



April , 2014

Roaring Fork Stream Renovation Project
c/o Barry Wiley
Rio Grande National Forest
1803 W Highway 160
Monte Vista, CO 81144

Re: Roaring Fork Stream Restoration Project

Dear Mr. Wiley;

Please accept this correspondence as the comments of the above Organizations regarding the Roaring Fork Stream Restoration Project. These comments will address two major questions that are critical to the project: 1) Should there be motorized access granted to land managers to the Wilderness area for resource management issues; and 2) What methodology and analysis is necessary for the reintroduction of the Rio Grande Cutthroat Trout ("RGCT") into the watershed as part of a species management plan. The Organizations support efforts to remove any species from the Endangered Species Act list, as this is the most effective manner to maximize multiple use recreational opportunities on public lands, and also support full utilization of all protections available under the ESA for recreational usage of habitat areas over the course of recovery for any species.

The Organizations support CPW efforts regarding the reintroduction of the RGCT, but vigorously assert that sufficient statutory ESA protections must be in place prior to the release of RGCT trout that might be classified as threatened or endangered immediately after its release. These

statutory protections allow for more effective management of the species and avoid much of the conflict that occurs between Federal land managers and all users of public lands without these statutory ESA protections. The Organizations have been active participants in recent listing and stakeholder discussions for both the Canadian Lynx and Wolverine, and have been able to support these decisions after statutory protections are in place. These designations have been significant steps that will benefit each species in the long run with cost effective on the ground management that actually benefits the species.

The Organizations support the management that is proposed in Alternative 2 for resource management, as active management of public lands should be a very high priority for land managers, regardless of Wilderness designations. Active management of resources is necessary to avoid impacts to resources outside the Wilderness areas, such as those that result directly from wildfires, watershed issues that will occur after wildfire impacts and spruce beetle infestations. It has been the Organizations experience that a minimal amount of active management can result in significant stability and sustainability for resources moving forward. Often motorized access is the only cost effective manner to actively manage resources.

While the Organizations are aware that the management of species is primarily a CPW issue, the Organizations are concerned regarding the species management portions of Alternative 2 of RGCT. These decisions will immediately involve federal land managers. The Organizations must thank both the USFS and CPW for addressing what has historically been identified as the overwhelming threat to the RGCT, which is hybrid fish and invasive species of trout that have been reintroduced. Too often recreational access has been identified as a threat to be managed for native cutthroat trout, regardless of the minimal impacts this usage has on cutthroat trout, specifically and repeatedly identified in numerous species conservation plans and assessments. The Organizations believe additional protections and efforts must be made to clarify future management of all genetically pure cutthroat trout in Colorado, prior to large scale reintroductions into new potential habitat areas. Management of existing habitat areas for genetically pure cutthroat has already proven problematic and these issues should be avoided moving forward. Public concern over the management of the cutthroat trout has become challenging as many of the trout that were previously introduced for the preservation of the species are now identified as the primary threat to the species. These type of erroneous mitigation measures must be avoided moving forward.

Prior to addressing the specific appeal points, a brief summary of each Organization is needed. The Colorado Off-Highway Vehicle Coalition ("COHVCO") is a grassroots advocacy organization of approximately 2,500 members seeking to represent, assist, educate, and empower all OHV recreationists in the protection and promotion of off-highway motorized recreation throughout

Colorado. COHVCO is an environmental organization that advocates and promotes the responsible use and conservation of our public lands and natural resources to preserve their aesthetic and recreational qualities for future generations.

The Trail Preservation Alliance ("TPA") is a 100 percent volunteer organization whose intention is to be a viable partner, working with the United States Forest Service (USFS) and the Bureau of Land Management (BLM) to preserve the sport of trail riding. The TPA acts as an advocate of the sport and takes the necessary action to insure that the USFS and BLM allocate to trail riding a fair and equitable percentage of access to public lands.

Colorado Snowmobile Association ("CSA") was founded in 1970 to unite winter motorized recreationists across the state to enjoy their passion. CSA currently has 2,500 members. CSA has become the voice of organized snowmobiling seeking to advance, promote and preserve the sport of snowmobiling by working with Federal and state land management agencies and local, state and federal legislators. For purposes of this appeal, Colorado Off-Highway Vehicle Coalition, the Trail Preservation Alliance and Colorado Snowmobile Association will be referred to as "the Organizations" in this appeal.

1a. Resource Management Issues.

The Organizations vigorously support the active management of all resources by land managers regardless of Wilderness designations that may exist. The Wilderness Act does provide flexibility for managers to address these issues and as a result the resource management portions of Alternative 2 are not an issue for the Organizations. Given the risks to the watershed health in general from the fires and the possible endangered species issues that are involved, the Organizations vigorously support usage of the Wilderness Act flexibility in allowing motorized access to address these issues. The only question from the Organizations involves the timing of resource management activities in relation to the development of the ESA statutory protections.

1b. Mitigation of wildfire impacts.

The Organizations are aware that a significant portion of the Haypress Lake watershed have been heavily impacted by severe wildfires in the last several years and given the poor forest health should be anticipated to continue in the foreseeable future. The Organizations are concerned about the lack of mitigation of these issues in the proposal. The Organizations would support a much larger scope of mitigation of these fire impacts that have resulted from the overly severe fires in the proposal area. The Organizations are aware that impacts clearly cannot be fully mitigated at a reasonable expense, but the Organizations are aware that often

significant mitigation of impacts can be obtained at a rather reasonable cost, and this active management is vigorously supported by the Organizations.

The possible impacts of wildfire to RGCT habitat are also a major concern in the recently released Conservation Strategy. The RGCT Conservation Strategy specifically identifies the scope of threat that both wildfires and the impacts to the habitat that result from fire play on RGCT as follows:

"In the Southwest, the fire season is followed by the monsoon season (July to August). Consequently, denuded watersheds are susceptible to heavy precipitation, which can lead to severe floods and ash flows. Although fish may survive the fire, ash and debris flows that occur after a fire can eliminate populations of fish from a stream (Rinne 1996; Brown *et al.* 2001; USFS 2006; Patten *et al.* 2007). Recently, Rio Grande cutthroat trout population eradication in streams affected by fires was documented on Bandelier National Monument in Capulin Creek from the Los Conchas Fire. Wildfires can negatively impact native fish populations, but they can also eradicate nonnative fish populations and provide opportunities for founding new Rio Grande cutthroat trout populations."¹

The RGCT Conservation Strategy specifically states that:

"One important factor to consider in determining where to implement future restoration efforts is the risk of wildfire."²

As much of the watershed where the RGCT are to be reintroduced under this proposal, has been heavily impacted by wildfire, the Organizations believe an analysis of why the area has been found suitable for reintroduction is warranted in any analysis. Reintroducing the RBCT into an area where there is a high probability of loss from post wildfire related issues makes little sense.

1c. Mitigation measures for the application of rotenone.

The Organizations are aware of several instances where the application of rotenone, and other chemicals used to prepare waterways for the reintroduction of native species have not gone as planned. These events have resulted in public concern over the removal of quality sport fishing opportunities from waterways outside the areas that were to be managed. These events have done little to build public support for species management. The Proposal does not address the measures that are to be taken to avoid these types of issues in the course of treatments

¹ See, Rio Grande Cutthroat Trout (*Oncorhynchus clarkii virginalis*) Conservation Strategy October 2013 at pg 11.

² See, Conservation Strategy at pg 25

proposed. The Organizations vigorously assert that effective measures must be put in place to insure that these unintended consequences are avoided in the course of any management of the Haypress lake area.

2a. Species management issues- Status of Rio Grande Cutthroat (RGCT) on ESA list.

The Organizations are concerned about the status of the RGCT on the Endangered Species list, which is currently identified as "warranted but precluded". The Organizations believe this issue must be finally addressed before there are major steps toward the reintroduction of any RGCT or any other cutthroat trout in Colorado. The RGCT status on the ESA is currently in flux as a result of the settlement of landscape litigation involving the validity of the listing status of "warranted but precluded" that has been widely applied by USFWS previously. In this settlement, the USFWS has agreed to issue a final listing decision regarding the GBCT by the end of FY 2014.³ The Organizations would like to believe that this decision and proposal would result in the delisting of the RGCT but the Organizations are not optimistic for two reasons: 1) that the project is really too small to impact the listing by itself; and 2) the projected timeframe for implementation of the proposal ranges from 2014-2016 while a decision on this issue is mandated by the end of 2014. The listing of the RGCT would have dramatic impacts on the management of habitat areas for the RGCT and these must be addressed prior to significant expansion of habitat areas.

The current status of the RGCT and many other species of cutthroat trout on the ESA list has been drawn further into question with the release of an article by J. Metcalf et al entitled "*Historical stocking data and 19th century DNA reveal human-induced changes to native diversity and distribution of cutthroat trout*" in the Molecular Ecology reporter⁴. The Organizations will note that this article appears to have shaken the biology community rather deeply and will have significant ramifications on the findings to the current management process. The article appears to be moving towards a decision or possible decision that each of the existing native trout species in Colorado may be further subdivided into many separate and small species. The Organizations have participated in several meetings where these issues have been discussed specifically and while the Organizations are not able to meaningfully comment on the concerns in these meetings, the implications of the article are very concerning for the recreational community. The possible impacts of these ESA issues should be addressed in this proposal and protection or mitigation measures must be developed to address habitat areas if

³ Copies of the relevant portions of this Settlement Agreement are attached with these comments.

⁴ Metcalf et al; *Historical stocking data and 19th century DNA reveal human-induced changes to native diversity and distribution of cutthroat*; *Molecular Ecology* (2012) 21, 5194–5207.

the RGCT is listed as threatened or endangered to avoid a repeat of the lynx reintroduction and subsequent ESA listing.

2b. Bear Creek litigation.

The Organizations are very concerned regarding the large scale expansion of habitat areas of the RGCT without addressing management of these areas prior to the reintroduction of the species. These concerns are based on experiences the Organizations have had with litigation involving the management of habitat for the genetically pure Greenback Cutthroat Trout outside Colorado Springs. This litigation heavily involved the Metcalf article that was previously addressed in these comments, making the Organizations highly cognizant of the management of the cutthroat trout moving forward. The Organizations have to note that any expanded habitat areas could result in similar actions from CBD, if the Metcalf article is not properly understood and applied on the ground. This litigation could prove problematic if the species that are removed under current management are then found to be a separate species at some point in the future.

While the Greenback cutthroat was not a direct management issue for the Forest Service on the Pikes Peak Ranger District, the Forest Service was drawn into the center of this litigation after being sued by the Center for Biological Diversity. The Organizations have intervened in this litigation to assist with the defense of the matters by the USFS. The settlement of this litigation has resulted in a future management direction for the Bear Creek Watershed that would exclude all recreational usage of the watershed. While NEPA documentation has only begun to move forward for this proposal, which has been heavily influenced by the litigation, is not being well received by the public in general and the poor reception of the proposal has been compounded by the fact that the management fails to address the primary threat to the species in the Bear Creek area. These type of planning actions often put all partner organizations in difficult positions and generate little benefit for the species. The Organizations vigorously believe that this situation could be avoided with development of clear management and protection documents for the management of habitat areas for the reintroduced species before the cutthroat are released and as such the Organizations believe these issues are exceptionally relevant to the Roaring Fork discussion.

2c. Utilization of statutory protections for habitat areas of reintroduced species under ESA must be explored.

The Organizations vigorously assert that statutory protections that provide for specific protection of habitat usages of reintroduced species must be explored prior to the

reintroduction of species in any waters in Colorado. The Organizations are aware that these concerns are well outside the scope of the current proposal, but these concerns directly impact the Organizations position on this issue. While the USFS is not a primary manager of any species, the USFS manages the habitat and often is drawn into issues regarding species in their capacity as land manager. The Organizations believe these concerns must be addressed as well.

The Organizations vigorously assert that classifications such as an experimental population designations under §10j of the ESA for native cutthroat trout that are outside their current range must be explored along with Candidate Conservation Agreements with private land owners or owners of water rights in the bodies of water downstream of the reintroduced species who might be impacted by the release of genetically pure cutthroat trout into waters adjacent. While this type of designation requires a listing of the species, such a decision is anticipated in the near future. The Organizations believe there is sufficient information available currently to allow managers to easily designate areas where genetically pure trout are currently located and where genetically pure fish are being reintroduced into historical range. With this information many possible impacts would be avoided to usages that are in no way related to the primary threat to the species and significant public support could be reestablished for the management of the Cutthroat Trout.

Utilization of these experimental population and CCA designations have been highly effective in the management of possibly reintroduced species such as the Wolverine, where management standards were clearly identified for the species well before the species has been reintroduced. These management tools are critical in avoiding situations similar to the lynx management where 200 lynx were reintroduced in Colorado and then designated as Threatened under the ESA almost immediately after release. Often management decisions that resulted were not base on good science but rather critical gaps in scientific analysis and heavily impacted recreational usage of habitat areas while creating no benefit for the species. This type of management must be avoided.

3. The Organizations are concerned that RGCT populations would expand into new habitat areas after reintroduction.

The Organizations are concerned that there are no provisions in the scoping notice that address the long term management of RGCT after reintroduction. The Organizations are vigorously aware that wildlife moves, and often this movement is not consistent with assertions that they will remain in the habitat areas they are reintroduced into. CPW reintroduced Canadian lynx in the late 1990's that travelled throughout many of the western states and into areas that simply where totally unsuitable as habitat. Haypress Lake currently notes the introduction of brook

trout into the waters but is unable to identify where the invasive species came from, making concerns about wildlife movement very relevant to the management of cutthroat trout as well. The Organizations are aware that currently most of the reintroduction is targeting Wilderness areas, and would not directly impact motorized usage as a result. However, expansion of the reintroduced species would directly impact areas that are heavily utilized for recreational areas such as Hay Press Lake and bodies of water further downstream from the Lake.

The Organizations vigorously assert that the monitoring of the long term impacts of the reintroduction must be addressed and measures taken to insure that reintroduced, genetically pure fish remain in the bodies of water where they are placed. This monitoring may include dam maintenance reviews and other management. These issues are not addressed in the Proposal.

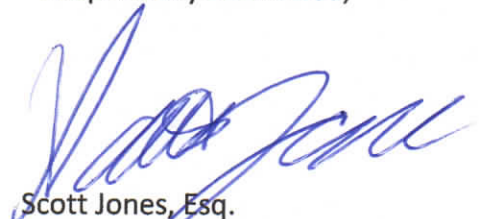
It has been the Organizations experience that once an Endangered species is identified in any area, trail and recreational usage of the area will immediately become an issue, as it did in the Bear Creek area. The identification of an Endangered Species in any habitat area frequently means the habitat areas are closed to recreational usage, despite the fact that recreational usage often is not associated at all to the primary threat to the species. For cutthroat trout, recreational usage is frequently closed in habitat areas based on concerns around water quality, despite the repeated studies and analysis that conclude recreational usage of lands does not have any relationship to the primary issues involved with poor water quality in a planning area. The Organizations believe these issues must be addressed prior to release of any possibly endangered species, either through management and monitoring or utilization of ESA mechanisms.

4. Conclusion

The Organizations vigorously support the resource management related portions of the proposal such as providing motorized access to the Wilderness area. The Organizations believe that active management of all resources is critical to the stability and sustainability of these resources moving forward. The Organizations are very concerned regarding the species management portions of the proposal, as the Organizations do not believe this proposal or any other is going to be sufficient to avoid the listing of the RGCT as at least threatened and possibly Endangered. While managers are to be commended for attempting to manage the primary threat to the RGCT, there are many concerns regarding the species and its future that must be addressed prior to reintroduction of these species into Colorado waters.

If you have questions please feel free to contact Scott Jones, Esq. at 508 Ashford Drive, Longmont, CO 80504. His phone is (518)281-5810 and his email is scott.jones46@yahoo.com.

Respectfully Submitted,



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COHVCO/TPA Authorized Representative
CSA Vice President



D.E. Riggle
Director of Operations
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Randall Miller- President
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John Bonngiovanni
COHVCO Chairman

Enclosures

CC: Steve Yamashita, CPW; USFS R2 Chris Sprol & Jim Bedwell

2. Defendants shall submit a 90-day finding to the Federal Register for the San Bernardino flying squirrel no later than the end of FY 2012.

3. Defendants shall submit a Proposed Rule or a not-warranted finding to the Federal Register for the following species no later than the end of the specified Fiscal Year:

- a. Cactus ferruginous pygmy owl (FY 2011);
- b. Acuna cactus, Jollyville Plateau salamander, Mexican wolf, Miami blue butterfly, Mt. Charleston blue butterfly, spring pygmy sunfish, and wekiu bug (FY 2012);
- c. Ashy storm-petrel, bi-state (Mono Basin) distinct population segment ("DPS") of greater sage-grouse, Dakota skipper, eastern small-footed bat, Kittlitz's murrelet, Mexican garter snake, mountain yellow-legged frog, North American wolverine, northern long-eared bat, Oregon spotted frog, red knot, Rosemont talussnail, yellow-billed cuckoo, and Yosemite toad (FY 2013);
- d. Arctic grayling, black pine snake, least chub, Rio Grande cutthroat trout, Tucson shovelnose snake, west coast fisher DPS, and yellow-billed loon (FY 2014);
- e. Eastern massasauga, greater sage-grouse range-wide (including Columbia DPS), headwater chub, Kentucky arrow darter, New England cottontail, roundtail chub, and southern Idaho ground squirrel (FY 2015);
- f. Relict leopard frog, and Tahoe yellow cress (FY 2016); and
- g. Pacific walrus (FY 2017).