

**SAN JUAN COUNTY, COLORADO**  
BOARD OF COMMISSIONERS MEETING AGENDA

February 24, 2021

**DUE TO THE COVID 19 EMERGENCY SAN JUAN COUNTY WILL CONDUCT ALL OF ITS PUBLIC MEETING VIRTUALLY UNTIL FURTHER NOTICE. THE INFORMATION NECESSARY TO CONNECT TO THIS PUBLIC MEETING IS LISTED BELOW**

**CALL TO ORDER:** 6:30 P.M.  
BOCC Meeting Minutes for February 10, 2021

**APPOINTMENT**

6:35 P.M. Katherine Jenkins, EPA – Bonita Peak Mining District Update  
7:00 P.M. Jimbo Buickerood – San Juan Citizens Alliance  
7:30 P.M. Louis Girodo, County Road Supervisor Update  
8:00 P.M. Executive Session Pursuant To C.R.S. 24-6-402(4)(b) To Receive Legal Advice From Counsel Related To Ongoing Litigation

**CORRESPONDENCE**

BLM – Answer to San Juan County Appeal of Travel Management Plan

**OLD BUSINESS**

**NEW BUSINESS**

Highway Users Tax Fund  
MOU REDI Grant San Juan Development Association  
MOU REDI Grant MSI  
Proposed Legislation Concerning County Board of Health  
Public Comment  
Commissioner and Staff Reports

**Next Regular Meeting – March 10, 2021 8:30 A.M.**

Join Zoom Meeting  
<https://zoom.us/j/92136473203>

Meeting ID: 921 3647 3203  
One tap mobile  
+16699006833,,92136473203# US (San Jose)  
+12532158782,,92136473203# US (Tacoma)

Dial by your location  
+1 669 900 6833 US (San Jose)  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 646 876 9923 US (New York)  
+1 301 715 8592 US (Germantown)  
+1 312 626 6799 US (Chicago)  
Meeting ID: 921 3647 3203

SAN JUAN COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING WEDNESDAY, FEBRUARY 10, 2021  
AT 8:30 A.M.

Call to Order: The meeting was called to order by Chairman Scott Fetchenhier. Present were Commissioners Ernie Kuhlman and Austin Lashley, and Administrator William Tookey.

Payment of Bills: Commissioner Kuhlman moved to authorize payment of the warrants as presented. Commissioner Lashley seconded the motion. The motion passed unanimous.

Minutes: Commissioner Lashley moved to approve the minutes of January 27, 2021 as presented. Commissioner Kuhlman seconded the motion. The motion passed unanimous.

Administrator Tookey presented the Board with an invitation from DOLA Regional Manager Patrick Rondinelli to provide board training for the Commissioners. It was the consensus of the Commissioners to take advantage of the training.

Planning Director Lisa Adair was present to provide the Commissioners with her staff report.

Public Health Director Becky Joyce, Emergency Manager Jim Donovan and Public Information Officer DeAnne Gallegos were present to provide the Commissioners with a COVID-19 update. Director Joyce noted that San Juan County's classification had been downgraded from orange to yellow.

Social Services Director Martha Johnson was present to provide the Commissioners with a monthly update. Commissioner Kuhlman moved to approve Transmittal #12 in the amount of \$10,678.79. Commissioner Lashley seconded the motion. The motion passed unanimous.

Emergency Manager Jim Donovan was present to answer any questions concerning the proposed Emergency Operating Plan and the 2021 Wildfire Operating Plan.

Commissioner Kuhlman moved to adopt Resolution 2021-02 A Resolution Of The Board Of County Commissioners Of San Juan County, Colorado. Approving And Adopting The San Juan County Emergency Operations Plan as presented. Commissioner Lashley seconded the motion. The motion passed unanimous.

Commissioner Kuhlman moved to adopt the 2021 Wildfire Operating Plan as presented. Commissioner Lashley seconded the motion. The motion passed unanimous.

Julie Conston and Lisa Schwantes of CDOT were present to discuss parking issues and winter maintenance on Highway 550.

Having no further business, the meeting was adjourned at 10:51 A.M.

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Scott Fetchenhier, Chairman

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Ladonna L. Jaramillo, County Clerk

**UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF LAND APPEALS**

San Juan Citizens Alliance,	)	IBLA 2021-016
San Juan County Board of Commissioners)	)	
Appellants	)	Appeal of Colorado BLM
v.	)	Gunnison Field Office
	)	Silverton Travel Management Plan
	)	DOI-BLM-CO-F070-2019-0008-EA
BUREAU OF LAND MANAGEMENT	)	
	)	
Respondent.	)	

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**BLM's ANSWER**

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Under 43 C.F.R. § 4.414, and the Board's Order of January 15, 2021, the Bureau of Land Management (BLM) files this answer to the statement of reasons filed by San Juan Citizens Alliance (SJCA) and the San Juan County Board of Commissioners (County)(collectively Appellants), in the above captioned appeal. Appellants have appealed the September 21, 2020 decision by the Gunnison Colorado BLM Field Office approving the Silverton Travel Management Plan. On November 3, 2020, the Board docketed this appeal as IBLA-2021-016. Appellants filed their statement of reasons on December 16, 2020. In another appeal of the Silverton Travel Management Plan decision, docketed as IBLA 2020-017, Backcountry Hunters and Anglers briefing was completed on February 2, 2021. Appellants previously requested the Board to consolidate IBLA 2021-016 and -017, but on December 11, 2020, the Board denied the motion, finding that consolidation was not appropriate at that time. BLM takes no position on the motion to consolidate. BLM now files its answer.

## BACKGROUND

The Silverton Travel Management Plan (STMP) authorizes 31 miles of new non-motorized/mountain bike trails (Component One), changes the designation of the Minnie Gulch Trail from non-motorized to single-track motorized (Component Two), designates 12 miles of existing roads and trails (Component Three), and allows class 1 pedal assist e-bikes to use trails in all Components. As BLM's Finding of No Significant Impact (FONSI) noted, "the Silverton Travel Management Area is renowned for its Off-Highway Vehicle and FourWheel Driving opportunities. However, a defined network of system single track trails to increase mountain biking, foot and horse use, and single-track motorized opportunities has been lacking within the project area."<sup>1</sup> In 2019, the Town of Silverton and San Juan County developed and unanimously voted to adopt the "Silverton Area Trails Plan" after a multi-year community engagement process. The Town and County's plan included proposals for formal designation of existing trails, construction of new trails, and delineation of conceptual pods for future trail development. Earlier, BLM's Tres Rios Resource Management Plan (RMP) directed the designation of "a system of roads, trails, and areas for use by motorized, mechanized, and non-mechanized modes of travel" (RMP 2015 II-68<sup>2</sup>). To address the direction of the Town and County's plan, BLM undertook a project to identify a defined transportation network of motorized, mechanized, foot, and equestrian designated roads and trails within the Silverton Travel Management Area in conformance with the Tres Rios RMP.

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<sup>1</sup> FONSI, DOI-BLM-CO-F070-2019-0008-EA Sept. 21, 2020, page 2.

<sup>2</sup> Tres Rios RMP 2015 II-68.

BLM began internal scoping for this project March 4, 2019 and posted it on the BLM National NEPA Register website (ePlanning.blm.gov) on June 5, 2019, initiating a 30 day formal public scoping period.<sup>3</sup> On June 20, 2019, BLM conducted a public meeting at Kendall Mountain in Silverton during the public scoping period. BLM then prepared a preliminary environmental assessment (EA) on January 22, 2020, requested public comments until February 22, 2020 and again held a public meeting at Kendall Mountain on February 13, 2020.

BLM also consulted with the Colorado State Historic Preservation Office and conducted a Class III inventory of all existing routes not previously designated and routes with a change in authorized use. BLM also conducted government-to-government consultation with the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, and the Ute Indian Tribe of the Ouray and Uintah Reservation at face to face meetings in April and October of 2019, and during field trips to the area in August and October of 2019, and via Zoom with the Southern Ute Indian Tribe tribal council in July 2020, to consider the Tribes' concerns during route evaluations and route designations and identify approaches to avoid and mitigate identified impacts. The Gunnison Field Office also shared scoping comments and drafts of the EA with Colorado Parks and Wildlife (CPW) personnel based in Durango Colorado and incorporated CPW comments into the preliminary and final EA. BLM also shared scoping comments and drafts with the San Juan National Forest Columbine Ranger District's Recreation Lead

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<sup>3</sup> The scoping notice was run in the Durango Herald, Ouray Plaindealer, Silverton Standard and Miner, and Lake City Silver World. Official announcements were also posted at various locations throughout Silverton on June 5, 2019. BLM's Field Manager and Interdisciplinary Team Leader also made presentations to the Silverton Town Board on June 5, 2019, and the San Juan County Commissioners on June 12, 2019.

in Bayfield Colorado and incorporated Forest Service comments into the EA.

Appellants raise two issues on appeal, claiming BLM violated the National Historic Preservation Act by failing to consult, and that the decision “fails to conform to the relevant Resource Management Plan (“RMP”) and fails to properly analyze impacts of the proposal to allow motorized use in Minnie Gulch.”<sup>4</sup> While the STMP authorizes a number of different trail components, Appellants are only concerned with the decision to allow motorized travel on a 1.6 mile long segment in Minnie Gulch. As the following discussion shows, because Appellants have failed to meet their burden to show error in BLM’s decision, the Board should affirm BLM’s STMP decision.

### **STANDING**

Both SJCA and the County included a “Statement of Standing” in their statement of reasons.<sup>5</sup> While BLM does not dispute the standing of SJCA, because the County has stated that it “has a demonstrated interested [sic] in the recreational opportunities and well-being of its citizens”<sup>6</sup> such an interest is not legally cognizable to establish standing. The regulations at 43 C.F.R. 4.410(a) requires that an appellant demonstrate that it is both a “party to the case” and “adversely affected” by the BLM decision under appeal. Under 43 C.F.R. 4.410(d) a party to the case is adversely affected when the decision causes or is substantially likely to cause injury to a legally cognizable interest of the party.<sup>7</sup> While the County is a party to the case by virtue of its participation in the underlying decision making process, the County’s allegations of financial impact related to increased search

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<sup>4</sup> Statement of reasons at 1.

<sup>5</sup> *Id.* at 10-11.

<sup>6</sup> *Id.*, Exhibit 2, Declaration of Scott Fetchenhier, page 4, paragraph 8.

<sup>7</sup> *See., e.g. Coalition of National Park [Service] Retirees*, 165 IBI.A 79, 81-86 (2005) and cases cited therein.

and rescue operations, is not sufficient. Mr. Fetchenhier's declaration clearly states that it is proceeding on behalf of the "recreational opportunities and well-being of its citizens." Because the County is proceeding on behalf of its citizens, the doctrine of *parens patriae* is applicable. The Board consistently has held that a State or local governmental entity does not have standing under the doctrine of *parens patriae* to appeal to the Board on behalf of its citizens.<sup>8</sup> Therefore, to the extent the County is proceeding *parens patriae* it's appeal should be dismissed for lack of standing. The County also bases its standing on potential harms from increased search and rescue costs<sup>9</sup>, but it has not met its burden to show that such costs would be substantially likely. The County claims of financial impacts from increased Search and Rescue Operations to respond to motorized incidents associated with use of the Minnie Gulch Trail are not supported by any objective information. While BLM anticipates low to moderate motorized use of the less than a mile long Minnie Gulch route, which *may* coincide with a low to moderate increase in Search and Rescue operations in the area, the presence of a sustainable motorized route in the Minnie Gulch drainage, once constructed, would substantially improve access and decrease response times to engage in search and rescue activities or incidents occurring on the Middle Pole Creek trail network of the Rio Grande National Forest. Because the County has only provided conjecture about such costs and has not shown they are substantially likely to occur, it has not established that it would be adversely affected by the decision. The County concludes by stating that "because the County has financial and recreational interests that will be harmed by BLM's approval of STMP, authorizing

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<sup>8</sup> See, e.g., *Blaine County Board of County Commissioners*, 93 IBLA 155, 157-58 (1986) and cases cited therein.

<sup>9</sup> Statement of reasons at 12.

motorized use of Minnie Gulch, it has standing to appeal.”<sup>10</sup> This conclusion is contrary to Board precedent as the County cannot assert recreational interests *parens patriae*, and financial interests related to general economic harm or benefit are not sufficient to give the County standing to prosecute an appeal.<sup>11</sup> The County has not met its regulatory burden to establish standing. However, as in other cases where a county’s appeal must be dismissed for lack of standing, but where other appellants have established standing, BLM does not object to treating the County’s appeal, to the extent it makes arguments separate from those of SJCA, as an *amicus* brief.<sup>12</sup>

### STANDARD OF REVIEW

BLM has discretion under FLPMA to regulate “the use, occupancy, and development of the public lands,” including the discretion to open and close routes on BLM-administered public lands.<sup>13</sup> As an exercise of its discretion, BLM's travel management decisions “must have a rational basis supported by facts of record.”<sup>14</sup> When BLM implements a land use plan by promulgating a travel management plan, the Board will affirm BLM’s decision if it “adequately considers all relevant factors, reflects a reasoned analysis, and is supported by the record.”<sup>15</sup> An appellant's burden on appeal is to demonstrate that BLM committed a material error in its factual analysis or failed to give due consideration to all relevant factors, or that no rational connection exists

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<sup>10</sup> Statement of reasons at 12.

<sup>11</sup> *Klamath Tribes*, 135 IBLA 192, 194 (1996), citing *Blaine County*.

<sup>12</sup> *Id.*

<sup>13</sup> 43 U.S.C. § 1732(b) (2012).

<sup>14</sup> See, *Pete Mott*, 192 IBLA 313, 317 (2018); and *David L. Antley*, 178 IBLA 194, 197 (2009) (“BLM's exercise of its discretionary authority . . . must have a rational basis and be supported by facts of record demonstrating that an action is not arbitrary, capricious, or an abuse of discretion.”).

<sup>15</sup> *Jack L. & Diane I. Caufield*, 195 IBLA 84 (January 14, 2020) at 88, citing *Colorado Off-Highway Vehicle Coalition*, 194 IBLA 382, 396 (2019).



between the facts found and the choices made.<sup>16</sup> An appellant bears the burden by establishing by a preponderance of the evidence that BLM has erred.<sup>17</sup>

Where appellants allege that BLM failed to properly analyze impacts of a decision in an EA, the Board evaluates that adequacy under a "rule of reason" recognizing that an EA is "an overview of environmental concerns" and "*not* an exhaustive study of all environmental issues which the project raises."<sup>18</sup> The Board will uphold a BLM decision based on an EA and FONSI where the record demonstrates that BLM has considered all relevant matters of environmental concern, taken a "hard look" at potential environmental impacts, and provided a rational basis for concluding that no significant impact will result or that any such impact will be reduced to insignificance by the adoption of appropriate mitigation measures.<sup>19</sup>

The Board has repeatedly held that an EA is not defective "merely because it could have been more thorough".<sup>20</sup> Instead, an appellant must show that any missing analysis "compromised the EA so severely as to render the FONSI arbitrary and capricious."<sup>21</sup>

Appellants claim that BLM failed to "properly consult" with all relevant parties before permitting motorized singletrack use on a 1.6 mile long re-route of the Minnie Gulch trail once that re-route is completed; that this decision in the STMP does not conform to the applicable Tres Rios Resource Management Plan; and, that BLM failed

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<sup>16</sup> *American Motorcyclist Association*, 188 IBLA 177, 191 (2016) citing *Utah Trail Machine Association*, 147 IBLA 142, 144 (1999).

<sup>17</sup> *Southern Utah Wilderness Alliance (SUWA)*, 194 IBLA 98, 102 (2019).

<sup>18</sup> *Id.*, citations omitted.

<sup>19</sup> *Id.*

<sup>20</sup> *Meg Scherch Peterson*, 193 IBLA 255, 265 (2018).

<sup>21</sup> 195 IBLA 84, 89 (citations omitted).

to “properly analyze impacts” of the proposal to allow motorized use in Minnie Gulch.<sup>22</sup> Here, as the following discussion shows, Appellants have not met their burden to show that BLM decision violated the NHPA, FLPMA or NEPA. Accordingly, the Board should affirm the STMP.

## DISCUSSION

### **1. BLM complied with National Historic Preservation Act requirements.**

To aid in the Board’s evaluation of this appeal, the conceptual map used during consultation with the Southern Ute Tribe is reproduced in Figure 1.<sup>23</sup>

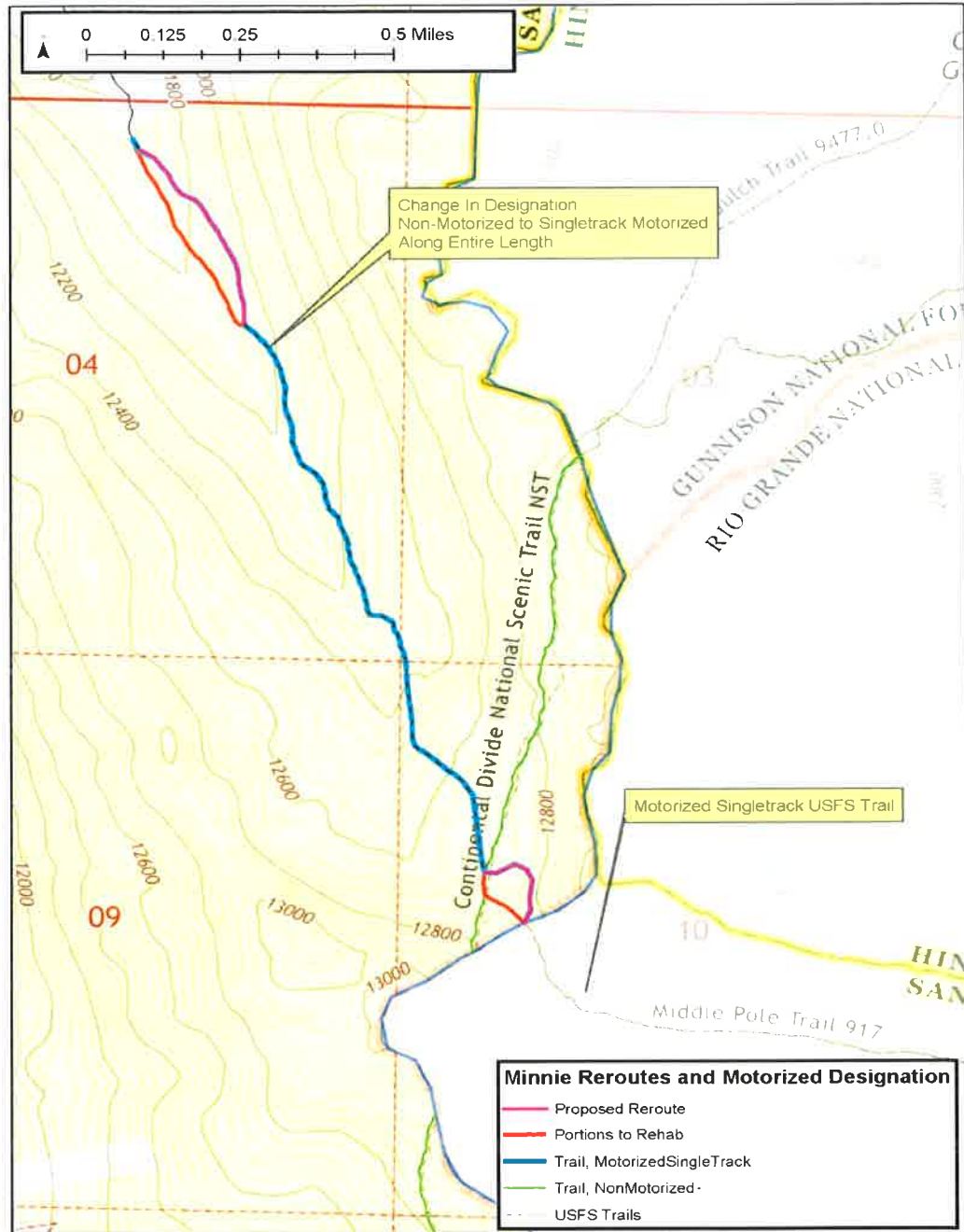
As the STMP ROD noted:

“BLM will change the authorized use on Minnie Gulch Trail (2TE) to “Singletrack Motorized” as described in the Silverton Travel Management Plan EA. This designation will restrict the route to singletrack motorized and below (Class 1, 2, and 3 e-bikes, mountain bike, foot, and horse) on the use hierarchy. *This change in authorized use will only occur after a sustainable alternate alignment applying the Project Design Features detailed in Appendix E of the Silverton Travel Management Plan EA is located, cleared, and constructed. This alternate route will avoid the Ute Trail located in the Minnie Gulch Valley and cross the Continental Divide National Scenic Trail at a perpendicular angle.* This route will be built on the slopes above the Ute Trail and BLM will direct all uses to use this new trail. The Ute Trail itself will remain open to foot traffic only. If uses aside from hiking and equestrian use are occurring on the Ute Trail, the BLM will increase law enforcement monitoring and will implement closure methods if needed, such as blocking the entrance with boulders and posting signage. If impacts continue, the BLM will re-visit its decision, in consultation with the Ute Tribes, and determine what other measures need to be implemented. BLM will also monitor cultural resources in the area and harden trail surfaces near sites as needed to protect sensitive resources. Upon completion of the re-route and subsequent change in authorized use, BLM will implement a season of use along the new motorized trail to avoid impacts to the elk calving season and trail and

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<sup>22</sup> Statement of reasons at 1.

<sup>23</sup> This map does not depict the entirety of the re-route for motorized singletrack use described in the ROD which has the same start and end points as the existing trail but will be located on the ground in consultation with the Southern Ute Tribe.



**Figure 1**

resource damage. This season of use would occur after snow-melt but no earlier than July 1 until seasonal snow closes the route.”

As the ROD reiterates, "This route will be built on the slopes above the Ute Trail", and the "alternate alignment" would be subject to the "project design features detailed

in Appendix E". Appendix E states that "All new trail construction [associated with the re-route] would be designed to avoid historic properties."<sup>24</sup> The topography in the vicinity of the trail is steep and rugged; therefore, a 200-meter buffer was selected as a reasonable distance that people may hike off the designated route to explore a visible historic mine site. But BLM made clear that the re-route would first involve selection of an on the ground alignment where the footprint of the trail would be inventoried for cultural resources prior to any construction. All construction of new routes would be designed to avoid historic properties, eliminating direct impacts to historic properties. Indirect impacts would be reduced to a minimum by designing trails using natural screening to obscure nearby cultural resources and including adequate buffering between the new trail and any nearby cultural resources.

Appellants argue that BLM did not properly consult under Section 106 of the National Historic Preservation Act. But under the provisions of the State Protocol Agreement between BLM and the Colorado State Historic Preservation Office (SHPO) and the 2012 National Programmatic Agreement among the BLM, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (protocol agreement)<sup>25</sup> BLM submitted a concurrence letter to the Colorado SHPO requesting concurrence that the re-route would adversely affect the Minnie Gulch Ute trail. SHPO concurred with BLM's letter.<sup>26</sup> Section 3.6.2.2 of the EA shows that BLM consulted with Southern Ute Indian Tribe, the Ute Mountain Ute

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<sup>24</sup> ROD at 87.

<sup>25</sup> AR 6.06-5.

<sup>26</sup> AR 9.01-7.

Indian Tribe, and the Ute Indian Tribe of the Ouray and Uintah Reservation at face to face meetings in April and October of 2019, and during field trips to the area in August and October of 2019, and via Zoom with the Southern Ute Indian Tribe tribal council in July 2020, to consider the Tribe's concerns during route evaluations and route designations and identify approaches to avoid and mitigate identified impacts.<sup>27</sup> Appellants argue that BLM then should have developed a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) with the SHPO and the Tribes to resolve the identified adverse effects, but as stated in the FONSI, "All ground disturbing activities are subject to Section 106."<sup>28</sup> This process, including Tribal consultation, is ongoing and will be completed prior to implementation of any ground disturbing activities. The decision includes language for a "sustainable reroute" and revisiting the decision, in consultation with the Ute Tribes, if impacts continue.

While BLM described in the EA the protective mitigation measures that would be used, Appellants claim that "this does not satisfy the legal requirements of Section 106."<sup>29</sup> But until BLM selects, with input from the Tribes, the on the ground alignment for the re-route and inventories the cultural resources where the footprint of the trail would be inventoried for cultural resources to clearly understand the potential adverse effects and then enter into a PA or MOA to resolve those affects.

Appellants also argue that the State Protocol requires that "BLM must complete the consultation process with an executed MOA or PA prior to making a final decision

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<sup>27</sup> AR 7.03

<sup>28</sup> FONSI, DOI-BLM-CO-F070-2019-0008-EA Sept. 21, 2020.

<sup>29</sup> Statement of reasons at 16.

on a proposed action.”<sup>30</sup> But Appellants fail to recognize that BLM’s “final decision” in the STMP involves location of the on the ground re-route of the Minnie Gulch trails for motorized singletrack travel, and prior to that point, an MOA or PA would be in place to the extent one is required.

Finally, Appellants argue that the County should have been a consulting party under the NHPA because the County has regulations or laws regarding historic properties and “ has consistently expressed concern that the undertaking, motorizing Minnie Gulch, will have impacts on resources and a cultural landscape important to Southern Ute, Ute Mountain Ute, and Northern Ute.”<sup>31</sup> But BLM consulted with those Tribes and those Tribes have not challenged the decision. Under the previously described doctrine of *parens patriae*, the County cannot assert claims on the Tribes’ behalf and the County does not have legal or regulatory control over tribal properties, so there was no requirement for BLM to consult with the County when it already consulted with the Tribes. The County was included during scoping and the County’s comments were considered in the EA.

**2. The STMP complied with the RMP and the EA adequately disclosed and analyzed the impacts of motorized singletrack use on the Minnie Gulch re-route.**

As BLM’s Decision Record noted that in allowing singletrack motorized use in Minnie Gulch:

*This change in authorized use will only occur after a sustainable alternate alignment applying the Project Design Features detailed in Appendix E of the Silverton Travel Management Plan EA is located, cleared, and constructed. This alternate route will avoid the Ute Trail*

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<sup>30</sup> Statement of reasons at 19.

<sup>31</sup> *Id.* at 20.

*located in the Minnie Gulch Valley and cross the Continental Divide National Scenic Trail at a perpendicular angle.* This route will be built on the slopes above the Ute Trail and BLM will direct all uses to use this new trail. The Ute Trail itself will remain open to foot traffic only. If uses aside from hiking and equestrian use are occurring on the Ute Trail, the BLM will increase law enforcement monitoring and will implement closure methods if needed, such as blocking the entrance with boulders and posting signage. If impacts continue, the BLM will revisit its decision, in consultation with the Ute Tribes, and determine what other measures need to be implemented.<sup>32</sup> (emphasis added).

Minnie Gulch is a long-established popular trail for hikers and bikers to use throughout the summer and before snowfall. While Appellants refer to the trail's setting as being in a high alpine valley "without any motorized use"<sup>33</sup> this characterization is inaccurate, as motorized routes exist immediately above and below the Minnie Gulch Trail. The Minnie Gulch Road (County Road 24) provides full size vehicle access to the base of the route, and the Middle Pole Creek motorized trail begins at the Continental Divide National Scenic Trail (CDNST) immediately above the Minnie Gulch Trail. The CDNST lies approximately 200 yards on the BLM side of the Continental Divide so that approximately 200 yards of single-track motorized use already exists at the top of this alpine valley.

Appellants argue that the re-route of the Minnie Gulch trail for motorized singletrack use was not subject to site specific analysis in the STMP. However, the EA included the re-route of Minnie Gulch in the proposed action and all of the action alternatives. In addition, Table 2 explained that the impact to user experience and soundscape with the addition of motorized noise on Minnie Gulch trail was considered

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<sup>32</sup> Decision Record DOI-BLM-CO-F070-2019-0008-EA, page 2 (emphasis in the original).

<sup>33</sup> Statement of reasons at 2.

but not analyzed in detail because:

The 2010 RAMP designated the recreation management zone for this area as “Heritage Roads” and states that “motorized vehicles and equipment will likely be present” (pg. 24). The 2015 Resource Management Plan (Figure 2.15.2) incorporated the 2010 RAMP by reference and designated the ROS Class as Semi-Primitive Motorized. The significance of noise impacts to the associated zones have been evaluated for this previous decision and additional analysis is not necessary to determine potential significance. Additional rationale and methodology are available in Appendix H

While Minnie Gulch is not specifically mentioned in the RAMP, the general impacts of noise in recreation management zones designated as Heritage Roads with the Recreation Opportunity Setting {ROS) Class “Semi Primitive Motorized” was previously evaluated. Further, during scoping for the STMP, BLM addressed the question of the impacts associated to adding motorized travel to “lands with wilderness characteristics units within the project area”<sup>34</sup> and the EA explained that Minnie Gulch was inventoried and did not meet the wilderness characteristics qualifications:

During scoping for this travel management plan information regarding potential for wilderness characteristics was provided for two units within the project area: Cunningham Gulch and Upper Minnie Gulch. Upper Minnie Gulch was previously inventoried and dismissed in the Resource Management Plan in 2015. Gunnison Field Office Staff verified the continued absence of wilderness characteristics in CO-030-302a (Upper Minnie Gulch/Handies Adjacent) in June of 2020, based upon existing motorized travel on the periphery of the unit and numerous private land intrusions throughout. The narrow shape combined with numerous inholdings minimize opportunities for solitude as well as primitive and unconfined recreation in the unit. An addendum to the LWC Inventory has been posted to the ePlanning site. Any wilderness characteristics that may be present in the proposed Cunningham Gulch unit would not be impacted by any motorized or mechanized route designations within the No Action or Action Alternatives. Additional analysis related to wilderness characteristics is not necessary to determine potential significance of

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<sup>34</sup> EA Table 10 page 10



impacts.”<sup>35</sup>

While a re-route was the intent for Minnie Gulch, the extent of the reroute and its specific location on the ground cannot be identified until consultation with the Southern Ute is complete. Since the tribe considers the entirety of the trail a cultural site, the agreed mitigation was to re-route the entire trail to allow motorized use. Once the re-route is located, cleared and constructed after application of the project design features identified in the EA’s Appendix E, the original alignment of the Ute Trail would remain open to foot traffic only and motorized use would not be allowed until the reroute is constructed. By effectively segregating uses, BLM mitigated the potential for user conflicts, and the Southern Ute Tribe agreed with this approach.<sup>36</sup>

Appellants also argue that the STMP decision to re-route the Minnie Gulch Trail and allow motorized singletrack travel on the re-routed section while maintaining pedestrian and equestrian traffic on the original alignment does not conform to the RMP because BLM did not use the RMP’s “Recreation Setting Characteristics Matrix”<sup>37</sup> and the EA did not specify “in particular what recreation setting applies to Minnie Gulch.”<sup>38</sup> However, the Recreation Setting Characteristics Matrix as well as the ROS Settings were used in the 2010 Alpine Triangle RAMP to identify Recreation Management Zones for the area. The RAMP’s Figure 2.1 ‘Proposed Recreation Management Zones’ (page 34 of the RAMP) clearly shows the Minnie Gulch area as

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<sup>35</sup> *Id.*

<sup>36</sup> Email from Garrett Briggs (Southern Ute Tribe) to Elijah Waters (BLM), August 19, 2020 (“Tribal Council supports the mitigation measures for lessening of the impact from motorized use through Mini Gulch Valley. They support this measure to protect the Ute trail by rerouting the entire trail”).

<sup>37</sup> Tres Rios RMP, Section 2.15.45, page II-80.

<sup>38</sup> Statement of reasons at 24.

falling within RMZ 2 – Heritage Roads<sup>39</sup>. A full description of Recreation Management Zone 2 – Heritage Roads was included in section 2.3.2 of the Alpine Triangle RAMP, and the specific prescriptions for Physical, Social, and Administrative Settings from Recreation Setting Characteristics Matrix were also identified. Because the STMP EA referenced the 2010 RAMP<sup>40</sup> and the recreation setting was identified, the STMP conforms to the Tres Rios RMP.

Finally, Appellants argue that approving motorized singletrack use on the re-route of the Minnie Gulch Trail “would substantially interfere with the nature and purposes of the Continental Divide National Scenic Trail<sup>41</sup> (CDNST). To the extent Appellants argue that BLM should have established a CDNST Trail Management Corridor in the Tres Rios RMP<sup>42</sup>, such a claim is not properly before the Board.<sup>43</sup>

The CDNST is 3,100-mile Continental Divide National Scenic Trail and crosses hundreds of motorized vehicle routes including major highways and includes 424 miles of primitive roads incorporated into the original alignment.<sup>44</sup> Appellants argue that the Decision Record should have included a determination that the proposed action is compatible with the CDNST. Within the corridor surrounding the segment of the CDNST, the Rio Grande National Forest to the south has the ROS class of “Semi-Primitive Motorized,” while adjacent BLM lands fall within Recreation Management

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<sup>39</sup> Alpine Triangle RAMP page 34.

<sup>40</sup> Silverton Travel Management Plan, Section 1.2: Introduction and Background. (“The Tres Rios RMP (page E-17) says of the Silverton SRMA: “a RAMP was completed in 2010 in cooperation with local community partners to identify specific management actions.”).

<sup>41</sup> Statement of reasons at 29.

<sup>42</sup> *Id.* footnote 7.

<sup>43</sup> See, e.g Colorado Off-Highway Vehicle Coalition et al, 194 IBLA 382, 389 (2019).

<sup>44</sup> 2009 Continental Divide National Scenic Trail Comprehensive Plan, Part 6: Motorized Use, (a.) (2) (“At the time the Study Report was completed (1976), it was estimated that approximately 424 miles (14 percent) of existing primitive roads would be included in the proposed CDNST alignment.”).

Zone 2 – Heritage Roads (which shares characteristics with and is derived from the ROS class “Semi-Primitive Motorized). The CDNST plan states: “(c) Semi-primitive Motorized: Trail segments in the ROS class will be in a natural setting which may have moderately dominant alterations but will not draw attention, as would be judged by motorized observers on trails and primitive roads within the area. Primitive roads or motorized trail routes may access the trail no more frequently than one-half mile intervals. Roads, better than a primitive standard, may be no closer than one-half mile from the trail.” Outreach between BLM and USFS staff resulted in removing coincident motorized use on the CDNST in upper Minnie Gulch to cross the trail at a perpendicular angle as reflected in all Action Alternatives of the STMP. The proposed re-route for singletrack motorized use in Minnie Gulch is consistent with these criteria.

In the area surrounding Minnie Gulch along the CDNST, the CDNST is concurrent with and crosses the Stony Pass Road approximately 3.5 miles away to the south, and the nearest motorized trail (FS 916) dead ends at the CDNST approximately 3 miles away to the northeast.<sup>45</sup> The current alignment of the Minnie Gulch Trail, if it were to become open to motorized use, would be coincident with the CDNST for a short segment (approximately 100 yards). The re-alignment described in the decision and throughout the STMP would cross the CDNST at a perpendicular angle, avoiding the coincident use. So while the STMP Decision Record does not have the explicit determination that the re-route is compatible with the nature and purpose of the CDNST, based on the Forest Service plan criteria, the re-route is consistent with the

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<sup>45</sup> Gunnison Basin Public Lands Forest Service Series Map, United States Department of Agriculture, 2014

Semi-Primitive Motorized and Heritage Road classes of the plan. The Board should therefore uphold BLM's EA, FONSI and Decision Record.<sup>46</sup>

## CONCLUSION

The Silverton Travel Management Area has long served as a destination for public land users with mountain scenery, heritage resources, and legendary network of mountain roads providing a unique recreational experience for a growing number of visitors. As Silverton transitioned from an extractive resource economy based on mining and shifted to tourism as an economic driver, this shift initiated the proposals considered in the STMP. BLM has acknowledged that expanding trail opportunities can be met with opposition because of perceived impacts.<sup>47</sup> And SJCA, on behalf of its members has made its opposition clear. But as the previous discussion shows, Appellants would prefer that BLM not provide for the motorized singletrack use the Minnie Gulch Trail once it is re-routed. But that opposition does not give rise to the violations of the NHPA, NEPA and FLPMA that Appellants allege.<sup>48</sup>

Accordingly, as described in this answer, the Gunnison Field Office Manager's decision to approve the Silverton Travel Management Plan should be affirmed.

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<sup>46</sup> See, e.g. *Powder River Basin Resource Council*, 180 IBLA 1, 13 (2010) ("The fact that the appellant has a differing opinion about likely environmental impacts or prefers that BLM take another course of action does not show that BLM violated the procedural requirements of NEPA."); See also, *Kevin Kane*, 195 IBLA 17, 20-21 (2019), citations omitted.

<sup>47</sup> DOI-BLM-CO-F070-2019-0008-EA, FONSI page 2.

<sup>48</sup> See, e.g. *Powder River Basin Resource Council*, 180 IBLA 1, 13 (2010) ("The fact that the appellant has a differing opinion about likely environmental impacts or prefers that BLM take another course of action does not show that BLM violated the procedural requirements of NEPA."); See also, *Kevin Kane*, 195 IBLA 17, 20-21 (2019), citations omitted.

Respectfully submitted this 16<sup>th</sup> day of February, 2021.

**PHILIP  
LOWE**

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Philip C. Lowe, Esq.  
Office of the Regional Solicitor,  
Rocky Mountain Region  
U.S. Department of the Interior  
755 Parfet Street, Suite 151  
Lakewood, CO 80215  
(303) 445-0622 (Voice)  
Philip.lowe@sol.doi.gov

**CERTIFICATE OF SERVICE**

This is to certify that on this 16<sup>th</sup> day of February, 2021, in accordance with 43 C.F.R. § 4.401(c), and the Board’s COVID-19 guidance that paper copies will not be accepted during the pandemic, a true and correct copy of the foregoing *BLM’s Answer* was transmitted for delivery via e-mail to the following:

*(VIA E-MAIL ONLY)*

United States Department of the Interior  
Office of Hearings and Appeals  
Interior Board of Land Appeals  
801 North Quincy Street, Suite 300  
Arlington, VA 22203  
E-mail: ibla@oha.doi.gov

*(VIA E-MAIL ONLY)*

Bureau of Land Management  
Colorado State Office  
Attn: Malia Burton  
E-mail: mkburton@blm.gov

*(VIA E-MAIL ONLY)*

Lori Potter  
Sarah Judkins  
Kaplan Kirsch Rockwell  
1675 Broadway Suite 2300  
Denver, CO 80202  
Email: lpotter@kaplankirsch.com  
sjudkins@kaplankirsch.com

*(VIA E-MAIL ONLY)*

Bureau of Land Management  
Gunnison Field Office  
Attn: Elijah Waters Ryan Kay, James  
Lovelace  
E-mail: EWaters@blm.gov;  
rmkay@blm.gov; jlovelace@blm.gov

Pete C. McKay  
Chair, Board of County  
Commissioners of San Juan County  
1557 Greene St  
PO Box 466  
Silverton, CO 81433  
Email: admin@sanjuancolorado.us

**PHILIP  
LOWE**

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by PHILIP LOWE  
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# Colorado Department of Transportation San Juan Co Signature Sheet

FIPS Code : 111



- 33.370 miles of arterial streets
- 150.790 miles of local streets
- 184.160 total miles of H.U.T. eligible streets
- 24.410 miles of non H.U.T. eligible streets - Maintained by others
- 0 miles of non H.U.T. eligible streets - Not maintained

This mileage is the certified total as of December 31, 2020

I declare under penalty of perjury in the second degree, and any other applicable state or federal laws, that the statements made on this document are true and complete to the best of my knowledge.

The Colorado Department of Transportation can contact the following person with questions regarding this report:

Commissioner	Date
Commissioner	Date
Commissioner	Date
Commissioner	Date
Commissioner	Date

Name	Phone
------	-------

Submit this signed copy with your annual mileage change report to the Colorado Department of Transportation.

We are required to inform you that a penalty of perjury statement is required pursuant to section 18-8-503 C.R.S. 2005, concerning the removal of requirements that certain forms be notarized.





**Contract for Services Between  
The San Juan Development Association  
And San Juan County**

This Agreement is entered into and effective \_\_\_\_\_, between San Juan County (County) and San Juan Development Association (SJDA).

**1. Purpose**

The purpose of this Agreement is to describe the relationship between SJDA and the County and outline the services that SJDA will perform to support the REDI grant to fund an Economic Development and Diversification Coordinator that ends June 30, 2022.

**2. Services**

The intent of this agreement is to further align County and SJDA around Economic Recovery efforts SJDA will perform the services called for herein in accordance with the Scope of Work, attached hereto as Attachment A, and by reference incorporated herein (“Services”).

**3. Terms and Conditions**

The term for this Agreement will be until **August 31, 2022** (“Term”). The terms and conditions can be changed by mutual written agreement of both parties. This agreement can be terminated by mutual written agreement of either party with 30 days notice.

**4. Consideration**

The parties agree that SJDA will provide \$17,000 towards the \$85,000 received through the REDI grant for accomplishing the items in the attached Scope of Work.

**5. Indemnification**

The County shall indemnify, save, hold harmless, and defend SJDA and all its officials and employees from any and all liability, claims, demands, actions, and attorneys’ fees arising out of, claimed on account of, or in any manner predicted upon loss or damage to the property of, injuries to, or death of all persons whatsoever or which may occur or be sustained in connection with the SJDA’s performance or non-performance of this Agreement.

SJDA shall indemnify, save, hold harmless, and defend the County and all its officials and employees from any and all liability, claims, demands, actions, and attorneys’ fees arising out of, claimed on account of, or in any manner predicted upon loss or damage to the property of, injuries to, or death of all persons whatsoever or which may occur or be sustained in connection with the County’s performance or non-performance of this Agreement.

**6. Entire Agreement**

This Agreement, including the Attachment, constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.

**7. Signatory Authority**

Each person signing this Agreement in a representative capacity, expressly represents the signatory

has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement. Each party expressly represents that except as to the approval specifically required by this Agreement; such party does not require any third party's consent to enter into this Agreement.

**8. Severability**

If any provision of this Agreement shall be found invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to reasonably affect the intent of the parties.

**9. Board Adoption**

Subject only to the express limitations set forth herein, this Agreement shall be liberally construed to permit the County and SJDA to make good faith efforts to further their partnership and increase the value and services of both organizations.

**10. Acknowledgment**

All parties hereby acknowledge and accept the terms and conditions of the above contract by evidence of their signatures found below.

**11. Amendment and Waivers**

Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by the party to be bound. The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of any party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

**12. Governing Law and Dispute Forum**

The governing law for this Agreement shall be Colorado law. The parties shall initially attempt to resolve between themselves any disputes arising under this Agreement; however, if the parties fail to mutually agree to a resolution, then the exclusive jurisdiction and venue for litigation in this matter shall be the San Juan County Court

**13. Attorneys' Fees**

In the event this Agreement becomes the subject of litigation, the prevailing party shall be entitled to recover the reasonable attorneys' fees and costs it incurs from the losing party.

**14. Assignment**

This Agreement is not assignable by either party without the prior written consent of the non-assigning party.

**15. Notice**

Any notice or communication permitted or required by this Agreement shall be deemed received when personally delivered, emailed, or mailed properly addressed to the appropriate party at the address set forth below:

- Notices to the County PO Box 466 Silverton, CO 81433; [admin@sanjuancolorado.us](mailto:admin@sanjuancolorado.us).
- Notices to SJDA PO Box 722 Silverton, CO 81433; [laura@scan.org](mailto:laura@scan.org).

IN WITNESS WHEREOF, the County and SJDA have caused this Agreement to be executed effective the day and year first above written.

---

Scott Fetchenhier, San Juan County Commission Chair

Date

---

William Tookey, SJDA Chairman

Date

### **Scope of Work**

- The SJDA Board of Directors (including County, Town, School, Chamber and Region 9 EDD) will supervise an Economic Development and Diversification Coordinator to accomplish the Scope of Work outlined in the REDI grant application submitted to the Colorado Department of Local Affairs.
- SJDA will provide all requested information to the County so the County can submit all financial and other reports required to the Department of Local Affairs as the REDI grant administrator.
- The SJDA Board of Directors will develop a job description, advertise, and hire a full-time Economic Development and Diversification Coordinator.
- SJDA will provide on-going supervision and direction to the hired Economic Development and Diversification Coordinator's to ensure the identified scope of work is fulfilled.
- The SJDA Board of Directors will work to sustain this position beyond the 18-month term of the grant funding.

**Contract for Services Between  
Mountain Studies Institute  
And San Juan County**

This Agreement is entered into and effective \_\_\_\_\_, between San Juan County (County) and Mountain Studies Institute (MSI).

**1. Purpose**

The purpose of this Agreement is to describe the relationship between MSI and the County and outline the services that MSI will perform to support the REDI grant 20-21 to fund the Silverton Science and Innovation Center project that ends June 30, 2022.

**2. Services**

The intent of this agreement is to further align County and MSI around Economic Development efforts MSI will perform the services called for herein in accordance with the Scope of Work, attached hereto as Attachment A, and by reference incorporated herein (“Services”).

**3. Terms and Conditions**

The term for this Agreement will be until **June 30, 2022** (“Term”). The terms and conditions can be changed by mutual written agreement of both parties. This agreement can be terminated by mutual written agreement of either party with 30 days notice.

**4. Consideration**

The parties agree that MSI will provide the cash match, as outlined in Attachment A, towards the \$32,952.50 received through the REDI grant in support of the project total: \$65,905.00 for accomplishing the items in the attached Scope of Work. The parties agree that San Juan County will receive and distribute REDI grant funds totaling \$32,952.50 to MSI as reimbursement for services outline in the attached Scope of Work.

**5. Indemnification**

The County shall indemnify, save, hold harmless, and defend MSI and all its officials and employees from any and all liability, claims, demands, actions, and attorneys’ fees arising out of, claimed on account of, or in any manner predicted upon loss or damage to the property of, injuries to, or death of all persons whatsoever or which may occur or be sustained in connection with the MSI’s performance or non-performance of this Agreement.

MSI shall indemnify, save, hold harmless, and defend the County and all its officials and employees from any and all liability, claims, demands, actions, and attorneys’ fees arising out of, claimed on account of, or in any manner predicted upon loss or damage to the property of, injuries to, or death of all persons whatsoever or which may occur or be sustained in connection with the County’s performance or non-performance of this Agreement.

**6. Entire Agreement**

This Agreement, including the Attachment, constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.

**7. Signatory Authority**

Each person signing this Agreement in a representative capacity, expressly represents the signatory has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement. Each party expressly represents that except as to the approval specifically required by this Agreement: such party does not require any third party's consent to enter into this Agreement.

**8. Severability**

If any provision of this Agreement shall be found invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to reasonably affect the intent of the parties.

**9. Board Adoption**

Subject only to the express limitations set forth herein, this Agreement shall be liberally construed to permit the County and MSI to make good faith efforts to further their partnership and increase the value and services of both organizations.

**10. Acknowledgment**

All parties hereby acknowledge and accept the terms and conditions of the above contract by evidence of their signatures found below.

**11. Amendment and Waivers**

Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by the party to be bound. The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of any party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

**12. Governing Law and Dispute Forum**

The governing law for this Agreement shall be Colorado law. The parties shall initially attempt to resolve between themselves any disputes arising under this Agreement; however, if the parties fail to mutually agree to a resolution, then the exclusive jurisdiction and venue for litigation in this matter shall be the La Plata County District Court.

**13. Attorneys' Fees**

In the event this Agreement becomes the subject of litigation, the prevailing party shall be entitled to recover the reasonable attorneys' fees and costs it incurs from the losing party.

**14. Assignment**

This Agreement is not assignable by either party without the prior written consent of the non-assigning party.

**15. Notice**

Any notice or communication permitted or required by this Agreement shall be deemed received when personally delivered, emailed, or mailed properly addressed to the appropriate party at the address set forth below:

- Notices to the County PO Box 466 Silverton, CO 81433; [admin@sanjuancolorado.us](mailto:admin@sanjuancolorado.us).
- Notices to MSI PO Box 334 Silverton, CO 81433; [michelle@mountainstudies.org](mailto:michelle@mountainstudies.org).

IN WITNESS WHEREOF, the County and MSI have caused this Agreement to be executed effective the day and year first above written.

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Scott Fetchenhier, Chairman Date

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Michelle Furi, Deputy Director, MSI Date

## Scope of Work

1. MSI has drafted a Request for Proposals/Request for Qualifications (RFP/RFQ) for a Consultant to develop a pro forma business plan and community strategy of support. MSI has received a minimum of three proposals from design and planning firms for total project cost. MSI staff is working with the Silverton Science and Innovation Center Steering committee to review proposals and choose a qualified candidate. – Fall 2020
2. MSI is partnering with the Telluride Venture Accelerator to host an inaugural Mining Solutions Bootcamp for start-up technology innovators, utilizing industry professionals and capital investors as mentors. This event will advance innovation investment in the district and support the programmatic model of the Silverton Science and Innovation Center. – December 2020
3. MSI staff and Silverton Science and Innovation Center Steering Committee members will work together with Consultant to provide input on structure, key partnerships and defining roles, financial modeling, programmatic modeling, and implementation. – Feb. - June 2021
4. Contracted consultant will develop a pro forma business plan encompassing a background and history of the project, community need, market analysis, financial modeling, space and scale, renewable energy facility assessment, and design concept. – Feb. – June 2021
5. MSI and key partners will hold an open house event in Silverton to engage investors and policy makers in the final conceptual model for the Silverton Science and Innovation Center. – Spring/Summer 2021

SSINC Project Budget	Line Item	Total Cost	REDI Request	cash match	source of match
Hatfield, David	Business Plan	\$ 17,500.00	\$ 8,750.00	\$ 8,750.00	Coutts & Clark, JFF
Design Workshop	Site Design Concept & Public Facilitation	\$ 20,905.00	\$ 10,452.50	\$ 10,452.50	CWCB
MSI	Steering Committee Planning Facilitation	\$ 26,000.00	\$ 13,000.00	\$ 13,000.00	MSI
Design Workshop	Estimated reimbursables	\$ 1,500.00	\$ 750.00	\$ 750.00	CWCB
<b>Total</b>		<b>\$ 65,905.00</b>	<b>\$ 32,952.50</b>	<b>\$ 32,952.50</b>	



**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0224.01 Pierce Lively x2059

**HOUSE BILL 21-1115**

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**HOUSE SPONSORSHIP**

**Kipp and Mullica**, Caraveo, Cutter, Michaelson Jenet

**SENATE SPONSORSHIP**

**Ginal and Priola**,

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**House Committees**

Transportation & Local Government

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE REGULATION OF MEMBERS OF BOARDS OF HEALTH,**  
102             **AND, IN CONNECTION THEREWITH, REGULATING THE MEMBERS**  
103             **OF COUNTY AND DISTRICT BOARDS OF HEALTH.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill specifies that members of a county or district board of health are not allowed to serve concurrently as members of a board of county commissioners and as members of a county or district board of health. The bill also allows members of a county or district board of health to be removed for malfeasance or other specified reasons.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 25-1-508, **amend**  
3 (2)(b) and (3)(b); **repeal** (2)(c) and (2)(d); and **add** (7) and (8) as follows:

4           **25-1-508. County or district boards of public health - public**  
5 **health directors.** (2) (b) Each member of the county board of health  
6 shall be a resident of the county in which the county agency is located.  
7 Appointments shall be made to the board so that no business or  
8 professional group or governmental entity shall constitute a majority of  
9 the board AND SO THAT NO MEMBER OF THE BOARD OF COUNTY  
10 COMMISSIONERS SERVES CONCURRENTLY ON THE COUNTY BOARD OF  
11 HEALTH AND THE BOARD OF COUNTY COMMISSIONERS. Any vacancy on the  
12 board shall be filled in the same manner as full-term appointments by the  
13 appointment of a qualified person for the unexpired term.

14           ~~(c) In a county with a population of less than one hundred~~  
15 ~~thousand people that, as of July 1, 2008, does not have a board of health~~  
16 ~~that is separate from the board of county commissioners, the board of~~  
17 ~~county commissioners may designate itself as the county board of health~~  
18 ~~as of July 1, 2008. The terms of the members of the county board of~~  
19 ~~health shall coincide with their terms as commissioners. Such county~~  
20 ~~boards shall assume all the duties of appointed county boards.~~

21           ~~(d) Notwithstanding the provisions of paragraphs (a) to (c) of this~~  
22 ~~subsection (2), a county board of health in a home-rule county shall~~  
23 ~~comply with the requirements of its home-rule charter.~~

24           (3) (b) Each member of the district board shall be a resident of one  
25 of the counties comprising the district, and there shall be at least one  
26 member from each of the counties comprising the district. Appointments

1 shall be made to the district board so that no business or professional  
2 group or governmental entity shall constitute a majority of the district  
3 board AND SO THAT NO MEMBER OF A BOARD OF COUNTY COMMISSIONERS  
4 SERVES CONCURRENTLY ON THE DISTRICT BOARD AND A BOARD OF  
5 COUNTY COMMISSIONERS. The appointments committee shall fill any  
6 vacancy on the district board by the appointment of a qualified person for  
7 the remainder of the unexpired term.

8 (7) ANY MEMBER OF THE BOARD MAY BE REMOVED FROM OFFICE  
9 BY THE BOARD OF COUNTY COMMISSIONERS ONLY FOR MALFEASANCE, FOR  
10 WILLFUL NEGLECT OF DUTY, OR FOR ANY CAUSE WHICH RENDERS A  
11 MEMBER OF THE BOARD INCAPABLE OF OR UNABLE TO DISCHARGE THE  
12 DUTIES OF HIS OR HER OFFICE.

13 (8) CHANGES TO THIS SECTION MADE BY HOUSE BILL 21-\_\_\_\_,  
14 ENACTED IN 2021, SHALL TAKE EFFECT JULY 1, 2022.

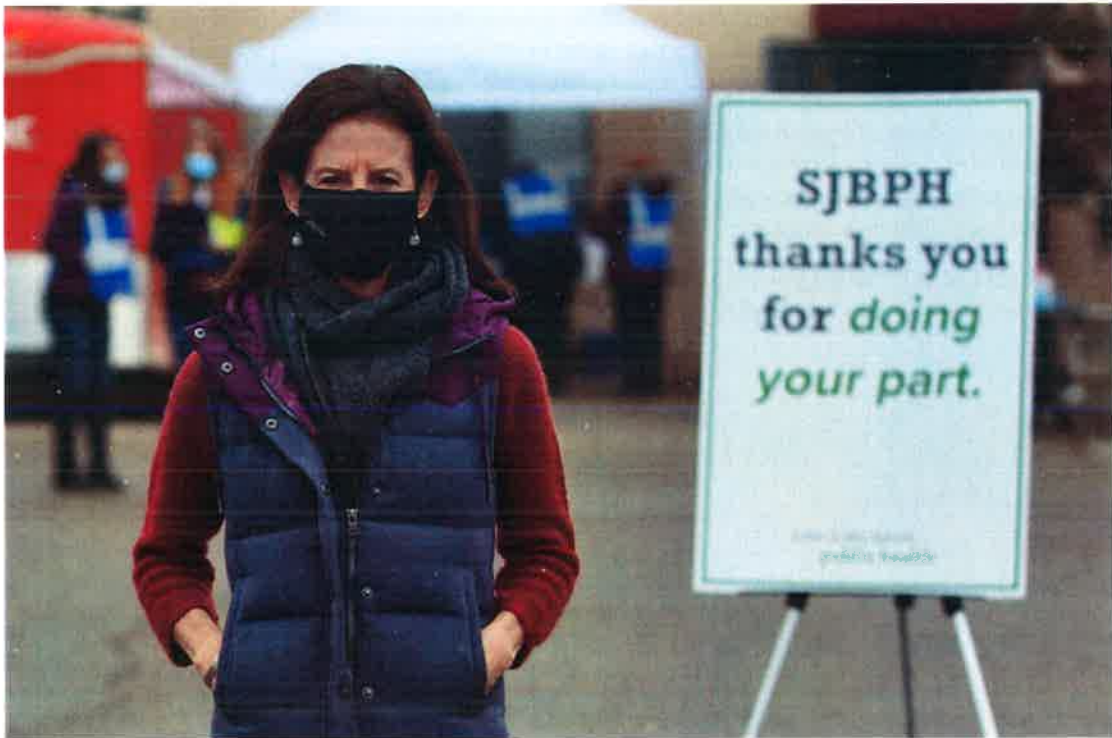
15 **SECTION 2. Act subject to petition - effective date.** This act  
16 takes effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly; except  
18 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
19 of the state constitution against this act or an item, section, or part of this  
20 act within such period, then the act, item, section, or part will not take  
21 effect unless approved by the people at the general election to be held in  
22 November 2022 and, in such case, will take effect on the date of the  
23 official declaration of the vote thereon by the governor.



**POLITICS** • News

# Colorado's public health experts have become the target of threats and protests. Lawmakers are trying to change that.

19 public health officials have left or will leave their jobs



Josh Stephenson, Special to The Denver Post

Liane Jollon, Executive Director of San Juan Basin Public Health, pauses for a photograph during a drive-up COVID-19 vaccine clinic in Durango on Feb. 12, 2021.

By **SAJA HINDI** | shindi@denverpost.com and **ALEX BURNES** | aburnes@denverpost.com | The Denver Post February 15, 2021 at 6:00 a.m.

245

San Juan Basin Public Health employees were ahead of the curve when COVID-19 arrived. They had a plan for how to respond in the event of a communicable disease. One thing they were missing: what to do if Executive Director Liane Jollon became the target of threats and protests.



"This grew in scale and in scope beyond what any of us could be prepared for," Jollon said of the coronavirus, both the spread and the rapidly changing public health guidelines and mandates she had to issue.

So when a group of 20 protesters [showed up outside Jollon's home in Durango](#) while she was on a weekly call with policymakers about the latest COVID-19 data, she was alarmed. One man standing less than 10 feet from her house called on her to "end the lockdown" and yelled "bad person alert" when she came to the window.

"I get that this pandemic has become really politicized and I get that it's become really polarized, but I was really surprised that this is being directed to me as an individual in my home," she said.

Jollon is among hundreds of government health directors across the U.S. who have become the public face of the fight against COVID-19 and the restrictions put in place to curb the spread of the virus. In an effort to insulate public health experts from politics — and promote public health decisions that are driven by expertise and not political pressures — Colorado lawmakers are planning to introduce two bills in the 2021 session, which restarts this week.

One would allow public health officials to remove their private information from publicly accessible state databases, and another would prevent county commissioners from serving on county boards of health.

## Targets of protests

Rep. Yadira Caraveo, a Thornton Democrat and pediatrician, is sponsoring legislation that would let non-elected public health officials redact personal information like their names, personal email addresses and phone numbers from state records published online. It could also include voter registration and property records.

Under the proposed bill, if a person makes any of that information public (also known as doxxing) after it's been removed, they could face a misdemeanor charge. At least one instance of [doxxing happened in Parker](#), where in December, a GOP leader posted the home addresses of public health employees in a Facebook group, writing, "if they want a war, we can give them that but it is time for a revolution."

Caraveo believes it's OK "to disagree with people and to make a personal choice about how you're going to live your life," but it's another story when people are impeding on public health officials' jobs and threatening them.





Rep. Colin Larson, top, speaks briefly with Rep. Yadira Caraveo around the plastic partitions set up inside the House of Representatives during a special session at the Colorado Capitol in Denver on Dec. 1, 2020. Kamiyn Scott, Special to The Denver Post

Nineteen public health directors from 54 agencies in the Colorado Association of Local Public Health Officials have either left their positions or plan to depart within the next couple of months because of the pandemic. And [health directors across the United States](#) have cited burnout or politics for leaving their jobs, while others have clashed with their elected leaders and were fired. Caraveo said in one county, a public health employee's dog was poisoned.

"It came, I think, as a tremendous surprise to us and really has added a whole layer of complexity to how do we do what we need to do, which is save lives, and keep the community together through these very contentious times," Jollon said.



Public health measures have always involved a level of politics and a debate about individual choice and safety, she noted, but the pandemic required quick action, so people didn't have much time to get used to changes. Plus, it's lasted longer than other public health crises like wildfires or winter storms.

Dr. Mark Johnson had been the public health director for Jefferson County for 30 years and was planning to retire when COVID-19 began to spread. The county hadn't hired a new director yet, so he stayed on.

It was a difficult 2020, Johnson said, as he fielded constant phone calls and messages, some with "thinly veiled threats" against him — "we're watching you," "we know where you live," "you better watch your back." Many times, he said, the department was just implementing state orders. It became particularly intense when the agency took [Bandimere Speedway to court](#) for violating health orders last summer and [sued the business](#) in the fall.

He got rid of his personal social media accounts, his family encouraged him to find different routes to get to work each day, and police even stationed a car in front of his home for a couple of weeks. Johnson's daughter's family is living with him and his wife, and he said "it's concerning to have my 5-year-old granddaughter playing out in the front yard with a police car sitting there and threats on my life and my home."

Every pandemic is political to some degree because of its effects on people's lives and the economy, Johnson acknowledged, but said "never in my wildest dreams" did he expect then-President Donald Trump to treat it as though it was a hoax, fueling some of the pushback.

"It was 20% or so that were just the ones who are causing all the trouble," he said, "and they are much more vocal than the 80% who are following the rules."

## Stripping politicians from public health

Rep. Cathy Kipp, a Fort Collins Democrat, said the idea for the bill to remove politicians from public health boards came from a friend at a backyard hangout in the fall. The friend, Lee Thielen, is a former longtime deputy director of the state health department and served on Larimer County's public health board for a decade.

"We knew, but what we really saw right in our face with COVID, is that public health needs to be to a certain extent protected against political whims," Thielen told The Post.

Commissioners serve as local public health board members in 26 of Colorado's 64 counties — disproportionately, in smaller and rural areas. And county commissioners across the state and political spectrum oppose Kipp's proposal, and told her so on a recent call.

"I had no idea it was going to be this controversial," Kipp said. But she's forging ahead anyway.

"The further away you get public health policy from politics, the better off your outcomes," she said.

There's research to back that up, said Glen Mays, a professor of health policy at The Colorado School of Public Health. National research indicates that counties with independent public health boards end up with at least 10% more health services for citizens, on average.

"There's pretty solid evidence that there are benefits to having an independent governing board for local public health agencies," Mays said.







Josh Stephenson, Special to The Denver Post

Becca Arndt, left, and Christy Deeni, right, prepare to administer a COVID-19 vaccine to Betty Hadden of Red Mesa, Colorado, during a drive-up vaccination clinic at San Juan Basin Public Health in Durango on Feb. 12, 2021. The event was created to assist those that have difficulty making it to other vaccination sites.

County commissioners can't always devote the time — never mind the expertise — to public health that independent board members can, according to Jeanne Nicholson, the former Democratic state senator and ex-Gilpin County commissioner. In the latter role, she also served on the public health board.

"I did feel like there were things that we needed to be doing in public health that we weren't doing as much as we could because we had other things on our plate," Nicholson said.

She's spent her career among politicians and said the opposition from county commissioners can be explained simply: They don't want to give up power.

"That is a huge, huge roadblock. It is the roadblock, no question," she said.

Several commissioners interviewed for this story rejected that assertion.

"My main opposition to this bill is that it is painting with a very broad brush what I believe is a very specific and narrow problem," Summit County Commissioner Elisabeth Lawrence said.

The narrow problem, as she defines it, is conservative counties with commissioners who haven't strictly followed public health guidance during the pandemic, or have pushed the state to relax regulations meant to protect people from infection and death.

Lawrence and other commissioners said they're uncomfortable with the fact that this bill is coming from two urban lawmakers — Kipp and her co-lead, fellow Fort Collins Democrat Sen. Joann Ginal — given that rural counties would be most affected. About a third of Colorado counties have fewer than 10,000 residents, and some commissioners in smaller counties are skeptical they could even seat a board of qualified people who could volunteer their time.

Gini Pingenot of Colorado Counties Inc., an advocacy group representing 61 counties, said another primary concern is that the bill would remove public health from the purview of commissioners, despite its inextricable link to other key policy areas.

"County commissioners, their job is to balance a broad spectrum of community impacts," she said. "They make land use decisions, and public health decisions are connected to that. They oversee the jails, run landfills — go down the list and you'll see a tie with overall public health goals."



And then you have to come back to the idea of politics — and whether it's even possible to shield a public health board or health officials from it. Even under Kipp's bill, commissioners would still be able to appoint public health board members.

Teller County commissioners fired executive director [Jacqueline Revello](#) late last month. She had worked for the county's health department for 11 years, the last four as director, and disagreed with the commissioners, who also serve as the health board. She thinks that's the reason for her firing.

The commissioners deny that, with County Commissioner Erik Stone saying it had “zero to do with politics, zero to do with medical advice,” and was about job performance.

“I've lost all respect for these commissioners and the county leadership because their agendas are clear and they're not (disease) prevention,” Revello said.

And in Chaffee County, public health officials “have been doxxed, stalked and they've had their property vandalized,” said Greg Felt, chair of the board of county commissioners and the county public health board.

“That's our deal,” he said. “We have to deal with it. But I can't imagine a volunteer board dealing with that. ... At least (politicians) have developed thick skin.”

Kipp's bill wouldn't go into effect until July 2022, by which point everyone hopes the pandemic will have ended — and the threats against public health officials along with it. But the bill's supporters say it's an important policy discussion with or without COVID-19.

“Remember the tobacco fights? You had the political people who didn't want to tell people they couldn't smoke in restaurants,” Thielen said. “And you see it in much more specific examples through the years. It might be a landfill issue, or a restaurant that isn't living up to safety standards but might be owned by the brother-in-law of a county commissioner.”

The bill faces a difficult road to passage, in large part because approving such a policy would require lawmakers to cross the county commissioners with whom they work closely.

Said Felt, “Every legislator I've spoken to, when I've talked to them about it, they say, ‘Don't worry, we'll kill it.’”

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# THE Durango HERALD

## Has time come to better regulate snowmobiles in the San Juan Mountains?

Spike of activity in backcountry renews calls for better management

By Jonathan Romeo

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Wednesday, Feb. 10, 2021 5:03 AM



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With a surge of snowmobiles in the backcountry this winter, some are wondering if the time has come to better regulate the motorized vehicles in the San Juan Mountains.

“It’s increasing significantly,” said Anthony Garcia, a San Juan National Forest biologist in Pagosa Springs. “I’ve been riding 25 years, and it’s been nowhere near the levels we’re seeing now, and it presents new challenges for management.”

Since the COVID-19 pandemic has closed or limited capacity at bars, restaurants and gyms, as well as all the other usual day-to-day activities, public lands across the West have seen increased visitation.

As a consequence, all the ensuing pressures on the landscape and impacts to the environment have come with it.

Public land agencies had hoped for a brief reprieve this winter to prepare for what some predict will be an even busier summer in 2021. But, as it turns out, winter is proving just as hectic.

One activity land management agencies are dealing with is an uptick in snowmobiles cruising through the backcountry, which has renewed calls among some to better regulate how and where the motorized vehicles can use the landscape.

“Now, for the most part, you can take a snowmobile anywhere you want,” said Hilary Eisen, Winter Wildlands Alliance policy director. “And every year you wait to make a plan, the harder it is to make that plan. It’s a big effort, but worth it.”

Tyler Albers, trails program manager for the San Juan National Forest’s Pagosa Ranger District, said it wasn’t just the COVID-19 pandemic that led to more people riding snowmobiles this year in the backcountry.

“From November until about now, we were the only location in the U.S. with sufficient snow for backcountry recreation,” he said.

Michael Kukuk, president of the Wolf Creek Trailblazers, Pagosa Springs’ snowmobile club, said he grew up riding in the area, and had never seen it as busy as it is this winter.

“Trying to find parking has been a nightmare, I’ve never seen it like that,” he said. “We’ve had numbers we’ve never seen down here.”



More snowmobiles in the backcountry this year has resulted in more search and rescue operations, according to the U.S. Forest Service.

Jerry McBride/Durango Herald

Atop Wolf Creek Pass, Albers said parking has become a huge issue, as well as people camping at trailheads. And, he said there’s been an associated increase in search and rescue missions for snowmobiles caught in the backcountry.

About two weeks ago, for instance, a father and a son became stuck in the Fall Creek drainage, accessed from Wolf Creek Pass, and were forced to spend the night outside. Both were ultimately brought to safety and unharmed.

Also, Albers said because so many people are out snowmobiling, drivers are ending up on groomed ski trails. One particular area of conflict, he said, is on the groomed Nordic ski trails on Fall Creek Road.

“Snowmobiles are allowed there, but asked to respect the grooming efforts of the Nordic Club,” he said. “But the snowmobiles will go in there and disrespect it and tear it up.”

Indeed, Davey Pitcher, owner of Wolf Creek Ski Area, said snowmobiles have been a major issue this year at his ski area.

Pitcher said snowmobile use has blown up on a 20,000-acre area atop Wolf Creek Pass, and increasingly, more people are riding within the bounds of his ski area, creating safety concerns.

Pitcher also called out concerns about the noise snowmobiles generate, as well as potential impacts to winter wildlife habitat, especially the threatened Canadian lynx.

"I don't understand how this can be allowed to continue without some consideration to the environment," Pitcher said.



Aside from wilderness areas and some marked areas, snowmobiles mostly have free rein of public lands.

Jerry McBride/Durango Herald

All snowmobiles on public lands must be registered with the state of Colorado, and that includes any motorized vehicles, like dirt bikes or utility-terrain vehicles, that are outfitted for winter travel.

The other big rule, Albers said, is that snowmobiles, or any mechanized use for that matter, are not allowed in wilderness areas. But, despite patrolling, it's notoriously difficult to catch people out of bounds.

"We try to find areas of concern and patrol those areas," Albers said.

Other than that, snowmobiles appear to have free rein around public lands.

President Richard Nixon in the 1970s issued an executive order requiring federal land management agencies to minimize environmental impacts and conflicts associated with the use of all motorized vehicles on public land.

But the effort, over the years, had its challenges. So in the early 2000s, the Forest Service announced a new rule to implement "travel management plans" for each district to analyze and regulate motorized use in the backcountry.

The new rule, however, left winter travel management plans as optional, and it wasn't until 2015 that the Forest Service changed course, requiring all districts to have winter regulations for motorized vehicles.



The problem for many districts, Eisen said, is that a winter travel plan isn't a top priority. And, there's limited resources (staff and time) throughout the Forest Service to take on the project.

"Most places don't have them yet," she said.

Indeed, James Simino, the San Juan National Forest's Columbine district ranger, said the district does not have such a plan.

"It's on our radar but we haven't made it a top priority as of late," he said. "But with the increased use we're seeing, we weren't prepared for that last summer, and some of it is carrying over into winter."

Jimbo Buickerood, with San Juan Citizens Alliance, said the Forest Service's claims over the years that it doesn't have time or staff to draft a plan are hollow. He said the issue is especially pressing because of the rapid development of more powerful and versatile snow machines.

"Unfortunately, the Forest Service has significantly lagged on the prioritization of winter travel management planning despite the reality that such an effort would benefit both our public," he said. "The recreating public and winter outfitters deserve better than to wait in line for a winter travel planning process that will be of benefit to all concerned."

The only Forest Service district that has a winter travel plan in Colorado is the White River National Forest. Attempts to reach the district were not successful, but Eisen said many of the conflicts among user groups have been abated.

"Having a winter travel plan has helped in that regard," she said. "You know where you can go snowmobiling, and you know where you can ski. It brings certainty and you don't have to worry."

The Forest Service's Garcia said a winter travel plan could also help close areas that are critical winter habitat for wildlife, such as elk and deer, which can become disturbed by motorized use and waste precious energy when fleeing.



The U.S. Forest Service is required to draft winter travel management plans to regulate snowmobile and other motorized travel, but many district have yet to implement such plans.

Jerry McBride/Durango Herald

Those areas are not officially closed right now, Garcia said, but it's highly discouraged to ride in those areas. All off-limit areas can be found on the San Juan National Forest Service's website.

Wolf Creek Ski Area's Pitcher added he has to conduct environmental studies for his ski area, and so too should manufacturers of snowmobiles that sell and market their product for use on public lands.

"The manufacturers are getting a free ride on public land," Pitcher said. "And they should be held accountable and be required to do an environmental assessment of their impacts of their machines used exclusively on public land."

Ed Klim, president of the International Snowmobile Manufacturers Association, said the industry is not opposed to winter travel management plans, so long as all user groups are treated equally.

Klim said his association has been involved with several management plans throughout the West, and the group tries to support local snowmobile clubs and associations that know the region best.

"It makes for good neighbors," he said.



Wyett Holman of Durango plays around on his snowmobile Sunday on Molas Pass south of Silverton. Snowmobile advocate groups say closing areas to motorized use forces people into fewer areas, creating more issues.

Jerry McBride/Durango Herald

The International Snowmobile Manufacturers Association conducted a study recently that found snowmobile sales are up 19% from last year, representing the biggest growth in sales in 25 years.

About one-third of those sales were to people new to snowmobiling, the study found.

"We're doing pretty well," Klim said. "A lot of people are trying to get out. People have cabin fever."

Scott Jones, executive director of the Colorado Snowmobile Association, said conflicts among winter user groups have been longstanding, and efforts have been made over the years to expand parking or improve boundary signs.

Jones added it is a constant effort to get people using the backcountry – and not just snowmobilers – educated about best practices, avalanche safety, off-limit areas, and a host of other issues.

Jones said he, too, is not opposed to winter travel management plans, but said snowmobilers are concerned that such efforts could be used to kick them out of areas where they are now allowed.

“A lot of these folks aren’t tolerant of other uses, and that’s a problem,” he said. “There’s always been conflict in winter recreation, just ask a skier and snowboarder. Twenty years ago, everyone thought snowboarders were the end of the world.”



Conflicts among winter user groups have been going on for years, but more people outdoors because of the COVID-19 pandemic has brought those issues to the forefront.  
Jerry McBride/Durango Herald

Wolf Creek Trailblazers president Kukuk also said having more areas open to snowmobiles spreads the use, whereas closing areas forces more people into one area, exacerbating any associated impacts.

“It will make things worse,” he said.

The Forest Service’s Albers said a winter travel management plan, which is a public process, was supposed to get started for the San Juan National Forest about three years ago, but those efforts ultimately did not progress.

That might change, however.

“Just with the use coming to Southwest Colorado, it’s definitely something that needs to be looked at,” he said. “But we’re nowhere near making any changes right now.”

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# Beetle kill marches west across San Juan Mountains

Though slowing, new disease and insects worry foresters

By Jonathan Romeo (https://the-

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Friday, Feb. 19, 2021 5:03 PM Updated 1 day 15 hours ago



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Beetle kill is continuing its march through the San Juan Mountains toward the high country around Silverton, according to an aerial survey that tracks outbreaks on an annual basis.

Every year, the U.S. Forest Service and Colorado State Forest Service take to the skies, flying above millions of forested acres across Colorado to see what new areas have been affected by beetle outbreaks.

Because of the COVID-19 pandemic, flights in 2020 were limited to priority areas, cutting the scope of the survey in about half, from an estimated 30 million acres in 2019 to about 16 million acres in 2020.

Still, the aerial survey was able to monitor impacted areas around Southwest Colorado.

The spruce beetle epidemic started on Wolf Creek Pass in the late 1990s. Though native to the land, the insect's toll was exacerbated as drought, warmer winters and dense forests created perfect conditions for rapid spread.

Over the past two decades, the spruce beetle has torn through more than 884,000 acres – about 25% – of the Rio Grande and San Juan national forests, which total about 3.6 million acres, though not all of that land is spruce forest.

In more recent years, beetle kill across Southwest Colorado has finally shown signs of slowing down, but only because most trees at risk have fallen prey to the massive outbreak, aerial surveys showed.

Mark Loveall, supervisory forester for the Colorado State Forest Service in Durango, said flights in 2020 showed much of the same.

Most new spruce beetle outbreaks happened within isolated tree stands that in past years have avoided the infestation, in areas west of Lemon and Vallecito reservoirs and within the Durango-to-Silverton corridor.

High-elevation areas east of Silverton were hit especially hard, Loveall said, though the survey had not generated the exact amount of newly impacted acreage as of Friday.

"It's working its way west," Loveall said.

The fact the outbreak has been slowing down should be taken with a grain of salt, as it means the beetle has ripped through all its food, the Englemann spruce trees, leaving behind swaths of dead stands.

"I think it'll still be in small pockets," Loveall said. "But it does seem like it will wind down in the next few years. It can only move west so far."

And even though the outbreak across the state is waning, the aerial survey determined spruce beetle is still the most damaging forest pest in Colorado, with perfect conditions for its continued infestation.

With prolonged drought in the region, trees' ability to fight off the insect is weakened. With warmer winters, more beetles are able to survive the cold months. And dense forest stands allow beetles to travel with ease.

For the most part, it's hard to do anything proactive to stop the outbreak, researchers have said. Most areas affected are in steep, difficult terrain. So outside some spots where tree thinning makes sense, logging is largely not feasible.

"Unfortunately, our dry conditions are optimal for insect epidemics and tree diseases in many parts of the Rocky Mountains," Tammy Angel, acting regional forester for the Forest Service's Rocky Mountain Region, said in a statement.

"Where possible, managing forests for age and species diversity can increase resiliency while ensuring diverse wildlife habitat, cleaner air and water, timber and grazing resources, and greener, safer landscapes for recreation," she said.

Forest Service representatives were not available for an interview for this story.

And as if the spruce beetle outbreak wasn't bad enough, Loveall said new insects and disease are now causing alarm for other areas of the forest.

Around Purgatory Resort, the native western spruce budworm is weakening trees, making it less likely for trees to survive harsh drought conditions.

“Combined with drought, you can have die-off,” he said. “It’s something important to watch out for.”

For the past few years, the roundheaded pine beetle has ripped through ponderosa pines near Dolores. While this year’s aerial survey showed the spread was declining, the beetles’ impact is still expanding, Loveall said.

“That one is definitely a concern because it started out in small pockets ... then they all started growing together in bigger kill areas,” he said.

Beetle spread in a given year is also impacted by how much moisture a region gets. As of this week, snowpack in Southwest Colorado is 90% of normal averages, and continued snow will be critical, especially as fire season approaches.

“Those big beetle outbreaks make for a lot of potential dry fuel in the forest, and that’s always concerning,” Loveall said.

*jromeo@durangoherald.com*

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## Town of Silverton

PO Box 250  
Silverton, CO 81433  
970-387-5522



## SAN JUAN COUNTY

PO Box 466  
Silverton, CO 81433  
970-387-5766

Date: February 21, 2021.

For: February 24 Board of County Commissioners Meeting.

From: Town/County Planning Director.

Regarding: Some of the Planning Department Work During the Past Two Weeks.

### Recent County Projects

- An application has been received for a proposed driveway in lower Cunningham Gulch.
- An applicant is preparing an application for a cabin and associated improvements on Ophir Pass.
- Photocopies of an application were received for a Proposed Plat Amendment at Cole Ranch.
- The Planning Commission recommended conditional approval of a proposed accessory dwelling unit cabin near Lime Creek Road.
- An approved Boundary Agreement Survey Plat was signed and recorded, along with a signed and notarized list of the County's conditions of approval, for a site on Ophir Pass.
- The Building Inspector and Planning Director answered recent inquiries regarding potential development of a Lot located at the former Eureka Townsite.
- The Building Inspector and Planning Director answered recent inquiries about Maggie Gulch claims.
- Assistance was provided to a local realtor regarding the applicable County regulations for two adjacent mining claims in the lower Minnehaha Basin area.
- Inquiries were answered about two separate claims above the Lackawanna Mill on CR 20/20A.
- Building Inspector and Planning Director are receiving an increase in inquiries about proposed yurts.
- The Planning Department has ongoing work on other miscellaneous County projects/applications, along with helpful assistance from the Building Inspector and County Administrator.

### Recent Town Projects

- The Town Board approved a proposed duplex in the ED zone, near 8th & Cement.
- The Planning Commission recommended conditional approval of a rezoning application from R1 to R2, for a proposed fourplex multi family structure, on a vacant site at the corner of 5th & Reese.
- An application was received for a proposed balcony on an existing Blair Street building.
- An application was received for a proposed infrastructure extension project, ending at 8th & Bluff.
- The Town Staff has been completing proposed revisions to the Town vacation rental regulations.
- An avalanche consultant is being assisted in locating any historic data, for a study for three approved proposed structures, on three parcels located within the blue zone of the Arcade slide.
- The Planning Commission recommended approval of a draft Town ordinance establishing an architectural review overlay district along Greene Street and the wye.
- Plans showing proposed extension of infrastructure were submitted for a site at 12th & Bluff.
- An owner is completing an application for proposed structures in the avalanche blue zone at 13th & Cement.



- Building Inspector/Planning Director answered inquiries regarding a vacant parcel at 5th & Greene.
- The Board of Adjustment reviewed three Town variance applications, approving one of the three. The two denials were for a tiny home on wheels RV mini-park, and a proposed fourth marijuana facility in the BP zone where there is a maximum cap of three. The one approval was an exemption for a required breezeway, which was intended to attach two new structures on a parcel in the R2 zone.
- I am working with surveyor and applicant regarding a proposed resubdivision at 19<sup>th</sup> & Cement for the purpose of proposed wetlands.
- The Planning Director works closely with the Building Inspector on a daily basis, to address other miscellaneous projects and applications. We are getting an increase in questions right now, typically about vacant sites, hazard districts, zoning, development concepts, building codes, and permits.
- The Planning Director is training the new multi-department Town staff Nate Baxter, to help with planning work, starting with how to write legal notices and adjacent land owner letters.
- For informational purposes, the Interim Town Administrator is Anthony Edwards starting on 2/22. The Town Board is beginning a search to replace the recently resigned Administrator and Attorney.

### Upcoming Town & County Meetings

I will be attending these upcoming meetings; almost all of them are open to the public, with agendas posted on the Town/County websites.

- The Town Board will meet on 2/22.
- The Town Personnel & Ordinance Committee will meet on 2/23 to review vacation rental regulations.
- The Town Master Plan Committee meets on 2/23 to continue work on updating the 2010 Town/County Master Plan.
- The County Commissioners will meet on 2/24.
- The Town staff meets each Thursday morning including 2/25.
- I expect to have a Public Hearing at the 3/8 Town Board meeting for a proposed rezoning application.
- I expect to have a Public Hearing at the 3/10 County Commissioners meeting for an Improvement Permit Application for a proposed cabin.
- I expect to have a Public Hearing at the 3/10 County Commissioners meeting for an Application for a Proposed Subdivision Plat Amendment.
- The Planning Commission will meet on 3/16 and there are tentatively seven applications on the agenda.
- Town film permit staff (Lisa Branner) is coordinating with County film permit staff (Planning Director), to discuss updating of the existing Town and County film permit application process.

The County Commissioners/citizens can contact me with any questions about the Town/County Planning Department ([ladair@silverton.co.us](mailto:ladair@silverton.co.us), 387-5522).

