



December 5, 2015

BLM Gunnison FO
Att: Silverton Guides EA Comments
210 W. Spencer Ave, Suite A
Gunnison CO 81230

Re: Silverton Guides Heliskiing permit expansion

Dear Sirs:

Please accept this correspondence as the comments of the above Organizations in **vigorous opposition** to the proposed permit expansion application of the Silverton Guides Organization ("the Proposal"). The Organizations vigorously oppose the Proposal as it is simply badly out of balance as almost all snowmobile areas now open to the public will now be open to heliskiing. The mixing of these uses has proven to be a serious long term barrier to public access to other areas where heliskiing has occurred as immediately after heliskiing is expanded. While this is often based on avalanche mitigation activity for skiing, public access to the area is lost regardless. In the Silverton area, public access to any winter recreation area is highly valued areas as only a small portion of the planning area is suitable for OSV usage. This results in a significant net loss to public recreational opportunities as most members of the public are not interested in heliskiing and most of those that are interested in the sport are not able to afford the \$1,000 per day required to book a trip. Even in the best of conditions heliskiing access will never occur at levels similar to the public utilization of these areas for other winter recreational activity.

The expanded permit will be of minimal value to Silverton Mtn. operations as most heliskiing already occurs within the boundary of the ski area, but the expanded permit will put

public access to recreational opportunities at risk, as the permittee has a committed history of seeking something other than multiple use embracing public access to areas jointly used by the public. Many of the areas now sought to be used for heliskiing permit activities have been declined in the past, making the Organizations ask what has changed to allow these areas to become heli-ski permit areas, when they were repeatedly declined in the past. If the permit is determined to be suitable for expansion, the Organizations vigorously assert that clear and enforceable standards must be put in place that protect public access to any expanded operational area. These must be independently monitored at the expense of the permittee, as it is not the public responsibility to monitor the permittee but it is the permittee responsibility to protect public access. If these protections cannot be obtained, the permit should not be expanded.

We start first with a brief description of each Organization, in order to allow a complete understanding of our concerns. The Colorado Snowmobile Association ("CSA") was founded in 1970 to unite winter motorized recreationists across the state to enjoy their passion. There are 30,000 registered snowmobiles in the State of Colorado. CSA seeks to advance, promote and preserve the sport of snowmobiling in Colorado by working with Federal and state land management agencies and local, state and federal legislators.

The Colorado Off-Highway Vehicle Coalition ("COHVCO") is a grassroots advocacy organization of 150,000 registered OHV users in Colorado 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 Colorado based 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 is an

advocate of the sport and takes necessary actions to help insure that the USFS and BLM allocate to trail riding a fair and equitable percentage of access to public lands. For purposes of this document CSA, COHVCO and TPA are identified as "the Organizations".

1. The preferred alternative is simply badly out of balance as almost all snowmobile areas now open to the public will now be open to heliskiing as well.

The Organizations vigorously oppose the Proposal as it is simply badly out of balance in addressing usages of recreational opportunity areas as almost all snowmobile areas now open to the public would become open to heliskiing, which has proven to be a serious long term barrier to public access. Once heliskiing has occurred avalanche mitigation of the area with explosives also occurs and this has always resulted in a loss of public access on the basis of safety concerns. The snowmobile community intimately understands the possible risks from avalanches throughout the Silverton planning area and the OSV community has effectively recreated in this area with this risk without the need to drop explosive charges from helicopters. Minimization of impacts of heliskiing in existing permit areas has translated to closures of the areas to the public due to safety concerns from avalanche mitigation actions being conducted to protect heli-skiers.

In the Silverton area, public access to any winter recreation area is highly valued areas as only a small portion of the planning area is suitable for OSV usage and other types of recreational activity. The restriction of areas to heliskiing only results in a significant net loss to public recreational opportunities as most members of the public are not interested in heliskiing and most of those that are interested in the sport are not able to afford the \$1,000 per day required to book a trip. Even in the best of conditions heliskiing access will never occur at levels similar to the public utilization of these areas for other winter recreational activity.

The expanded permit will be of minimal value to Silverton Mtn. operations as most heliskiing occurs on the ski area, but it will put public access to recreational opportunities at risk as the permittee has a committed history of seeking something other than multiple use embracing public access. In addition to opposing multiple use, the permittee has encouraged

incursions onto private lands adjacent to permit areas as part of their heliskiing operations. This causes even further concerns about the long term viability of expanded heliskiing opportunities for Silverton Guides as proposed. Given the immediate conflicts that have resulted previously, the Organizations must question how this conflict can be avoided in the future?

2. Management History.

The Organizations would be remiss if the conflict between the current proposal and previous management decisions was not noted. Many of the areas now sought to be used for heliskiing permit activities have been declined in the past. The Organizations must ask what has changed to allow these areas to become heli-ski permit areas, when they were repeatedly declined in the past. The Permittee has a demonstrated disregard for incursions of permittee's activities onto well documented private lands adjacent to permitted areas, which causes serious concerns about the enforceability of soft standards for the benefit of public access as the permittee has not enforced basic property boundaries in the past. It is silly to hope that public usage would be balanced by the permittee without enforceable standards in the permit. Without such definable enforceable standards to protect public access, the expanded permit should be denied.

3. The Proposal lacks factual accuracy and results in .

The Organizations must question the frequent summary of many of the locations within the existing permit areas as "low quality windswept areas poorly suited for skiing". This directly conflicts with the findings of fact from the most recently approved permit which concludes it is providing a better chance of finding quality snow conditions with the expanded permit in 2008.¹ This is simply inconsistent with an operation that has been guiding for more than 20 years and boasts "some of the most spectacular ski terrain found anywhere in the world".²

¹ See, BLM Telluride Helitrax Special Recreation Permit (SRP) Environmental Assessment (April 2008) at pg 7.

² See, <https://silvertonmountain.com/experience/heli/> accessed December 6, 2016.

These types of factual conflicts are deeply concerning and result in a per se violation of NEPA planning requirements, as NEPA regulations provide as follows:

"(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. ***The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.***"³

The Organizations vigorously assert that this per se conflict of factual determinations directly impacts the quality of NEPA analysis provided and results in a decision that has not been sufficiently reviewed. As a result the Proposal must be declined.

The Organizations are again intimately aware that even on a good year snowfall is often highly variable and at certain times of the year an area may be of poor quality for recreation but the Organizations are also aware that conditions are also highly variable and an area that has poor snow one week may be graced with world class recreational conditions the following week. Again the Organizations submit this lack of factual accuracy and conflict with previous planning weighs against expansion of the permit as the EA fails to provide the public with the necessary high quality information on the proposal to allow for meaningful comment.

4. If there is a decision to expand the permit, existing permittee obligations must be complied with.

The EA recognizes moderate snowmobile usage in many areas where the permit is to be expanded but simply never addresses how impacts to this usage will be minimized which is very concerning when the permittee business model is "more terrain more often" and displayed a serious disregard for private property interests in the area. The Organizations submit that if the decision to expand the scope of the existing permit is made, that existing management decisions in place require the moderate levels of snowmobile use in expanded permit areas to

³ 43 CFR 1500.1(b)

be protected. The Recreation Area Management Plan for the permit area clearly requires this as follows:

"Outfitters and Special Events

Objective: Manage commercial outfitters and special events to encourage safe and professional services are offered to the public, and **to minimize impacts to resources and other visitors.**

Management Action 1: Continue to authorize and monitor a variety of commercial recreation activities to provide essential service for the public. ...

The number of outfitters permitted, the areas they would be allowed to use, and the number of service days they would be granted may be regulated to maintain desirable experiences, avoid resource impacts, avoid overcrowding and **reduce conflicts with other visitors."**⁴

The Organizations simply are unable to provide any recommendations or experiences surrounding effective manners to provide this type of protection for public usage. The Organizations vigorously assert that this burden must be borne by the permittee and confirmed with third party monitoring of the permit areas and these costs must be part of the permit fee. These financial and resource burdens should not be shifted to the public but should be borne by the permittee to affirmatively show a lack of conflict or reduced public access. Forcing the public to continuously defend quality recreational areas from a permittee who has a demonstrated disregard for private property interests and is committed to something other than multiple usage ethics is simply unacceptable. Without these protections, the permit areas should not be expanded.

5. Conclusion.

The Organizations vigorously assert there should be no expansion of the permit beyond existing boundaries as such an expansion would immediately result in conflict between heliskiing activity and the public utilization of the expanded permit areas. The Organizations are aware

⁴ See, DOI, BLM - Alpine Triangle Final Recreation Area Management Plan (September 2010) at pg 60.

that public access to public lands has been lost in other areas where heliskiing has expanded in the past. While an expanded permit area may be of minimal value to the permittee as most operations are occurring on the Silverton Ski Area, areas outside the ski area are highly valued by the public given the small areas of suitable lands in the Silverton vicinity.

The Organizations look forward to participating in further meetings on this issue and welcome the discussion as it moves forward. Please feel free to contact Scott Jones, Esq. at 508 Ashford Drive, Longmont CO 80504 or via email at scott.jones46@yahoo.com or via telephone at 518-281-5810.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Scott Jones".

Scott Jones, Esq.
CSA President
TPA & COHVCO Authorized Representative

A handwritten signature in blue ink, appearing to read "Don Riggle".

D.E. Riggle
Director of Operations
Trails Preservation Alliance