

SUPPLEMENTAL INFORMATION REPORT VILLAGE AT WOLF CREEK ACCESS PROJECT

**Rio Grande National Forest, Divide Ranger District
Mineral County, Colorado
June 28, 2018**

1.0 Introduction

A Final Environmental Impact Statement (FEIS) for the Village at Wolf Creek Access Project was completed in November 2014. The FEIS analyzed a no action alternative and two action alternatives to allow Leavell-McCombs Joint Venture (LMJV) access to its property to secure reasonable use and enjoyment thereof as provided by the Alaska National Interest Lands Conservation Act (ANILCA) while minimizing environmental effects to natural resources within the project area. The FEIS documented the direct, indirect, and cumulative effects of the following three alternatives in detail:

- Alternative 1 – No Action.
- Alternative 2 – Land Exchange
- Alternative 3 – ANILCA Road Access

In May 2015 a Record of Decision (ROD) was issued by Dan Dallas, Forest Supervisor of the Rio Grande National Forest and the responsible official for the Village at Wolf Creek Access Project. Forest Supervisor Dallas selected Alternative 2, the Land Exchange alternative in the 2015 ROD. In June 2015 Rocky Mountain Wild and others filed a lawsuit in the federal district court in Colorado. In May 2017 the district court found the Forest Service failed to consider deed restrictions to control the private development and the agency failed to provide adequate conservation measures for the Canada lynx (*lynx*) to meet Endangered Species Act (ESA) requirements. The district court set aside the 2015 decision.

In January 2018, LMJV requested immediate access to their original inholding which they are entitled to under ANILCA and which they have been pursuing since 2001. Alternative 3 from the 2014 FEIS provides access to LMJV's original inholding through an ANILCA road right-of-way.

This supplemental information report (SIR) documents the review of new information and changed circumstances since November 2014 to determine if the 2014 FEIS should be corrected, supplemented or revised if Alternative 3 were to be selected. This SIR does not constitute a National Environmental Policy Act (NEPA) decision nor does it intend to fulfill the requirements for a revised or supplemental NEPA analysis. This SIR does not intend to correct deficiencies identified by the district court.

2.0 New Information and Changed Circumstances

In February and March 2018, the interdisciplinary team met to determine what new information and changed circumstances may have arisen since the FEIS was completed. The following have occurred since November 2014:

1. New information – Several species have been listed and/or critical habitat proposed/designated under the ESA. These species include:
 - Gunnison sage-grouse (*Centrocercus minimus*) – listed as Threatened and critical habitat designated in November 2014.
 - Yellow-billed cuckoo (*Coccyzus americanus*) – critical habitat proposed in December 2014. No critical habitat has been proposed for National Forest System lands in the Rocky Mountain Region, including the Rio Grande National Forest. However final critical habitat designation has not been completed.
 - New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) – critical habitat designated in March 2016.
2. New information – the United States Fish and Wildlife Service (USFWS) conducted several reviews for the following species:
 - Southwestern willow flycatcher (*Empidonax traillii extimus*) – a review was completed by USFWS in December 2017 that reaffirmed the Endangered status.
 - Humpback chub (*Gila cypha*) – a 5-year review was completed by USFWS in March 2018 that determined this species was no longer Endangered, although the species has yet to be downlisted.
 - Canada lynx (*Lynx canadensis*) – a November 2017 5-year status review and January 2018 species status assessment by USFWS determined this species may no longer warrant protection under ESA, although delisting has yet to occur.
3. New information – In addition to the 5-year review of Canada lynx conducted by USFWS, there have been a multitude of new studies related to Canada lynx providing new information. These new studies include:
 - Squires et al. (in progress): Lynx habitat ecology in beetle-impacted forests.
 - Buderman et al. (2018): Large-scale movement behavior in a reintroduced predator population.
 - Kosterman et al. (2018): Forest structure provides the income for reproductive success in a southern population of Canada lynx.
 - Baigas et al. (2017): Using environmental features to model highway crossing behavior of Canada lynx in the Southern Rocky Mountains.
 - Vanbianchi et al. (2017): Canada lynx use of burned areas: Conservation implications of changing fire regimes.
 - Holbrook et al. (2017): Understanding and predicting habitat for wildlife conservation: the case of Canada lynx at the range periphery.
 - Holbrook et al. (2016): Multiscale habitat relationships of snowshoe hares (*Lepus americanus*) in the mixed conifer landscape of the Northern Rockies, USA: Cross-scale effects of horizontal cover with implications for forest management.
 - Ivan and Shenk (2016): Winter diet and hunting success of Canada lynx in Colorado.
 - Ivan et al. (2014): Density and demography of snowshoe hares in central Colorado.
4. Changed circumstance – vegetation treatments have occurred within the lynx analysis unit (LAU) that includes the Village at Wolf Creek project area. This includes:
 - Poage Lake Timber Salvage – about 79 acres are proposed in unsuitable habitat and 121 acres in dense horizontal cover. This project has been sold but yet to be implemented.
 - Castor Salvage – about 30 acres are proposed in unsuitable habitat and 66 acres in dense horizontal cover. This project has been sold but yet to be implemented.

- Fat Bear Hydro Axe – about 250 acres treated for big game habitat improvement but did not directly affect lynx habitat. Implementation on this project began in September 2017
 - Fox Mountain Roadside Salvage/Firewood – about 250 acres along existing roads are proposed for commercial firewood cutting but does not directly affect lynx habitat. This project has yet to be implemented.
 - Tucker Ponds Campground Hazard Tree Removal – minor treatment within an existing campground to remove hazard trees. This project was implemented in April/May 2015.
 - Del Norte Peak Spruce Beetle Salvage – about 1,650 acres of salvage logging is proposed in suitable habitat. This project has yet to be implemented.
5. Changed circumstance – ski area improvements have been authorized and include:
 - Knife Ridge Gaz-Ex avalanche mitigation installed.
 - Lynx lift installed.
 - Meadow lift installation begins this year and will be completed by summer 2019.
 6. Changed circumstance – the Alberta Park Reservoir dam emergency repairs occurred in July and August 2017.
 7. New information – annual benzene plume reports have been prepared for the Colorado Department of Transportation maintenance facility near the summit of Wolf Creek pass along U.S. Highway 160.
 8. New information – Rio Grande National Forest Land and Resource Management Plan revision has been ongoing the last 4 years but has yet to be completed.
 9. Changed circumstance – the land exchange was consummated and deeds were exchanged in 2015.
 10. New information – The following are the visitor use for the Wolf Creek Ski Area by ski year:
 - 2017-2018: 171,886
 - 2016-2017: 203,111
 - 2015-2016: 210,331
 - 2014-2015: 191,152
 - 2013-2014: 214,401
 11. New information – On April 12, 2018 letter from LMJV committing to the conservation measures for lynx.

3.0 Interdisciplinary Team Review, Findings and Summary

New Information#1 – the new information regarding listing/critical habitat decisions listed above does not change the characterization of the environmental effects disclosed in the 2014 FEIS. The Gunnison sage grouse and yellow-billed cuckoo and their designated or proposed critical habitat still are not known to occur in the project area, nor are these species expected to be affected by activities that may occur in the project area or the Rio Grande National Forest. Similarly, the New Mexico meadow jumping mouse has suitable habitat on the Rio Grande National Forest but the species is not known to occur on the forest. The New Mexico meadow jumping mouse designated critical habitat is far removed from the project area and not expected to be affected by activities that may occur in the project area. The 2014 FEIS addressed all three of these species and determined the project would have “no effect” and the same rationale applies today regardless of ESA status changes for the species and their habitats.

New information #2 – petition or status reviews conducted by USFWS for the southwestern willow flycatcher, humpback chub, and Canada lynx, provide updated status information relative to the ESA, but, as of today, the current ESA status of these species has not changed since the 2014 FEIS. These species were all evaluated in the 2014 FEIS and the new information does not change the overall effects conclusions for these species.

New information #3 – the new information related to Canada lynx increases the agency's understanding of lynx behavior, movements, and habitat use, particularly in the southern portion of the range of the species and at finer scales in the southern Rockies ecoregion. However, overall the new publications are consistent with the agency's understanding of lynx habitat needs and use and connectivity concerns that were also central to the discussions and effects analyses for the alternatives in November 2014, including the development and consideration of lynx conservation measures that will continue to be carried forward under the present ANILCA right-of-way road access authorization by the Forest Service and private land development by LMJV. Hence, while the new science continues to fill in important science gaps and understanding about lynx behavior and ecology, overall it collectively affirms the concerns and issues addressed in 2014 and does not change the overall characterization of the environmental effects on the Canada lynx documented in the 2014 FEIS.

Changed circumstance #4 – the vegetation treatment that has occurred in the Trout-Handkerchief LAU since November 2014 has been relatively limited and minor. The vegetation treatment that has been proposed or has occurred affecting lynx habitat amounts to about 1,950 acres in a 104,875 acre LAU. The majority of the 1,950 acres are marginally suitable lynx habitat. This small impact would not change the characterization of the environmental effects documented in the 2014 FEIS.

Changed circumstance #5 – the ski area improvements that have occurred since November 2014 are all within the ski area permit boundary area. Due to the limited impacts of these facilities, they would not change the overall characterization of the environmental effects documented in the 2014 FEIS.

Changed circumstance #6 – the Alberta Park Reservoir dam emergency repairs were limited in scope and duration. The emergency repair was limited to the dam and buttresses to address a seepage issue. The repairs were limited to a 30 day period in July and August 2017 and does not change the overall characterization of the environmental effects documented in the 2014 FEIS.

New information #7 – a known underground benzene plume has been remediated and annual monitoring occurs to this day. Monitoring reports since 2014 indicate the benzene plume is not moving in any unexpected manner and thus does not change the overall characterization of the environmental effects documented in the 2014 FEIS.

New information #8 – the ongoing forest plan revision effort has yet to change any management direction. However, in 2016 11 assessments were completed for 15 topic areas. The assessments were focused on need for changing the programmatic direction contained in the 1996 forest plan and thus did not change the overall characterization of the environmental effects documented in the 2014 FEIS.

Changed circumstance #9 – the NEPA decision that supported the land exchange was set aside by the district court of Colorado. Therefore, despite the fact the land exchange has occurred, it will need to be reversed in the near future, unless the district court's decision is reversed.

Current ownership of the parcels does not change the overall characterization of the environmental effects documented in the 2014 FEIS.

New information #10 – changes in visitor use at the Wolf Creek Ski Area is variable and is weather dependent. The realized visitor use numbers to the ski area do not change the overall characterization of the environmental effects documented in the 2014 FEIS.

New information #11 – the April 12, 2018 letter from LMJV commits to conservation measures for lynx even if the species is delisted. These conservation measures include minor clarifying changes from those addressed in the 2013 biological opinion from the U.S. Fish and Wildlife Service and analyzed in the 2014 FEIS. These changes will not change the environmental effects disclosed in the FEIS but make the conservation measures more reliable.

ESA compliance – Although the changed circumstances and new information do not change the overall characterization of the environmental effects documented in the 2014 FEIS, if Alternative 3 were selected, a new biological assessment and interagency consultation with the U.S. Fish and Wildlife Service would need to occur to comply with ESA requirements. This is necessary because the ESA consultation and supporting biological assessment and biological opinion are based on Alternative 2 selected in 2015, or the land exchange alternative. In addition, the new information in 1, 2 and 3 and changed circumstances in 4 need to be considered in a new biological assessment.

4.0 Interdisciplinary Team

The following individuals conducted the review documented in this SIR.

- Tom Malecek – Team Leader, Deputy Forest Supervisor, Rio Grande National Forest
- Guy Blackwolf – Environmental Coordinator, Rio Grande National Forest
- Ken Capps – Office of General Counsel
- Patricia Hesch – Regional Lands Program Manager
- Peter McDonald – Regional Program Leader, Threatened, Endangered, and Sensitive Species
- Deb Ryon – Regional Lands Special Uses Coordinator
- Ken Tu – Regional Environmental Coordinator
- Martha Williamson – District Ranger, Divide District, Rio Grande National Forest

5.0 Determination

The new information (1, 2 & 3) and changed circumstances (4) related to lynx do not change the overall characterization of impacts to lynx described in the 2014 FEIS. The overall determination on lynx impact described in the FEIS was “may affect, likely to adversely affect” for both Alternatives 2 and 3 (FEIS, pp. 4-123, 4-139). That overall determination for lynx remains the same in light of the changed circumstances and new information. In addition, a new biological assessment would address the changed circumstances and new information in detail and formally document no change from the 2014 FEIS overall characterization of impacts to lynx.

The changes resulting from proposed and ongoing vegetation treatments in the area does not change the overall characterization of impacts described in the vegetation section of the 2014 FEIS. The FEIS describes a small incremental loss of vegetation (FEIS, p. 4-86) for both

Alternatives 2 and 3. The ongoing and proposed vegetation treatment projects described in change circumstance #4 are consistent with overall characterization of vegetation impacts.

The changes in ski area improvements (changed circumstance #5) and visitor use (new information #10) do not change the overall characterization of impacts described in the 2014 FEIS. The avalanche mitigation and Lynx lift had negligible impacts in context of the project area and do not substantially change visitor capacity. The Meadow lift would increase ski area capacity but as indicated by visitor use data for the ski area, use is weather dependent and varies widely. The 2014 FEIS anticipated an increase in visitor use for both Alternatives 2 and 3. The changed circumstances #5 and new information #10 are consistent with that assumption.

The changes to the Alberta Park Reservoir dam, albeit long-term and important, addressed the seepage issue which put the dam at risk but do not change any of the impacts described in the 2014 FEIS. The construction work on the dam, although unanticipated, was short-term and did not change the environmental effects as described in the FEIS. The FEIS assumed a functional, safe dam which is what the work on the dam did after the seepage issue was discovered.

The annual monitoring reports of groundwater confirm assumptions made in the 2014 FEIS regarding the remediation efforts at the highway maintenance facility on the north side of Highway 160. Therefore, this new information is consistent with the 2014 FEIS.

The Rio Grande Forest Plan revision effort has not provided additional information related to this project. Therefore, the new information from the revision effort has not changed any of the assumptions or impact analyses made in the 2014 FEIS.

The land exchange resulting from the 2015 ROD will need to be unwound to implement Alternative 3. However, the exchange of deeds has no environmental effects and is purely an administrative function. Therefore, this changed circumstance does not change the characterization of impacts in the 2014 FEIS.

The conservation measures for lynx remain essentially the same and have been committed to by LMJV for any ANILCA road access.

Based upon the findings and rationale presented in this SIR, I have determined that a supplement of the EIS is not necessary and a new decision based on the November 2014 FEIS can occur contingent on an updated biological assessment, re-consultation with USFWS, and the unwinding of the land exchange. The 2014 FEIS still presents an accurate description of likely environmental impacts of the alternatives and the public comments are still applicable for the responsible official to consider in making a new decision.



TOM MALECEK
Deputy Forest Supervisor