (40 CFR 1508.1).

The Issues, Resources, and Alternatives Considered but not Carried Forward in Detailed Analysis document describes alternatives considered but later eliminated from detailed analysis (pp. 2-4), including alternatives from the 2008 Final Environmental Impact Statement. In

addition, in the *Notice of Availability for the Ice Creek Pod Project* document (NOA, p. 5) alternatives to the proposed action were described. It was concluded that no alternatives presented, other than the action alternative, would adequately meet the stated purpose and need of the project. Therefore, the proposed action and the no-action alternative were considered for analysis in the subsequent NEPA analysis. As explained in *the Issues, Resources, and Alternatives Considered but Not Carried Forward in Detailed Analysis* document on page 2, “Planning for the Ice Creek project was completed in the 2003 Durango Mountain Resort Master Development Plan (2003 MDP) and subsequent to the issuance of the 2008 Record of Decision for the Durango Mountain Resort Improvement Plan Resort (2008 ROD), in which the Ice Creek project was deferred from the suite of projects included in the approval. Purgatory has spent several years trying to find suitable terrain (other than Ice Creek) elsewhere within the Purgatory Special Use Permit area to meet the skier needs identified in the 2008 Final Environmental Impact Statement; however, due to geographical constraints, no acceptable alternate terrain has been located.” In addition, alignment of the proposed Ice Creek Lift as proposed in the Notice of Proposed Action was modified based on comments and resource concerns and to assure compliance with the 2018 Hermosa Creek Watershed Management Plan. As a result, a modified alignment (proposed action) was analyzed in the subsequent Environmental Assessment. This modified alignment avoided impacts to cultural resources associated with the Rico Rockwood Wagon Road (Issues, Resources, and Alternatives Considered but Not Carried Forward in Detailed Analysis document, p. 3).

Conclusion

Upon review, I find that the project record documents that the responsible official initially reviewed and considered several alternatives for the proposed Purgatory Resort Ice Creek Pod Project. Alternatives that were considered but eliminated from further analysis were explained and documented in the project record. Based on my review, I find that the range of alternatives considered in the NEPA process is consistent with law, regulation, policy, and applicable Forest Service guidance.

Issue 2: Predetermined Outcome

The objector alleges that the agency entered the National Environmental Policy Act (NEPA) process with a predetermined interest to approve the proposed Purgatory Resort Ice Creek Pod expansion project. The objector also takes issue with what they view to be an inconsistency wherein they allege that although San Juan National Forest staff has communicated in the past that the Forest Service was unable to carry out other NEPA processes owing to a lack of capacity, this analysis (for a ‘corporate project sponsor’) was carried out.

Response

The proposed Purgatory Resort Ice Creek Pod Project is presently under analysis in compliance with NEPA. The project is in the project-level predecisional administrative review process (36 CFR Part 218). No decision has been made at this time regarding the proposed Purgatory Resort Ice Creek Pod Project. Please refer to the response for Issue 1 regarding consideration of alternatives in the NEPA process and project development.

Actions considered in the Purgatory Resort Ice Creek Pod Project were originally included and analyzed in the 2008 Durango Mountain Resort Improvement Plan Final Environmental Impact

Statement but were deferred at that time (2008 ROD, p. 1). Although the Ice Creek Pod Project was not approved in the 2008 Record of Decision, the Final Environmental Impact Statement states that it was an approvable project that appropriately responded to the purpose and need of the 2008 Durango Mountain Resort Improvement Plan project (2008 ROD, p. 6). The 2008 Record of Decision stated that a decision to authorize development of the Ice Creek pod would have represented a significant step toward addressing Durango Mountain Resort's existing deficiencies in providing the appropriate level of lower-to-intermediate terrain that can be utilized as effective learning and teaching terrain. One of the primary reasons for deferral of the Ice Creek pod from the 2008 decision was to allow the resort and a key commenter time to explore alternative options that would meet the purpose and need (2008 ROD, p. 6).

According to the request to initiate NEPA for the current project, since issuance of the 2008 Record of Decision, Purgatory Resort investigated various alternatives to provide lower-to-intermediate terrain outside the Ice Creek pod but was unable to locate acceptable alternatives within the resort's permit boundary (Purgatory – Request to initiate NEPA Process, p. 2). Therefore, Purgatory Resort proposed to proceed with the Ice Creek Pod Project as originally proposed and analyzed in the 2008 Final Environmental Impact Statement but with slight modifications (Purgatory Ice Creek DDN p. 1).

To address the objector's concern regarding the San Juan National Forest undertaking NEPA for this proposed project when other NEPA actions remain incomplete, planning and analysis for the Purgatory Resort Ice Creek Pod Project was supported by the U.S. Forest Service Rocky Mountain Region Mountain Resorts Team (Purgatory Ice Creek – MRT Project Agreement, May 6, 2020). The Mountain Resorts Team is a region-wide Forest Service interdisciplinary team that works to aid capacity, speed timelines, and provide a better working relationship with the public for ski resort proposals on national forests within the Rocky Mountain Region.

Conclusion

Based on my review of the project record, I find that the responsible official has complied with the NEPA process and applicable laws, regulations, and policy, and that the project is currently in the project-level predecisional administrative review process stage (36 CFR Part 218).

Issue 3: Public Comment

The objector alleges that the agency disregarded substantive public comments (32 letters received) on the Draft Environmental Assessment, noting that the agency did not modify the Environmental Assessment in the light of substantive comments received.

Response

The regulation at 36 CFR 218.25(b) requires the responsible official to consider all written comments received on proposed projects and activities; it does not, however, require National Environmental Policy Act documents to be altered in the light of comments received.

As documented in the project record, the Forest Service published a legal notice in the newspaper of record, the Durango Herald, on June 5, 2020. The legal notice announced the opportunity to comment on the proposed action and initiated a scoping comment period for the project. As noted in the Environmental Assessment (p. 2), the Forest Service considered information and comment from public scoping, as well as input from Forest Service

interdisciplinary team resource specialists, to inform the analysis in the *Affected Environment and Environmental Consequences* section of the Environmental Assessment. In addition, the proposed action was modified in response to comments received during scoping (EA, p. 3).

A subsequent legal notice was published in the Durango Herald on March 12, 2021, announcing an opportunity to comment on the Draft Environmental Assessment. Comments received on the Draft Environmental Assessment are summarized in the draft notice in Appendix C ‘Response to Comments.’

Conclusion

I find that the responsible official considered written comments received on the proposed Purgatory Resort Ice Creek Pod Project in compliance with law, regulation, and policy.

Issue 4: Past Restoration Projects Incomplete

The objector notes that Purgatory Resort has several incomplete restoration projects from the 2008 Durango Mountain Resort Improvement Plan Environmental Impact Statement and Record of Decision. The objector questions why the Forest Service would approve this new project while incomplete restoration projects remain on the San Juan National Forest.

Response

The responsible official states in the Draft Decision Notice (p. 2) that “implementation of the selected alternative will not occur until the required mitigation projects from Appendix D of this document are reviewed and deemed successful by the Forest Service.” Appendix D within the Draft Decision Notice (p. 45) provides a listing and status of projects and clarifies, “all restoration measures will be completed in concert with their corresponding ski area projects. Please note that several ski area projects approved in the 2008 Record of Decision have not yet been implemented, and therefore, the corresponding restoration has not been implemented either.”

Conclusion

Based on review of the project record, I find that the responsible official has stated in the Draft Decision Notice that implementation of the proposed action would not be permitted to proceed until applicable, required, past restoration projects are completed by Purgatory Resort. The responsible official for this project has the authority and discretion to authorize the proposed action with these stated conditions. Therefore, based on my review, I find the responsible official has complied with applicable laws, regulations, and policies.

Issue 5: Usage Levels in Environmental Assessment and Approved Environmental Impact Statement

The objectors allege that the Environmental Assessment expands the usage levels at Durango Mountain Resort to levels that are beyond those envisioned in the 2008 Durango Mountain Resort Improvement Plan Environmental Impact Statement.

Response

The Ice Creek Pod Project was originally analyzed in the 2008 Durango Mountain Resort Improvement Plan Final Environmental Impact Statement (Final EIS) in Alternative 2, the selected alternative (2008 FEIS). The responsible official approved Alternative 2 but elected to defer implementation of the Ice Creek Pod Project pending further consultation with the commenters (ROD, 2008 FEIS). Specifically, the responding official determined that the Ice Creek Pod Project was an “approvable project that appropriately responds to the purpose and need” (2008 ROD).

The Ice Creek Pod Project described in the 2008 Final EIS and the proposed action in the Purgatory Resort Ice Creek Pod Project Environmental Assessment are nearly identical. The proposed action alternative in the Environmental Assessment includes construction of the 3,400-foot-long Ice Creek lift and 45 acres of developed ski terrain. Similarly, the selected alternative in the 2008 Final EIS analyzed construction of the 3,407-foot-long Ice Creek lift and 44.5 acres of developed ski terrain. Both documents estimate that the hourly capacity for the Ice Creek lift is 2,400 people per hour (2008 FEIS, 2021 EA). Lastly, comparison of Figure 4 in the 2008 Final EIS and Figure 1 in the 2021 Environmental Assessment clearly shows that the areas analyzed are the same and that both are located inside the Special Use Permit area (2008 FEIS, 2021 EA). As the responsible official determined the Ice Creek Pod Project to be approvable, responding to the purpose and need, and the Ice Creek Pod Project is essentially the same action in both the 2008 and 2021 documentation, it cannot be demonstrated that the 2021 Environmental Assessment is expanding usage levels beyond those envisioned in the 2008 Final EIS.

Conclusion

In the 2008 Final EIS, the responsible official analyzed and accepted usage and visitation levels of the Ice Creek Pod Project. Upon review of the project record, I have determined that the selected alternative in the 2008 Final EIS and the proposed action in the 2021 Environmental Assessment are identical in almost all attributes. Since the proposed action and selected alternative from 2008 are essentially the same, I do not find evidence that the 2021 Environmental Assessment expands the resort to usage levels beyond those envisioned in the 2008 Final EIS.

Instruction

I instruct the responsible official to clarify that the Ice Creek Pod Project was originally analyzed in the 2008 Durango Mountain Resort Improvement Plan Final Environmental Impact Statement, that the project was deemed approvable and found to appropriately respond to the purpose and need of the 2008 EIS, but that the responsible official elected to defer implantation of the project at that time.

Issue 6: Compliance with the San Juan National Forest Land and Resource Management Plan

The objector alleges that the proposed Purgatory Resort Ice Creek Pod Project is not in compliance with the desired conditions in the San Juan National Forest Land and Resource Management Plan (Forest Plan).

Response

As stated in the Draft Decision Notice (p. 16), an initial screen was conducted by the Forest Service to ensure that the selected alternative was consistent with the Forest Plan.

Based on review of the 2013 San Juan National Forest and Tres Rios Field Office Land Resource Management Plan, the proposed Purgatory Resort Ice Creek Pod Project falls within Purgatory Resort's Special Use Permit area, which falls within Management Area 8 and Management Area 2 in the Forest Plan. In the Forest Plan, Management Area 8 is designated for "highly developed areas" that have been altered with long-term development, including downhill ski areas and large dams (Forest Plan, p. 167). Lands within Management Area 8 are noted as often providing "large socioeconomic benefits, including Durango Mountain Resort and the McPhee Dam" (Forest Plan, p. 167) and are sites where human activities have created lasting changes in the composition, structure, and function of the associated ecosystems. Management Area 2 in the Forest Plan is designated for "special areas and designations" (Forest Plan, p. 162). Areas within Management Area 2 are managed to protect or enhance the unique characteristics of each special area or designation; therefore, management varies by specific area (Forest Plan, p. 162).

In addition, the responsible official (Draft Decision Notice, p. 12) states, "all approved activities and facilities shall be consistent with the Forest Plan and all applicable agency management direction (e.g., Forest Service Handbook and Manual) for all affected resource areas." Appendix A in the Draft Decision Notice (pp. 12-15) describes required construction implementation plans and associated project-level design criteria.

Regarding the objector's concern of how the proposed project aligns with desired conditions in the Forest Plan, pages 5-6 state, "Collectively, specific projects implemented subsequent to this [Land and Resource Management Plan] should contribute to maintaining and/or achieving desired conditions, but no single project should be expected to contribute to meeting all desired conditions."

Conclusion

Upon review of the Forest Plan, the Purgatory Resort Ice Creek Pod Project Environmental Assessment, and associated project record, I find that the proposed Purgatory Resort Ice Creek Pod Project is consistent with the Forest Plan.

Recreation

Issue 7: Past Projects Incomplete, User Group Conflicts, Snowmobile Parking Area

The objectors highlight long-standing user group conflicts between skiers at Purgatory Resort and snowmobilers, as well as other recreational user groups, pointing out that a snowmobile parking lot area, which was a development project in the 2008 Programmatic Purgatory Resort Environmental Impact Statement and Record of Decision, has yet to be constructed. The objectors are concerned that the proposed Purgatory Ice Creek Pod Project will exacerbate user group conflict issues between snowmobilers, skiers, and other user groups, and want to see the snowmobile parking area completed.

Response

The desired snowmobile parking and staging area desired by objectors was approved in the 2008 Record of Decision (p. 3).

The 2008 Record of Decision (p. 7) spoke to user group conflict and the parking area, stating, “The DEIS and FEIS analyzed the past and current situation and the ways DMR is currently working to improve the user group conflict situation. I feel the Forest Service and DMR will provide the best option to accommodate existing skier and snowmobile traffic with the approved snowmobile parking area and the improved ascent with grooming and snowmaking coverage. I understand this is not the perfect situation, but I believe this is the best solution to balance recreational uses in the area.”

The Draft Decision Notice for the proposed Purgatory Resort Ice Creek Project also notes concerns raised by the snowmobile community and speaks to the past approval of the parking area from the 2008 Record of Decision (p. 7): “I understand concerns were also raised with respect to the snowmobile parking area near the Purgatory base area; however, the parking area was already studied and approved.”

The Draft Decision Notice (p. 37) further states:

“The snowmobile parking lot referenced by the commenters was previously approved in the 2008 ROD and is beyond the scope of this analysis. This project does not affect the previous approval or access to the proposed snowmobile realignment. The Forest Service anticipates working collaboratively with Purgatory and the snowmobiling community to complete the construction of the previously approved snowmobile parking lot along Hermosa Park Road (FSR 578); however, under the 2008 ROD there is no timing required for implementation. Furthermore, the reader is referred to the response to comment 2.2 for a discussion of parking impacts associated with the proposed action.”

Safety issues raised by snowmobilers were also addressed by the responsible official on page 7 of the Draft Decision Notice: “Commenters expressed concern about the existing snowmobile bypass trail, which contains hazards that create poor and unsafe conditions that negatively impact the recreational experience for snowmobilers in the area.” The Draft Decision Notice (p. 11) addresses these safety concerns by requiring that “Purgatory shall construct the snowmobile access reroute prior to or concurrent with the proposed Ice Creek lift and ski terrain.”

The Purgatory Resort Ice Creek Expansion Project Environmental Assessment (p. 28) addressed snowmobile use within the project area and analyzed potential impacts stating that, “extensive

public snowmobile use – guided and unguided – currently occurs within and adjacent to the northeastern portion of the Purgatory SUP (Special Use Permit) area” and that “on average, it is estimated that approximately 4,000 guided and 2,500 unguided snowmobilers visit the area each season (Botsford 2020)” (EA p. 28). Regarding cumulative effects, the Environmental Assessment stated (p. 33) that, “it is anticipated that additional visitors to the area could create future challenges for management and mitigation of impacts to high-use destinations.”

Conclusion

In reviewing the project record and the 2008 Environmental Impact Statement and Record of Decision, I conclude that the snowmobile parking area was previously analyzed and approved in the 2008 Environmental Impact Statement and Record of Decision and that it is not within the scope of the decision for the proposed Purgatory Resort Ice Creek Pod Project.

Instruction

Although construction of the snowmobile parking area is not within the scope of this decision, I instruct the responsible official to arrange an on-site meeting with objectors from the snowmobile community in the spring or summer of 2022 to review user group conflict concerns and to assess the viability and location of a snowmobile parking area. This instruction can be addressed prior to or after the responsible official’s final decision on this project.

Issue 8: Insufficient Support for Stated Purpose and Need

The objectors allege that the stated “purpose and need” of the project is responding to “guest demand” for additional low/intermediate ski terrain. The objectors ask where the “guest demand” is documented, noting that they do not see a market survey supporting the need, nor is mention of this need included in Purgatory’s 2008 Improvement Plan.

Response

The stated purpose for the Purgatory Resort Ice Creek Pod Project in the Environmental Assessment (p. 1) is to, “respond to a proposal by Purgatory that aims to increase ski terrain for skiers of low-intermediate ability at Purgatory, addressing guest demand. Additionally, the purpose of the proposal is to provide an appropriate learning progression for guests with lower ability levels to complement previously-approved beginner terrain near the top of the Twilight lift.”

The Purgatory Resort Ice Creek Project Environmental Assessment on page 28 states, “Approximately 18 percent of Purgatory’s ski terrain is suited for low-intermediate skiers, compared to a skier market average of 25 percent.”

The 2008 Durango Mountain Resort Final Environmental Impact Statement (which analyzed the Ice Creek Pod Project) reported present terrain capacity distribution by ability level at Durango Mountain Resort and reported on proposed terrain capacity (2008 FEIS, Table 1-1, p. 1-6 and Table 2-1, p. 2-9). This information was cited and sourced from the 2003 Durango Mountain Resort Master Development Plan. Specifically, the 2008 Final Environmental Impact Statement (Table 1-1, p. 1-6 and Table 2-1, p. 2-9) reported a deficiency of low-intermediate terrain as compared to the ski market average of low-intermediate skiers (25 percent). The 2008 Final Environmental Impact Statement (p. ES-2) reported that this deficiency, combined with a surplus

of novice terrain, resulted in more skiers utilizing the novice terrain at faster speeds than desired, which in turn increased the potential for skier safety concerns. According to the 2008 Final Environmental Impact Statement (p. ES-15), “the Proposed Action would address the deficiencies in low intermediate, intermediate, and advanced-intermediate terrain levels which are the ability levels of the majority of DMR’s [Durango Mountain Resort’s] guests.”

Conclusion

Based on my review, I find documentation in the project record to support the stated purpose and need of the Purgatory Resort Ice Creek Pod Project.

Watersheds

Issue 9: Project Design Criteria – Insufficient Information, Water Influence Zone

The objector notes that the Project Design Criteria do not articulate who determines when avoidance of the water influence zone is deemed "practicable" (see Criterion 9, DDN, p. 13), asking if that is determined by the agency or by Purgatory Ski Resort. The objectors hold that lack of clarity on this point leaves the status and degree of resource protection unknown.

Response

Forest Service Handbook 2509.25 Chapter 10 (Watershed Conservation Practices Handbook, or WCPH, Region 2 Amendment 2509.25-2006-2) contains specific guidance for protecting stream health and riparian condition in the water influence zone. 12.1 Management Measure 3 states, “In the water influence zone next to perennial and intermittent streams, lakes, and wetlands, allow only those actions that maintain or improve long-term stream health and riparian ecosystem condition.” The WCPH is cited in Table A-1 of the Draft Decision Notice (p. 12). Project Design Criterion 2 (two) states that the Drainage Management Plan must be approved by the Forest Service and will be “prepared and approved prior to implementation to ensure compliance with the WCPH” (Draft Decision Notice, p. 12). Additionally, the Environmental Assessment (EA) discloses existing impacts in acres to the water influence zone in the project area from past actions (Table 4, p. 21). The EA also discloses potential impacts in acres to the water influence zone resulting from the proposed action (EA, Table 7, pp. 23-24). While Project Design Criterion 9 (nine) (Draft Decision Notice, p. 13) makes a general statement about avoiding impacts to the water influence zone, the EA discloses specific, quantified potential impacts to the water influence zone and the associated mitigation measures. Additionally, Project Design Criterion 2 (two) documents compliance with the WCPH, which directs the agency to avoid any activities in the water influence zone that will have negative impacts on stream health and riparian condition. The proposed action would adhere to this guidance through the use of Project Design Criteria detailed in the EA such that any direct impacts to the water influence zone would be mitigated such that they maintain or improve conditions in the water influence zone (EA, p. 23-24).

The Draft Decision Notice states that the Forest Supervisor approves of the proposed action dependent on the “inclusion of all design criteria and mitigation measures identified in Table 2 of the Environmental Assessment and included in Appendix A of [the Draft Decision Notice]”

(Draft Decision Notice, p. 2). The Draft Decision Notice also states that “failure to comply with the required design criteria will constitute a breach of the project approval and could suspend construction and/or operations on the facilities approved by this decision” (Draft Decision Notice, p. 2).

Conclusion

Upon review, I find that the project record documents compliance with policy to protect the water influence zone within the project area and discloses discrete estimates of potential impacts to the water influence zone. Specific mitigation measures are described in the EA and in the Purgatory Resort Ice Creek Project Hydrology Report that seek to ensure adherence to both the Watershed Conservation Practices Handbook and the Hermosa Creek Watershed Management Plan.

Instruction

I instruct the responsible official to amend preconstruction Project Design Criterion 9 to clarify that the agency, working with Purgatory Ski Resort, will determine what is practicable for avoidance of the water influence zone.

Issue 10: "Ice Creek" / "Ice Creek Watershed" Nomenclature

The objector notes that the place names of "Ice Creek" and "Ice Creek Watershed" are used in the Environmental Assessment and on maps. The objectors state that the Environmental Assessment does not provide a description of this watershed, a Hydrologic Unit Code number, or acreage size, and that they cannot find "Ice Creek" among the lists in the U.S. Board of Geographic Names database. The objectors are unclear if the "Ice Creek Watershed" is in fact an element of the East Fork of Hermosa Creek watershed, which they note is a priority location for the reintroduction of the Colorado River cutthroat trout (a Forest Service Rocky Mountain Region Sensitive Species).

Response

In accordance with the U.S. Geological Survey (USGS), “the [Watershed Boundary] dataset is complete for the United States to the 12-digit hydrologic unit. The 14- and 16-digit hydrologic units are optional and are not complete for the nation.” (<https://www.usgs.gov/national-hydrography/watershed-boundary-dataset>). Therefore, owing to the naming convention of the USGS watershed boundary dataset, there are currently no 14- or 16-digit hydrologic units (e.g., smaller, USGS-delineated watersheds) within the 12-digit hydrologic unit East Fork Hermosa Creek.

The 2008 Final Environmental Impact Statement (EIS) stated that the East Fork Hermosa Creek was subdivided into six smaller watersheds: “for analysis convenience, the project area was further sub-divided into 7th-field sub-drainages that provide an analytical reference for the proposed activities within the DMR SUP [Durango Mountain Resort Special Use Permit]. These are outlined in Table 3C-1 below and portrayed visually in Figure 12 in Chapter 6 [of the 2008 Final EIS]” (p. 3-187 – 3-188). This local nomenclature is used in the Draft Decision Notice and the Environmental Assessment (EA) to describe the portion of the landscape analyzed for potential effects from the proposed action. The Purgatory Resort Ice Creek Project Hydrology

Report also explicitly states that Ice Creek Watershed is located within the East Fork Hermosa Creek Watershed: “The majority of the Ice Creek Project Area is located within Purgatory Resort’s SUP area, on west-facing slopes tributary to East Fork Hermosa Creek (the Ice Creek drainage)” (p. 2-3, Section 3.1, 3.2) and discloses the size of the Ice Creek Watershed (Table 1) and the relative location within the larger East Fork Hermosa Creek Watershed and in relation to the project area (Figure A-1). The narrative and tabular descriptions of the Ice Creek Watershed are repeated in the EA (p. 20-21, Table 4).

As noted in the EA (p. 37), the project area is within a congressionally designated special management area (Public Law 113-291, Section 3062, Hermosa Creek Watershed Protection). This designation requires compliance with the Hermosa Creek Watershed Management Plan, an amendment to the San Juan Forest Plan. Specifically, the Purgatory Resort Ice Creek Project Hydrology Report (p. 11) cites two Desired Conditions (3.28.18 and 3.28.19) from the Hermosa Creek Watershed Management Plan as applicable to the project area.

The project record accounts for the required protections for East Fork of Hermosa Creek as per its special management area designation. Specifically, the EA (p. 38) states “measures associated with the proposed action would be in compliance with the Hermosa Creek Watershed Special Management Area Desired Conditions 3.28.18 and 3.28.19, which are related to riparian areas and stream health.” The EA further states, “the Ice Creek area streams are tributary to the East Fork Hermosa Creek. Therefore, impacts to the health of these streams would, in turn, affect the condition of the East Fork Hermosa Creek” (p. 38). Mitigation measures detailed in the Purgatory Resort Ice Creek Pod Hydrology Report (pp. 8-10) and implementation of the Project Design Criteria listed in Table 2 of the EA (pp. 9-12) are expected to maintain or improve the health of Ice Creek streams. Specifically, the Purgatory Resort Ice Creek Project Hydrology Report (p. 11) describes how the health of the Ice Creek area streams affects the condition of the overall East Fork Hermosa Creek, and that “by implementing the Project Design Criteria included in the Environmental Assessment and outlined above, the proposed action would mitigate the impacts to stream health parameters such as fine sediment, unstable banks, and bankfull width to depth ratio, which would likely remain in their current condition classes (refer to Table 2); moreover, Project Design Criteria included in the proposed action are anticipated to improve the stream health parameters for LWD (large woody debris).”

Conclusion

Based on my review of the project record, the delineation of the Ice Creek Watershed within the larger East Fork Hermosa Creek Watershed is described in narrative, tabular, and map format within the project record. “Ice Creek Watershed” is the name used in the project record to describe the slopes attendant to the tributary of the Ice Creek drainage within the East Fork Hermosa Creek Watershed (Hydrologic Unit 12 140801040401). Additional detail from the 2008 Final EIS could be added to the description of Ice Creek Watershed for this project to clarify the relationship between Ice Creek Watershed and the East Fork Hermosa Creek Watershed.

Instruction

I instruct the responsible official to clarify that for this proposed project, the “Ice Creek” watershed is a tributary to East Fork Hermosa Creek and that it is a 7th-field subdrainage that was delineated for analysis convenience in the 2008 Final EIS.

Issue 11: Drainage Management Plan Incomplete

The objector notes that a Drainage Management Plan is not complete and will not be complete prior to the potential approval of the proposed Purgatory Resort Ice Creek Pod Project. The objectors hold that without a completed Drainage Management Plan, it is not possible to understand the specific measures that will "protect the East Fork" and how these measures will align with the San Juan National Forest Land and Resource Management Plan (LRMP) desired conditions for riparian area and wetland ecosystems (LRMP Vol. 2, pp. 47-49) and the 13 desired conditions for aquatic ecosystems and fisheries (LRMP Vol. 2, p. 54) to ensure that water quality and water resources are protected.

Response

Although the Drainage Management Plan itself is not yet drafted, projects that will be included in the Drainage Management Plan are described in the project record. Specifically, Appendix D, 2008 Record of Decision, Restoration, Mitigation, and Monitoring Inventory describes numerous mitigation projects that will be included in the Drainage Management Plan (2008 ROD, p. DN-45 – DN-61). Additionally, the Purgatory Resort Ice Creek Pod Hydrology Report states that development and implementation of a Drainage Management Plan would include projects such as “improvement of existing drainage infrastructure such as road-side ditches and culverts, as well as construction of new drainage features and implementation of re-vegetation projects” (Purgatory Resort Ice Creek Pod Hydrology Report, p. 8). Additional mitigation measures to maintain the stream health and condition of the project area, including the eastern tributaries of the East Fork Hermosa Creek watershed, are described in detail in the project record. The following mitigation measures are described in Purgatory Resort Ice Creek Pod Hydrology Report (p. 8), “A combination of over-snow and over-ground skidding shall be used for timber removal along the proposed lift and ski trails. Over-snow skidding would be the preferred timber removal method followed by over-ground skidding. Over-snow skidding shall only occur when the ground is protected by at least 12 inches of packed snow or 2 inches of frozen soil. All skidding shall occur over existing roads or proposed ski trails to defined logging deck areas. Defined logging deck areas, skid paths, and protocol for timber removal shall be included in the construction implementation plan. Logging decks and skid paths shall be located outside the water influence zone, adjacent to existing roads, in open areas requiring incidental tree removal. A combination of over-ground skidding, over-snow skidding, lop and scatter, and piling and burning shall be used for timber removal along the snowmobile bypass trail. Qualifying pieces of down trees would be used to improve the LWD metric in the project area streams, as part of the project mitigation measures.” In addition to these mitigation measures, 21 additional, water-resource specific Project Design Criteria (PDC) are detailed in the Purgatory Resort Ice Creek Pod Hydrology Report as additional design features to supplement the PDC listed in Table 2 of the Environmental Assessment. These explicit mitigation measures and PDC communicate the measures being proposed to protect the East Fork Hermosa Creek Watershed (Purgatory Resort Ice Creek Pod Hydrology Report, pp. 9-10).

Implementation of the PDC listed in Table 2 of the Environmental Assessment (p. 9-12) and in the Purgatory Resort Ice Creek Pod Hydrology Report (p. 9-10) are designed to ensure that the proposed project would maintain or improve overall watershed health conditions and ensure that the project is consistent with the desired conditions in the Forest Plan’s desired conditions for riparian and aquatic ecosystems, the Watershed Conservation Practices Handbook, and the

Hermosa Creek Watershed Management Plan. For example, the Purgatory Resort Ice Creek Pod Hydrology Report describes how the health of the Ice Creek Area streams affect the condition of the overall East Fork Hermosa Creek, and that “by implementing the PDC included in the Environmental Assessment and outlined above, the proposed action would mitigate the impacts to stream health parameters such as fine sediment, unstable banks, and bankfull width to depth ratio, which would likely remain in their current condition classes (refer to Table 2); however, PDC included in the proposed action would improve the stream health parameters for LWD” (Purgatory Resort Ice Creek Pod Hydrology Report, p. 11).

The Draft Decision Notice (p. 2) states that the Forest Supervisor approves of the proposed action dependent on “inclusion of all design criteria and mitigation measures identified in Table 2 of the Environmental Assessment and included in Appendix A of [the Draft Decision Notice].” Further, approval of the selected alternative is predicated on implementation of all PDC, and the Draft Decision Notice (p. 2) states that “failure to comply with the required design criteria will constitute a breach of the project approval and could suspend construction and/or operations on the facilities approved by this decision.” One of these required design criteria is the Drainage Management Plan (EA-9, Table 2; p. DN-2). The Draft Decision Notice states that “Purgatory is required to prepare and submit several documents for Forest Service approval prior to beginning any approved construction activities including... [the] Drainage Management Plan” (p. DN-2).

Conclusion

Project Design Criteria, including the Drainage Management Plan, and their consistency with all applicable laws, regulations, and policies, are clearly described throughout the project record. The Draft Decision Notice clearly states the binding nature of the PDC before, during, and after any implementation of the proposed action.

Fisheries Biology and Aquatic Resources

Issue 12: Impacts to Aquatic Resources and Aquatic Species Restoration Projects

The objectors state that the Draft Decision Notice fails to provide details on how the proposed Purgatory Resort Ice Creek Pod Project (lift expansion construction and operation, as well as associated infrastructure) will ensure protection of aquatic resources and aquatic species restoration projects that have been carried out, including restoration projects focused on the cutthroat trout.

Response

Colorado River cutthroat trout are a designated Rocky Mountain Region Sensitive Species. As such, the species is regulated by the following Forest Service Manual direction:

- **FSM 2672.1** “Sensitive species of native plant and animal species must receive special management emphasis to ensure their viability and to preclude trends toward endangerment that would result in the need for Federal listing. There must be no impacts to sensitive

species without an analysis of the significance of adverse effects on the populations, its habitat, and on the viability of the species as a whole.”

- **FSM 2670.32(4)** “Analyze, if impacts cannot be avoided, the significance of potential adverse effects on the population or its habitat within the area of concern and on the species as a whole. (The line officer, with project approval authority, makes the decision to allow or disallow impact, but the decision must not result in loss of species viability or create significant trends toward federal listing.)”

The Biological Evaluation (p. 19) acknowledges that direct/indirect impacts from proposed actions could, “increase erosion and sedimentation, incrementally contributing to downstream channel instability and adverse effects to Colorado River cutthroat trout (CRCT) and macroinvertebrate habitats in Hermosa Park.” It goes on to conclude that “by implementing project design criteria included in the Proposed Action, the health of the project area streams would be maintained or improved” (Biological Evaluation, p. 20). The Hydrology Report (Cumulative Effects, p. 13) also states that “through implementation of the PDC and DMP included in the Proposed Action (refer to Table 2), the projects authorized by the 2008 ROD, and combined with other past, present, and reasonably foreseeable future actions, the Proposed Action is anticipated to maintain stream health in the East Fork Hermosa watershed.”

For the Colorado River cutthroat trout, the Biological Evaluation (p. 20) concluded that, “the Proposed Action may adversely impact individuals, though is not likely to result in a loss of viability in the planning area, nor cause a trend toward federal listing. No further analysis required.” The Biological Evaluation (pp. 19-20) specifically addressed the Forest Service Manual directions outlined above stating:

1. The project is “not likely to result in a loss of viability in the planning area” (San Juan National Forest), which is correct given that the project would potentially affect only a portion of 1 of 15 conservation populations of Colorado River cutthroat trout on the San Juan National Forest (personal communication with Clay Kampf, Fish Biologist, San Juan National Forest, January 27, 2022, and
2. The project would not “cause a trend towards federal listing” as it would affect a portion of 1 of approximately 300 Colorado River cutthroat trout conservation populations rangewide (Hirsch et al. 2013).

A Project Design Criteria under Post Construction #2 (EA, p. 12) addresses post-project monitoring and response if stream health or fish populations are found to decline. It states:

“A qualified hydrologist funded by Purgatory and working at the direction of the Forest Service representative shall perform post-construction stream health surveys for three years over a six-year tie period from established monitoring locations or until a time determined by the Forest Service representative that the stream health is maintained.

- Monitoring shall include fish population as well as stream health.
- Should surveys reveal stream health and/or fish populations are not being maintained due to implementation of projects, a restoration plan shall be developed by the Forest Service and Purgatory. If restoration is necessary as a result of the project, Purgatory shall fund the restoration.”

The objectors also asked about whether the “thirteen Desired Conditions within Aquatic Ecosystems and Fisheries be followed as only “aspirational” or as required-to-meet Desired Conditions, along with their associated Objectives and Standards ((LRMP Volume 2, Page 54-56)?” To clarify, the Project Design Criteria are a part of the selected alternative. As stated in the Draft Decision Memo (p. 2), “The selected alternative, along with my decision to require project design criteria (PDC), meets all applicable laws, regulations, and policies.” Please refer to Issue 6 for additional information/assessment on compliance with the Forest Plan.

Conclusion

I find that the analysis of direct, indirect, and cumulative effects to Colorado River cutthroat trout were appropriately analyzed and disclosed in the Biological Evaluation and Environmental Assessment. The analysis conducted meets Forest Service Manual direction and is in compliance with applicable laws, regulations, and policies.

Issue 13: Impacts to Stream Health and Water Quality

The objector questions the agency's conclusions and analysis of impacts to stream health and water quality from the proposed project. Specifically, the objector questions the responsible official's statement on page 5 of the Draft Decision Notice, which states, "Ski area development has not influenced the condition of these headwaters streams." The objector then highlights the watershed analysis in the Environmental Assessment (EA), which states, "Stream channels within the Ice Creek project area have experienced a marked decline in health over the past fifteen years due to historic logging, open roads, and active livestock grazing (USDA Forest Service 2020)." Moreover, the objector points to the Purgatory Resort Ice Creek Project Hydrology Report, which states, "stream health of the surveyed project area reaches has generally declined over the past fifteen years."

Response

In discussing issues associated with Colorado River cutthroat trout in the Draft Decision Notice it states, "However, as discussed in the Watershed section of the EA, diminished conditions of project area streams have occurred as a result of historic logging, open roads, and active livestock grazing. Ski area development has not influenced the condition of these headwaters streams" (DDN, p. 5).

This line in the Draft Decision Notice appears to be sourced from the EA (p. 22) where results of the 2020 Stream Health Assessment Ice Creek Pod Project Area are reported. The 2020 Stream Health Assessment Ice Creek Pod Project Area sampled stream reaches that have not experienced ski area development because the sample sites were located south of ski area developments. Therefore, this line as written and contextualized in the Draft Decision Notice appears to mistakenly summarize the overall findings of the watershed and stream health analyses in the EA.

Specifically, the 2020 Stream Health Assessment Ice Creek Pod Project Area document, referenced by the objector, looked at two sites within the Ice Creek watershed and two reference reaches of similar geology and channel type within Lone Spruce Draw. The assessment looked at changes between measurements taken in 2005 and 2020. This assessment concluded that, “there has been a general decline in stream health” (p. 8) and that “the current condition of Response

Reaches 2 and 7 [within Ice Creek watershed] are primarily a result of historic logging, open roads, and active livestock grazing” (p. 9). The assessment also concluded that ski area development has not influenced the condition of these two headwaters streams. This conclusion is sound because past ground disturbance related to ski areas has occurred south of the two watershed points sampled in the assessment.

The Colorado River cutthroat trout occur in the East Fork Hermosa Creek beginning approximately 1km downstream of the Ice Creek Pod. The Hydrology Report (pp. 11-12), Biological Evaluation (p. 20), Environmental Assessment (p. 20), and Draft Decision Notice (pp. 5-6) each discuss potential effects of the proposed Ice Creek Pod Project to watersheds and stream health. The documents disclose that potential impacts to stream health from the proposed action could incrementally contribute to stream health conditions downstream but highlight Project Design Criteria that would minimize impacts and seek to ensure that the project would maintain or improve watershed health overall. Refer to response to Issues 9, 10, and 11 for additional details and assessments on watershed-related issues and potential impacts. For example, the Draft Decision Notice (p. 5) states, “I recognize that tree clearing and grading associated with the selected alternative have the potential to negatively affect stream health in the project area; however, through the use of a comprehensive set of PDC (refer to Appendix A), as well as mitigation measures required from the 2008 ROD (refer to Appendix D), I am confident that the selected alternative would maintain the condition of project area streams.”

Conclusion

Based on review of the project record, I conclude that the proposed Purgatory Resort Ice Creek Pod Project sufficiently analyzed and disclosed potential impacts to stream health. However, the Draft Decision Notice appears to mistakenly summarize the findings of the analysis (see Instruction below).

Instruction

I instruct the responsible official to edit the Draft Decision Notice to ensure that it correctly summarizes findings from the watershed analysis in the Environmental Assessment and attendant project record.

I also instruct the responsible official to arrange an on-site meeting with the objector in the spring or summer of 2022 to assess conditions in the project area as they relate to stream health and water quality. This instruction can be addressed prior to or after the responsible official’s final decision on this project.

Restoration and Mitigation

Issue 14: Restoration and Mitigation Projects

The objector holds that the listing of projects in the Draft Decision Notice 'Appendix D: 2008 ROD Restoration, Mitigation, and Monitoring Inventory' (pp. 45-64) lacks clarity and contains numerous inconsistencies that need to be resolved. Specifically, the objectors hold that the listing of projects includes restoration projects associated with previously approved but not yet implemented ski area projects, projects for which required mitigation has already been completed, unrealistic completion dates, projects that the objector holds should not be the responsibility of Purgatory Ski Resort, restoration projects that are no longer in areas owned or within the jurisdiction of Purgatory Ski Resort, and, lastly, that the closure of select roads would impede operations and/or visitor safety. The objector requests a meeting with the San Juan National Forest to review each restoration project included in Appendix D.

Response

The responsible official states in the Draft Decision Notice (p. 2) that “implementation of the selected alternative will not occur until the required mitigation projects from Appendix D of this document are reviewed and deemed successful by the Forest Service.” Appendix D within the Draft Decision Notice (p. 45) provides a listing and status of projects and clarifies, “all restoration measures will be completed in concert with their corresponding ski area projects. Please note that several ski area projects approved in the 2008 Record of Decision have not yet been implemented, and therefore, the corresponding restoration has not been implemented either.”

A plan for the completion of restoration projects described in Appendix D will be addressed through the submittal of the resort’s annual operating plans, approved by the Authorized Officer. (FS-2700-5b, Ski Area Term Special Use Permit, Item III.A; 36 CFR 251.56). Implementation of projects approved by this decision or by previous decision are the responsibility of the permit holder, as the proponent. Any changes to the decision requirements will require site-specific project proposals to be considered by the Authorized Officer under separate review. (FSH 1909.15, Ch.10; 36 CFR 251.54)

Conclusion

The responsible official for this project has the authority and discretion to authorize the proposed action with stated conditions. I find that the responsible official has complied with applicable laws, regulations, and policies.