

Silverton Outdoor Learning and Recreation Center

**Record of Decision (ROD)  
and  
Resource Management Plan Amendment**



Prepared by

USDI - Bureau of Land Management  
Columbine Field Office  
Durango, Colorado

September 2005



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
San Juan Field Office  
15 Burnett Court  
Durango, Colorado 81301  
(970) 247-4874

Dear Reader:

Enclosed for your review are the Record of Decision (ROD) and Approved Resource Management Plan (RMP) Amendment for the Silverton Outdoor Learning and Recreation Center (SOLRC). The SOLRC Environmental Impact Statement (EIS) was prepared to consider the environmental impacts associated with both the land use plan amendment (to add lift-served skiing and sightseeing to the list of allowable kinds and levels of recreation authorized on BLM-administered public land) and the implementation decision to issue a lease to SOLRC to authorize a public ski area.

The RMP amendment contains both the proposed Land Use Planning decision and an implementation decision. The Land Use Planning decision was subject to protest during a 30-day period following the publication of the PRMP Amendment. No further administrative remedies are available for Land Use Planning decisions.

The SOLRC ROD serves as the final decision for the SOLRC RMP Amendment, which amends the San Juan/San Miguel RMP, and becomes effective the day the Notice of Availability (NOA) of the RMP Amendment is published in the *Federal Register*.

The SOLRC ROD also approves the implementation decision to issue a lease (40 year commercial occupancy lease) to SOLRC to authorize a public ski area. Implementation decisions are subject to appeal to the Interior Board of Land Appeals (IBLA) during the 30-day period following the publication of the NOA of the RMP Amendment in the *Federal Register*. This appeal period will also be announced via local news releases and other means.

Any party adversely affected by the implementation decision may appeal within 30 days of the effective date of the ROD in accordance with the provisions of 43 CFR 4.4. To appeal, a Notice of Appeal must be filed in the office that issued this decision (San Juan Public Lands Center, 15 Burnett Court, Durango, Colorado 81301) (see 43 CFR 4.411 and 4.413). You must also send a copy to Solicitor (Regional Solicitor, Rocky Mountain Region, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215) and Interior Board of Land Appeals (Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, Virginia 22203).

You must file a complete statement of reasons why you are appealing within 30 days after filing your Notice of Appeal. This must be filed with the Interior Board of Land Appeals, at the above address (see 43 CFR 4.412 and 4.413). If you fully stated your reasons for appealing when filing your Notice of Appeal, no additional statement is necessary. Copies of your statement of reasons must be filed with the Solicitor at the above address.

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor having jurisdiction over the State in which the appeal arose must be served a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR 4.413).

Within 15 days after any document is served on an adverse party, you must file proof of that service with the Interior Board of Land Appeals. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR 4.401(c)).

To file a motion for stay pending the outcome of an appeal of this decision, sufficient justification must be shown based on the following standards under 43 CFR 4.21:

- 1). The relative harm to the parties if the stay is granted or denied.
- 2). The likelihood of the appellant's success on the merits.
- 3). The likelihood of immediate and irreparable harm if the stay is not granted.
- 4). Whether the public interests favors granting the stay.

As noted above, the motion for stay must be filed in the office of the authorized officer. Unless these procedures are followed, your appeal will be subject to dismissal (see 43 CFR 4.402).

The RMP Amendment/ROD, the PRMP Amendment/FEIS, and Draft EIS are available on the San Juan Field Office web site: <http://www.co.blm.gov/sjra/index.html>. A limited number of paper and CD-ROM copies of the documents are available from the San Juan Public Lands Center, 15 Burnett Court, Durango, Colorado, 81301; phone: 970-247-4874.

#### **Freedom of Information Act Considerations/Confidentiality**

Public comments submitted for this planning review, including names and street addresses of respondents, will be available for public review at the San Juan Public Lands Center in Durango, Colorado, during regular business hours (8:00 A.M. to 4:30 P.M.), Monday through Friday, except holidays. Comments, including names and addresses of respondents, will be retained on file in the same office as part of the public record for this planning effort. Individual respondents may request confidentiality. If you wish to withhold your name or address from public inspection or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, will be made available for public inspection in their entirety.

We greatly appreciate your valuable assistance, input, and help in this planning effort, and look forward to your continued participation as the plan amendment is implemented. For additional information or clarification regarding the attached document or the planning process, please contact Richard Speegle at 970-375-3310 (e-mail – [Richard\\_Speegle@blm.gov](mailto:Richard_Speegle@blm.gov)).

Sincerely yours,

Pauline E. Ellis  
Columbine Field Office Manager/District Ranger

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## CHAPTER 1 – RECORD OF DECISION

### 1.1 SUMMARY

In March 2001, Core Mountain Enterprises, LLC, submitted an application to the USDI-Bureau of Land Management (BLM) for authorization of long-term commercial use of about 1,300 acres of BLM administered land by the Silverton Outdoor Learning and Recreation Center (SOLRC). The project site is in southwestern Colorado, about 6 miles north of Silverton. In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), the BLM initiated an Environmental Impact Statement (EIS) process to analyze and disclose the environmental impacts of issuing the requested authorization.

SOLRC currently operates on approximately 370 acres of private land and approximately 1,300 acres of BLM land under annual Special Recreation and Land Use Permits.

The requested authorization would allow a one-of-a-kind melding of minimal ski area infrastructure with otherwise undeveloped terrain. The intended result would be an affordable opportunity for advanced and expert skiers to obtain an extreme, back-country type experience previously available only to helicopter and cat skiers at a high price or to those with the specialized knowledge, equipment, and stamina to access high-elevation backcountry on their own. The requested use authorization would also increase the scope of year-round educational and summer recreational opportunities available at SOLRC.

The decision is to approve the Proposed Resource Management Plan Amendment (PRMPA) and the Preferred Alternative (Alternative C, Integrated Guided and Un-

guided Operation) of the Final Environmental Impact Statement (FEIS), as modified to incorporate limited helicopter use, for the Silverton Outdoor Learning and Recreation Center. Also, this Record of Decision (ROD) approves issuing a lease to SOLRC for a public ski area.

### 1.2 DECISIONS

This ROD approves both a Land Use Plan decision and an Implementation decision. Therefore, this decision has been separated into two sections:

- The Land Use Plan decision that approves the SOLRC RMP Amendment, which was protestable under the land use planning regulations (43 CFR 1610);
- The implementation decision to issue a lease (40 year commercial occupancy lease) to SOLRC for a public ski area, which is currently appealable under the Department of Interior's appeal regulations (43 CFR part 4)

#### 1.2.1 - Land Use Plan Decision

Land use plan decisions consist of desired outcomes (goals, standards, and objectives) and the allowable uses (including allocations, levels of use, and restrictions on use) and management actions necessary to achieve those outcomes.

The decision is hereby made to approve the SOLRC RMP Amendment, which adds lift-served skiing and sightseeing to the list of allowable uses authorized on BLM-administered public land specific to the SOLRC permit. This plan amendment was prepared under the regulations implementing the Federal Land Policy Management Act (FLPMA) (43 CFR 1610.5-5). An EIS was prepared for this RMP Amendment in compliance with the National Environmental Policy Act (NEPA). A 30-day protest

period was provided on the proposed land use plan decision contained in the SOLRC PRMPA/FEIS in accordance with 43 CFR Part 1610.5-2. The BLM published the NOA for the PRMPA/FEIS in the Federal Register on August 6, 2004. The 30-day protest period and 60-day Governor's Consistency Review period followed.

The BLM Director received two protests regarding the PRMPA/FEIS. The main issues raised during the protest period were:

- The PRMPA/FEIS is contrary to BLM policy guidance because the proposed action does not conform to the land use planning document.
- Significant aspects of the PRMPA/FEIS are based upon invalid or incomplete information.
- The PRMPA/FEIS does not comply with applicable laws, regulations, policies, and planning procedures.
- The PRMPA/FEIS failed to properly follow NEPA guidelines and Section 106 procedures.
- The PRMPA/FEIS failed to adequately analyze the impacts to private property.

During the review, each protest letter was determined to have standing. Each protest issue was responded to in return letters sent to each protestor on March 22, 2005. In addition, the governor did not identify any inconsistencies during the 60-day review period.

The ROD serves as the final decision for the land use plan amendment described above and becomes effective on the date this ROD is signed. No further administrative remedies are available at this time for this decision. The approval of the amendment allows the BLM to issue a lease to SOLRC for a public ski area.

## **1.2.2 - Implementation Decision**

Implementation decisions generally constitute BLM's final approval allowing on-the-ground actions to proceed. These types of decisions require site-specific planning and NEPA analysis. The SOLRC EIS was prepared to consider the environmental impacts associated with both the land use plan amendment and the implementation decision to issue a lease to SOLRC to authorize a public ski area.

The decision is hereby made to approve the implementation decision to issue a lease to SOLRC to authorize a public ski area. The lease is being issued in the form of a 40-year commercial occupancy lease. The commercial occupancy lease is being issued under the authority of FLPMA, section 302(b), as implemented through regulations under 43 CFR Part 2920, Leases, Permits, and Easements.

The entire lease, including the terms and conditions except for the rental value, is included in Appendix 2 of this ROD. An appraisal is currently being conducted to determine fair market value of the use of the property for rental determination purposes. Once the appraisal is completed, a separate decision will be issued determining the rental value. The rental determination decision will be immediately appealable pursuant to the appeal procedures described below. Additional information on the purpose of the lease and what the lease will require is included in Section 2.6.2 of this ROD. An appeal opportunity for this decision is being provided at this time as described in the following section.

## **1.2.3 - Appeal Procedures**

Any party adversely affected by the implementation decision may appeal within 30 days of the effective date of the ROD, or within 30 days of receipt of this decision. To appeal, a Notice of Appeal must be filed

in the office that issued this decision (see 43 CFR 4.411 and 4.413). At this time, you may state your reasons for appealing.

San Juan Public Lands Center  
15 Burnett Court  
Durango, Colorado 81301

You must also send a copy to Solicitor and Interior Board of Land Appeals:

Regional Solicitor  
Rocky Mountain Region  
755 Parfet Street, Suite 151  
Lakewood, Colorado 80215

Interior Board of Land Appeals  
Office of Hearings and Appeals  
U.S. Department of the Interior  
801 North Quincy St., Suite 300  
Arlington, Virginia 22203

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1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interests favors granting the stay.

As noted above, the motion for stay must be filed in the office of the authorized officer. Unless these procedures are followed, your appeal will be subject to dismissal (see 43 CFR 4.402). Be certain that all communications are identified by the serial number of the case being appealed.

## 1.3 ALTERNATIVES

### 1.3.1 - Overview of the Alternatives

The proposed action and three alternatives represented four directions that management could take and remain consistent with the management objectives identified through the scoping process. Each alternative summarized below emphasized a different approach to the management of the area.

#### Proposed Action

The Proposed Action, as requested by SOLRC, is intended to complement the private-land-based operation by committing the requested public lands to long-term use by SOLRC. This long-term commitment of public resources would allow the

center to provide a more comprehensive program to a larger public clientele. SOLRC's request is for a 40-year authorization, but the term and other administrative details of the authorization would be at the discretion of the agency, documented in the ROD or subsequent agreements between the BLM and SOLRC. The Proposed Action is issuance of BLM authorization of the following elements, which would augment the private-land development that has been approved by San Juan County and would occur regardless of BLM decisions regarding use of public lands. The Proposed Action includes:

- Use of approximately 1,300 acres of BLM-administered land for skiing in the winter, hiking in the summer, and educational programs year-round. The educational programs would include but not be limited to field sessions in avalanche safety, backcountry ski travel, mountaineering, mountain rescue, environmental studies, adventure writing, backcountry medicine, and nature photography.
- Unrestricted skier access to all permit-area terrain not closed by SOLRC for snow safety reasons. SOLRC would provide snow safety conditions similar to other developed ski areas.
- Use of the permit area by up to 475 SOLRC guests per day.
- Up to 17 temporary foot/skier bridges across Cement Creek within the permit area of which six would be on BLM land. These bridges would be installed by hand or light equipment prior to the ski season and removed in the spring. No alteration of the stream channel or deposition of fill material would be involved. These bridges would allow skiers to cross the creek to shuttle stops and return to the SOLRC base area.

- A 1.7-mile hiking trail (Colorado Basin Hiking Trail) beginning at the upper lift terminal, continuing south up the ridge about 1,000 feet, dropping east into Colorado Basin, then turning north to tie into CR 52. This trail would allow summer lift riders an option to riding the lift back down or walking down the trail adjacent to the lift. This trail would be mostly on public land. It would be constructed in accordance with applicable agency trail standards and would be open to the public.
- A 2.6-mile summer and winter mountaineering route beginning where the proposed hiking trail drops east into Colorado Basin, following the ridgeline south then east across the top of Storm Peak, following the permit area boundary to tie into an existing pack trail. The pack trail drops west into Colorado Basin, connecting with CR 52 between the cirque lake and Gladstone. Due to the extremely steep and rugged terrain traversed by this route and its intended, limited use, it would not be a constructed trail. Its primary use would be for SOLRC's guided mountaineering educational programs. This route would be entirely on public land.
- A small solar-powered radio repeater on public land near the existing radio reflector on 13,053 Peak (an unnamed peak northwest of Storm Peak, within the permit area). This would improve radio communications for SOLRC within the permit area.

### **Alternative A – No Action**

The No-Action Alternative is the scenario that would occur if the Proposed Action or an action alternative were not authorized. In this analysis, that means that the requested land-use authorization would not be issued, and SOLRC's commercial activities would be restricted to private lands owned by SOLRC and other private lands

used by SOLRC through arrangements made with the owners. Activities and currently approved facilities that SOLRC plans to develop on private land in coming years include:

- Unrestricted, chairlift-served, unguided skiing on private land owned by SOLRC or used by SOLRC through arrangements made with the owners. Guided skiing on the private terrain would be available to guests desiring this service.
- Use of SOLRC land and facilities by up to 475 guests per day.
- Continued winter educational programs on private land owned by SOLRC or used by SOLRC through arrangements made with the owners, including but not limited to avalanche safety and winter backcountry skills.
- Expanded summer programs on private land owned by SOLRC or used by SOLRC through arrangements made with the owners, including educational programs such as mountain ecology, mountaineering, photography, nature hikes, and continued summer scenic lift rides.
- Continued hiking, mountain biking, and winter access on the 1.6-mile trail that roughly parallels the lift alignment, on private land owned by SOLRC (Lift Trail).
- A permanent, 2,200 square-foot-footprint base lodge and 10 small cabin or yurt units for overnight rental accommodations on private land at the current base area, with a culinary water well and wastewater treatment systems. An access road is already in place.

- Two 0.2-mile rope tows to facilitate skier access along the ridge from the top of the chairlift.
- An approximately 2,400-square-foot maintenance/storage shed on a private land site about 1,000 feet south of the base area.
- An additional, 64-square-foot, subterranean explosives cache, near the two existing caches on private land north-east of the base area.
- Up to six temporary foot/skier bridges across Cement Creek on private land. These bridges would be installed by hand prior to the ski season and removed in the spring. No alteration of the stream channel or deposition of fill material would be involved. These bridges would allow skiers to cross the creek to shuttle stops and return to the SOLRC base area.

Note that the additional explosives cache on private land listed under the Proposed Action is not included under this alternative as it would not be necessary with the reduced extent of ski terrain.

#### **Alternative B – Guided-Only Operation**

This alternative was developed because a guided-only operation would entail a different approach to management of snow safety in the permit area. Alternative B would include all elements of the Proposed Action and the No-Action Alternative; with the following exceptions:

- SOLRC skier access to public land in the permit-area limited to up to 100 guests accompanied by SOLRC guides. This would make guides with snow safety expertise responsible for all activities from daily stability assessment, through route selection, to avalanche rescue and first aid. The maximum

skier-to-guide ratio would be 8:1.  
(Note: Unguided skiing could still occur on SOLRC's private land.)

- Optional use of a helicopter to access permit-area terrain. This would allow wider skier distribution, more extensive skier compaction in the permit area, and more rapid and wide ranging stability testing and avalanche control activities. Any helicopter assisted operations would involve helicopters contracted on an as-needed basis, providing their own fueling and mechanical support, and flying from a temporary heliport at the overflow parking area.

### **Alternative C – Integrated Guided and Unguided Operation**

This alternative was developed to blend the unguided skiing authorized under the Proposed Action with the guided-only operation comprised by Alternative B, incorporating the snow safety approaches appropriate to both. Alternative C would include all elements of the Proposed Action and the No-Action Alternative, with the following exceptions.

- SOLRC skier access to public land in the permit area will be staged according to snow safety hazard. Areas where risks were adequately reduced, due to SOLRC control efforts and/or naturally evolving snowpack conditions, would be open to unguided skiing. Areas where hazards existed but could be avoided would be open to guided skiing, and areas where hazard was too high to reliably avoid would be closed.
- Selective tree removal, limbing, and cleanup on forested, north-facing slopes within the permit area. This would involve removal of conifer regeneration (i.e. seedling and sapling-sized trees) and brush in or adjacent to select avalanche chutes, limbing and/or falling of select seedling to pole-sized trees

(individual or small groups of trees) along emerging tree skiing routes, limbing of fallen trees so they lie flat on the ground, and removal of hazard trees. The objective would be to increase safe tree-skiing opportunities, primarily for unguided skiers, during periods of high avalanche hazard above timberline. Any material cut would be scattered (not piled) on site. No timber would be removed from the site. This work would be done by hand each year, a little at a time, as preferred tree-skiing runs evolved and problem trees were identified. Fewer than 20 percent of the trees in the areas identified for selective tree removal would be affected. To avoid the risk of creating new avalanche starting zones, large (more than 8" diameter) trees would not be cut on slopes steeper than 32 degrees. On slopes between 30 and 32 degrees, no more than 10 percent of the trees would be removed. On slopes less than 30 degrees, no more than 20 percent of the trees would be removed. In addition, where trees would be cut in the vicinity of starting zones, selective tree removal would not enlarge existing starting zones or link together several small starting zones into one large starting zone.

- A 2.3-mile trail (Alternative Lift Trail), less steep and including fewer switchbacks than the existing Lift Trail on private land. This trail would be developed for winter and summer use to facilitate skier, snowmobile (SOLRC operational/emergency use), hiker, and biker access between the top of the lift and the base area. The trail would cross public and private land and would replace winter use of the existing Lift Trail.

This alternative would incorporate both approaches to snow safety, from resort-style risk reduction, as described above under the Proposed Action, to the risk-

avoidance approach typical of guided operations, described under Alternative B. Determination of which areas were open for unguided skiing and for guided skiing – and which areas were closed to skiing of any type – would be made on the basis of snow-stability criteria detailed in SOLRC’s snow safety plan, coupled with the professional judgment of SOLRC’s snow safety personnel.

As noted above under the Proposed Action, implementation of an agency approved snow safety program would be the responsibility of SOLRC, but the agency would monitor the adequacy of the plan and its implementation. Changes to the plan, to implementation procedures, or to the land use authorization – even revocation of the authorization – could result if monitoring indicated that snow safety was not being adequately addressed.

### **1.3.2 - Environmental Preferability of the Alternatives**

Environmental preferability is judged using the criteria in the National Environmental Policy Act (NEPA) and subsequent guidance by the Council on Environmental Quality (CEQ, 1981). The CEQ has defined the environmentally preferable alternative as the alternative that will promote the national environmental policy as expressed in Section 101 of the NEPA. This section lists six broad policy goals for all federal plans, programs, and policies:

- 1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- 2) Assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
- 3) Attain the widest range of beneficial uses of the environment without degrada-

tion, risk to health or safety, or other undesirable and unintended consequences;

4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life’s amenities; and

6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

The BLM’s *National Environmental Policy Act Handbook* (H-1790-1) directs that the manager responsible for preparing an EIS should select the agency’s preferred alternative, and that the selection should be based on the results of the environmental analysis as well as other factors that influence the decision or are required under other statutory authority.

- Alternative C, Integrated Guided and Unguided Operation, as modified to incorporate limited helicopter use (see description under Alternative B), has been selected as the agency’s preferred alternative. This alternative would not result in any notable environmental impacts beyond those associated with the Proposed Action and Alternative B.

## **1.4 MANAGEMENT CONSIDERATIONS**

### **1.4.1 - Rationale for the Decision**

The rationale for the selection of Alternative C, Integrated Guided and Unguided Operation, as modified to incorporate limited helicopter use, is as follows:

- This alternative would provide the greatest recreational opportunity. In terms of diversity, it would authorize both guided and unguided options, each of which constitutes a distinctive recreational experience. In terms of the amount of terrain made available, it is projected to maximize the useable portion of the permit area. In terms of the number of people served, providing diverse opportunities on the largest land area possible would meet the desires of the greatest number of skiers.
- This alternative would best address public safety concerns. The main, alternative-driving issue addressed in this EIS is snow safety, given the inherently high avalanche hazard in the San Juan Mountains. This alternative would combine the two approaches to snow safety associated with guided and unguided operations (hazard avoidance and hazard reduction, respectively), and the combination would be more effective at reducing risks to the public than either approach alone.
- This alternative would not result in any notable environmental impacts beyond those associated with the Proposed Action and Alternative B. Alternative C was considered to be the environmentally preferred alternative based on these criteria.

### 1.4.2 - What the Decision Will Provide

The ROD modifies the existing RMP to provide direction for management of resources on BLM administered lands within the project area to allow the BLM to authorize a long-term use of the permit area through a 40-year commercial occupancy lease.

The commercial occupancy lease will be issued under the authority of FLPMA, section 302(b), as implemented through regu-

lations under 43 CFR Part 2920, Leases, Permits, and Easements. The decision to amend the RMP to allow for the proposed activity is made under 43 CFR 1610.5-5, Resource Management Plan Approval, Use, and Modification - Amendment.

### 1.4.3 - What the Decision Will Not Provide

Many decisions are not appropriate at this level of planning and will not be included in this ROD. Examples of these types of decisions include:

1. *Statutory requirements.* The decision will not change the BLM's responsibility to comply with applicable laws and regulations including the Clean Air Act, Clean Water Act, Endangered Species Act, National Environmental Policy Act, Federal Land Policy and Management Act (FLPMA), or any other federal law.
2. *National Policy.* The decision will not change BLM's obligation to conform to current or future national policy.
3. *Funding levels and allocations.* These are determined annually at the national level and are beyond the control of the field office.

## 1.5 MITIGATION MEASURES AND MONITORING

NEPA requires that an EIS identify and assess mitigation measures to avoid or reduce the adverse environmental effects of a proposed federal action. The agency decision maker then adopts required measures in the ROD. The following mitigation measures were identified and assessed in the course of this analysis and are adopted in this ROD.

Monitoring will be a critical part of the implementation and follow-up for the devel-

opment of SOLRC. The BLM winter sports administrator will oversee all construction and operations to ensure that it conforms with approved annual operating plans and resource protection measures. In order to ensure limited BLM resources do not interfere with project oversight, the BLM is requiring that all monitoring costs associated with the construction and operation of SOLRC be provided by the proponent through a reimbursable agreement.

The following approved mitigation measures have been adopted and will be included in a monitoring and enforcement program:

### 1.5.1 - Watershed Resources

1. The proposed culinary well will be located up gradient (with respect to groundwater flow) from the proposed septic system which will minimize the potential risk of coliform contamination.
2. Adequate signs and other appropriate information indicating the location of restroom facilities will reduce the potential impacts of human sources of coliform in backcountry areas.
3. If soil textures in and around the septic absorption field are too coarse, soil replacement in these areas will ensure the proper effluent infiltration rates.
4. Grease traps and other appropriate filters to treat gray water will be used to help ensure the proper long-term functioning of the septic system and reduce the potential for failure and subsequent coliform contamination of water resources.
5. Trail design, use of surface grading, and placement of water bars in accordance with agency guidelines (FSH 2309.18 – Trails Management Handbook) will reduce the amount and ve-

locity of runoff generated by trail surfaces and will minimize potential sediment impacts to downslope areas including South Fork Cement Creek.

6. Temporary foot/skier bridges will be located in areas with stable channel banks and at locations where planks could span adjacent floodplains and riparian corridors, will minimize disturbance impacts with potential to produce sediment loads and unstable channel banks.
7. Using control measures including silt fencing, straw-bale dikes, check dams, and water bars will reduce sediment impacts during construction of buildings, trails, and roads. Prompt reclamation efforts following construction will continue to mitigate sediment impacts and could include measures such as reapplication of stockpiled soil, roughening of disturbed slopes to create microsites for moisture conservation and seedling establishment, re-seeding, mulching, and covering oversteep slopes with mulch blankets.

### 1.5.2 - Vegetation

8. Educating summer guests about the sensitivity of alpine vegetation to trampling and the slow recovery of damaged communities (verbally and through the use of brochures and/or interpretive signs), and requiring visitors to remain on designated trails and within established use areas will reduce the impact to alpine vegetation due to summer recreational use. Forest Service trail management guidelines and specifications will be followed when designating trails.
9. Implementation of the Best Management Practices (BMPs) listed in the publication *Ski Area BMPs* (Chapter 5: Reclaiming the Land; Forest Service 2001) will reduce the impacts to

vegetation resulting from the proposed activities.

10. Development of a vegetation management plan for the ski area will ensure that all vegetation types, both forested and non-forested, were managed to maintain their health and vigor.
11. Developing and implementing an integrated weed management plan for the SOLRC permit area, which will include monitoring of sites disturbed by construction activities for a period of 10 years and aggressively treating any new populations of noxious or invasive species with the most appropriate measures given the size of the population and the nature of the species, will address and reduce the long-term risk of introduction and establishment of weeds.
12. Reseeding disturbed areas with BLM approved seed mixes that were designed for either alpine or montane settings, that emphasized native grasses and forbs, and that were certified to be weed free will reduce the risk that weedy species would be introduced during the revegetation process.
13. Minimizing surface grading in areas that were cleared will facilitate natural regrowth.
14. Selecting temporary foot/skier bridge placement sites in areas where wetlands adjacent to Cement Creek were less developed/expansive will avoid or minimize wetland impacts.

### **1.5.3 - Wildlife**

15. Restricting nighttime activities to those associated with the overnight base-area facilities will decrease potential impacts to Canada lynx.

16. Restricting avalanche control activities to the period between 1 hour after sunrise and 1 hour before sunset, scanning the surrounding terrain for animals (with binoculars) before using explosives, and not using explosives for 4 hours after an animal is spotted will minimize potential impacts to lynx and wolverine due to avalanche control. Potential impacts will be further minimized by not inducing avalanches with explosives or other means when a lynx is known to be in the vicinity.
17. If lynx or wolverine individuals, tracks, or dens were sighted within the project area, notifying the Columbine Field Office recreation planner and/or wildlife biologist and coordinating with CDOW biologists will assist agency monitoring of lynx and wolverine use of the area and devising appropriate management practices.
18. Posting information at the base area explaining the potential presence of forest carnivores in the area, describing what to do in the event of a wildlife encounter, and requesting that wildlife sightings be reported will increase the guest awareness and assist the BLM in managing these species.
19. Establishing a 0.25-mile no-mechanized-activity buffer around known or detected active goshawk nests from March 1 to August 15 will protect nesting birds from disturbance. Establishing a 30-acre no-habitat-alteration buffer around known or detected active or suitable inactive goshawk nests year-round would maintain stand structure and would not reduce habitat suitability around the nest. Suitability of inactive nest sites should be determined by a wildlife biologist.

20. Restricting tree removal to areas outside of riparian zones and to species other than willow will protect habitat for snowshoe hare, ptarmigan, and southwestern willow flycatcher.

#### **1.5.4 - Land Use**

21. Maintaining the boundary management plan implemented during the 2001/02 season will provide for winter access to public land and private inholdings within and adjacent to the permit boundary while affording protection from avalanches triggered by SOLRC's avalanche control, stability testing, and commercial skiing activities.

#### **1.5.5 - Recreation**

22. Providing restroom facilities at the bottom of Colorado Basin will result in a more comfortable recreational experience for SOLRC visitors, as well as reducing potential water quality impacts.

#### **1.5.6 - Safety**

23. Public lands adjoining SOLRC's private lands will be closed to winter access by SOLRC visitors which will reduce the possibility of their being harmed by avalanches in the surrounding, unmanaged terrain.
24. Continue the ongoing snow safety program and study for the next several seasons to insure that expanded, up-to-date information on the area's snowpack and avalanche dynamics is available to aid in effective snow safety planning.
25. Each season, updating the snow safety plan, through end-of-season meetings of SOLRC snow safety personnel and BLM permit administrators, will insure that the snow safety

plan remained an effective tool for management of public risk. Written documented criteria for determining when operations in a given area (Zone) can be shifted from closed, to guided skiing, to un-guided skiing will be essential. A BLM approved Boundary Management Plan must be in place before un-guided skiing will be allowed.

26. An access route between the base area and the top of the chairlift, passable by at least a tracked vehicle in the winter, will improve emergency access and egress. This route will be constructed along the alignment of the Alternative Lift Trail proposed under Alternative C. Options range from establishing a single-track-wide snowmobile route to blading a full-bench cut wide enough to accommodate a snowcat to groom the road in winter. The minimum necessary to provide reliable access should be implemented by next season.
27. Standard flagging of hazards at mine sites, or avoidance of such sites by guided groups, will minimize any risk of skier collisions with buildings, structures, or machinery remaining at these sites.
28. Continued collaboration by the BLM, San Juan County, The Silverton Snowmobile Club, and SOLRC on a plan for winter management of CR 52 will reduce the risk of collisions between skiers and snowmobilers on CR 52.
29. Continue to shut the chairlift down when lightning is observed in the area and discussing the risk of lightning to hikers using the area's trails will reduce the risk of lightning casualties.

30. Continue to develop sites and maintain the monitoring of weather parameters known to contribute to avalanche hazard development that may affect all of the SOLRC terrain. Log all weather records for the season.
  31. Facilitate an early-season snow compaction program and keep detailed records of all work done each season.
  32. Develop a written methodology to effectively test snowpack stability and log all results of tests and avalanche control efforts. Test snowpack stability of each slide path (ski run), or Zone with some type of remote avalanche control system (avalauncher, LOCAT, or military artillery weapon) prior to any entry of hand charge control teams. Use fixed base or mobile avalaunchers to deliver shocks to the upper portions of the starting zones found at Silverton Mountain. Avalaunchers are now used but the BLM recommends for the future the use of a military artillery weapon or LOCAT or other modern remote means. In the interim, this work can be done in conjunction with other avalanche control procedures. This work provides additional assurances to hand charge teams that would subsequently enter the runs to carry out control work. It may also help to prevent widespread propagation of avalanche fracture lines from one run to another. The goal here is to reduce the risk to the hand charge teams. Carefully consider snowpack conditions before control teams proceed into any avalanche starting zones to place hand thrown-explosives, consider doing as much work from the ridgelines as possible. Utilize control teams on skis to deliver hand charges in the safest possible manner.
  33. Close all ski runs or entire avalanche zones to all skiing (guided or unguided) during conditions or major storm cycles when safety of the public or avalanche control teams cannot be adequately assured.
  34. Log all closures of CR 52 (with date/time of closure/ time of re-opening), to secure and close to the public and private cabin owner or occupants the Cabin Slide Path runout zone and along CR 52 at times when control work above or in Colorado Basin is to be conducted by SOLRC.
  35. The BLM recommends the construction of a Make-Up room facility at the top of Silverton Mountain to comply with modern standards for the make-up of explosive materials and day storage for avalanche mitigation work.
  36. Remove on BLM land only, where necessary, small trees in avalanche paths in all Zones to improve the overall safety and skiing, as approved each season by the BLM.
- ### 1.5.7 – Transportation
37. If peak-day parking proved to be inadequate due to lower than anticipated vehicle occupancy rates, instituting a shuttle service between Silverton and SOLRC will reduce parking requirements at the ski area.
- ### 1.5.8 - Aesthetic Resources
38. Utilizing BMPs and designing facilities to blend with the natural background to insure facilities meet Class II VRM objectives will minimize the visual impact on BLM lands.
  39. Implementing a dust suppression program, including careful scheduling of equipment use, wetting of ex-

posed soil, and use of magnesium chloride, will mitigate any short-term impacts on air quality associated with construction activities. No water from Cement Creek should be withdrawn for this purpose.

40. Using EPA-approved wood-burning devices will mitigate long-term impacts from wood-burning stoves and fireplaces.

### 1.5.9 - Cultural Resources

41. Rerouting proposed trails and relocating proposed facilities to avoid historic properties that have been identified or could be identified during future archaeological surveys or construction activities will reduce potential impacts to these sites.
42. Restricting selective tree removal around known historic sites will reduce potential direct impacts to these sites. Buffer size will be determined on a site-by-site basis, as appropriate to limit visibility of selected sites.
43. Ensuring that selective tree removal will not facilitate access to select historical sites will help protect these sites from vandalism and souvenir collection.
44. Designing and implementing a cultural resource management plan for historic properties that prioritizes these properties for an annual site monitoring program, field documentation of structures and associated cultural remains, and scheduling for Historic American Buildings Survey and Historic American Engineering Record (HABS/HAER) documentation, and opportunities for on-site interpretation, in consultation with the SHPO, will protect the cultural values of the project area.

45. A public-education plan or on-site interpretation of the historic value of the project area, in consultation with the SHPO, will enhance the summer programs offered by SOLRC.
46. Providing information to guests regarding the importance of historical sites, the public's responsibility to avoid disturbing such sites, the laws protecting cultural resources will help minimize impacts and further educate the public about the historic value of the project area.

## 1.6 PUBLIC INVOLVEMENT

### 1.6.1 - Overview

Public involvement is a central component of the NEPA process, and several opportunities for participation by interested individuals, organizations, and agencies were provided throughout the course of this EIS process. Two formal scoping comment periods and several public meetings have been completed to assist the BLM in identifying the environmental issues and concerns to be addressed through this NEPA process. The first scoping period was from August 9 through September 7, 2001, following initiation of the original EA process. Public meetings were held during this period at Durango (August 22) and Silverton (August 23). The BLM received 139 scoping responses comprising 408 specific comments.

When the decision was made to initiate an EIS, an NOI was published in the *Federal Register* on September 3, 2002. The NOI initiated another formal scoping period that ended on October 30, 2002. A public meeting was convened in Silverton on September 24, 2001. This scoping effort generated responses from 206 individuals, organizations, and agencies raising 630 specific comments.

Public notices of the meetings and scoping periods were published in the Durango Herald and Silverton Standard newspapers. A list of interested parties also received notice of the meetings and scoping periods by direct mail. Following these scoping periods, responses were reviewed and specific comments were extracted, sorted, and summarized. This process was documented in a scoping report prepared for the project (TetraTech/Cirrus 2002).

This public scoping input complemented the results of the agency's internal review of SOLRC's proposal. NEPA requires interdisciplinary analysis, and the interdisciplinary team (ID team) of agency specialists assembled for this NEPA process reviewed the proposal and identified the issues and concerns they felt the EIS should address. Some of these involved compliance with various statutory requirements such as pertinent terms of the Endangered Species Act, the National Historic Preservation Act, and Section 404 of the Clean Water Act. The results of ID team review are also documented in the scoping report.

Collectively, scoping and internal agency review yielded a number of substantive issues that guided the analysis documented in the Draft PRMPA/FEIS. The scoping report itself provides more detail on the content of the comments. The Draft PRMPA/FEIS was released on June 20, 2003 and remained open for public comment until September 18, 2003. The PRMPA/FEIS was released on August 6, 2004. It included changes made on the basis of public comments on the DEIS, additional data collection completed since the DEIS was released, consultation with other federal and state agencies, and other miscellaneous changes. A 30-day protest period was provided on the PRMP Amendment/Final EIS from August 6, 2004 until September 7, 2004, in accordance with 43 CFR Part 1610.5-2. Two protests were received (see section 1.2.1 for further discussion on protests).

## **1.6.2 - Biological Assessment for US Fish & Wildlife Service Review**

Formal Section 7 ESA consultation was initiated by the BLM with the FWS on July 25, 2003, with the submission of a Biological Assessment (BA) prepared for this project. Additional information regarding the Proposed Action, specifically regarding thinning and the Alternative Lift Trail, was requested by the FWS and then provided on April 8, 2004, in a revised BA for Canada lynx. Associated changes on these topics were made to this PRMP Amendment/Final EIS, and Section 7 consultation was completed with a Biological Opinion issued July 15, 2004.

Additional consultation was initiated July 9, 2005, for the use of helicopters for both avalanche mitigation activities and guided skiing; and for widening the alternative lift trail from 6 to 15 feet. The conclusion in the biological opinion was that these additional actions do not cause any effects not previously considered.

## **CHAPTER 2 – APPROVED RESOURCE MANAGEMENT PLAN AMENDMENT**

### **2.1 PURPOSE AND NEED FOR THE RMP AMENDMENT**

The CEQ regulations for implementing NEPA direct that agencies define the underlying purpose and need to which they are responding in preparing an EIS (40 CFR 1502.13). In this instance, SOLRC submitted an application for authorization to conduct long-term commercial operations on BLM administered lands. SOLRC's objective is to establish a viable business enterprise, drawing on the project area's

outstanding natural resource base to provide unique forms of mountain recreation and education.

The BLM is responding to SOLRC's application in accordance with NEPA and FLPMA, analyzing and disclosing the environmental impacts of issuing the requested land-use authorization and reviewing the Proposed Action for conformance with the RMP. A successful operation would further the BLM's objective of providing a broad range of recreational opportunities on the lands under their administration.

## 2.2 PLANNING AREA AND MAP

SOLRC was established in 1999 at a site about 6 miles north of Silverton, CO, near the Gladstone townsite on County Road 110 (see map). Their private-land operation was approved by San Juan County in June of 2000. Their approved County Final Plan includes provision for all private-land development and supporting infrastructure including access, parking, a base lodge, overnight rental units, culinary water and wastewater systems, a chairlift, and various other adjunct facilities. Based on the design capacities of the facilities comprised by SOLRC, the County-approved Final Plan projected useage at 475 visitors per day.

SOLRC's goal is to offer small-scale, year-round outdoor education and recreation programs, with lift-served, backcountry-style skiing as a central component. To date, operations have occurred on about 344 acres of private land that SOLRC owns or has rights to use, and on approximately 1,300 acres of BLM administered land used under annual Special Recreation Permits. Snow safety studies and avalanche control have been conducted for 5 years (including the 2004/05 season), under BLM Snow and Avalanche Study Permits, on the public land portion. See Appendix 3- SOLRC Project Elements Map.

## 2.3 ISSUES DEVELOPED DURING SCOPING

An "issue" is defined as a matter of controversy, dispute, or general concern over resource management activities, the environment, or land uses. Many other basic environmental and management issues are also addressed to provide comprehensive management guidance for all resources and to satisfy legal requirements.

The public-scoping input complemented the results of the agency's internal review of SOLRC's proposal. NEPA requires interdisciplinary analysis, and the interdisciplinary team (ID team) of agency specialists assembled for this NEPA process reviewed the proposal and identified the issues and concerns they felt the EIS should address. Some of these involved compliance with various statutory requirements such as pertinent terms of the Endangered Species Act, the National Historic Preservation Act, and Section 404 of the Clean Water Act. The results of ID team review are also documented in the scoping report.

Collectively, scoping and internal agency review yielded a number of substantive issues that guided the analysis documented in the Draft EIS. The scoping report itself provides more detail on the content of the comments, and it was consulted by the specialists completing the analysis of these broad topics.

### 2.3.1 - Issues Used to Develop Alternatives

#### Snow Safety

In terms of action alternatives, only one alternative-driving issue was identified through scoping and internal, agency review: snow safety, particularly in regard to avalanche hazard. On the basis of public input and internal ID team review, Alternatives B and C were developed to address

the snow safety concern. The proposed permit area is subject to frequent and severe avalanche hazard, and the primary safety issue raised was snow safety. Specific concerns included SOLRC's capability to adequately provide for the safety of their guests and the issue of liability for avalanche related injuries.

### **2.3.2 - Issues Addressed in Other Parts of the EIS**

The issues addressed in the EIS are presented below in order, from physical resources, to biological resources, to human aspects of the environment. While all substantive issues identified through scoping and internal interdisciplinary review were addressed in this analysis, only one issue, snow safety, resulted in the generation of alternatives.

#### **Watershed Resources**

The Cement Creek watershed has been severely impacted by mining activity, and a number of concerns were raised regarding additive impacts due to the proposed SOLRC operation. These concerns included: the potential for human waste to contaminate water, increased soil erosion due to construction and bicycle use, and the water quality impacts of avalanche-control explosives. Concern regarding the availability of adequate potable water for SOLRC was also noted.

#### **Vegetation**

The permit area comprises different vegetation types, ranging from wetland and riparian areas in Colorado Basin and along Cement Creek, through upper montane spruce-dominated forest, to alpine communities at higher elevations. Comments cited potential impacts of construction and summer recreation on special status plant species (i.e., federal and state listed threatened and endangered species as well as BLM and Forest Service identified sensitive

species), on alpine vegetation communities, and on wetlands and riparian areas.

#### **Wildlife**

Associated with the project area's diverse vegetation communities are a range of wildlife species. Potential impacts to special status species, particularly Canada lynx, were identified as a key concern by the USF&WS. Potential impacts to elk, grouse, ptarmigan, subnivian species, and aquatic species were noted, and assessment of the effects of summer recreation, winter recreation, avalanche control, and facility construction on these species was requested by the public.

#### **Land Use**

Public land and resources in and adjacent to the proposed project area provide for a number of current uses, including various forms of dispersed recreation, livestock grazing, and mining-related activities. There are also a number of private inholdings within the proposed permit area. These are patented mining claims, some of which have not been developed beyond the level necessary to secure the original patent, while others have been developed with recreational or year-round residences. Right-of-way authorizations exist in the vicinity of the proposed permit area for roads (CR 110, CR 52, and access roads), powerlines, telephone, and communication sites. Concerns regarding the Proposed Action's impact on land use involved changes in public land access and use, the impacts to existing uses of public lands, SOLRC's ultimate objectives, and impacts to other private property and property rights within the proposed permit boundary.

#### **Socioeconomics**

The potential for positive impacts to the depressed economies of Silverton and San Juan County was the basis for many expressions of support for the project. Specific issues raised included effects on local

business, resident and visitor populations, and local schools. Potential increases in property values, taxes, and the cost of public services, including search and rescue and emergency medical services, were also noted, as was the availability of adequate emergency medical services.

### **Recreation**

Comments in this category cited the unique nature of the SOLRC skiing experience (i.e., advanced, lift-served backcountry skiing with limited associated infrastructure), its lower level of impact on the environment, and its lower price relative to other resort or commercial guided skiing options. The main issue raised was whether SOLRC would in fact attract enough guests to achieve the desired purpose and need and to justify the allocation of public resources. An adequate balance between on-mountain and base-area capacities at SOLRC was also a cited concern. (Note: the issue of access to the permit area by other recreationists is addressed under Land Use.)

### **Safety**

The proposed permit area is subject to frequent and severe avalanche hazard, and the primary safety issue raised was snow safety. Specific concerns included SOLRC's capability to adequately provide for the safety of their guests and the issue of liability for avalanche related injuries. The potential hazard to SOLRC visitors posed by abandoned mines was cited, as were the potential for collisions between SOLRC skiers and snowmobilers on CR 52, the potential for heightened wildfire hazard due to increased visitation, and the risk of lightning strikes.

### **Transportation**

Access to the project area from Silverton is via CR 110. Commentors questioned the capacity of the road to handle the additional traffic, the adequacy of parking for

SOLRC, the impact of avalanche control efforts and associated closures on traffic and parking, and how emergency access would be maintained.

### **Aesthetic Resources**

The relatively undisturbed, natural character of the project area accounts for much of its attraction to recreationists, sightseers, other visitors, and residents. The potential impacts of construction noise and dust, avalanche control explosives, and proposed structures on the area's aesthetic values were noted by commentors, as was concern over the long-term visual impact if the operation should fail.

### **Cultural Resources**

The project area includes several historic mining sites. Potential impacts to such sites were a cited concern.

## **2.4 PLANNING CRITERIA**

Planning criteria identify the legal, policy, and regulatory constraints that direct the BLM or limit the agency's ability to resolve issues. Planning criteria are based on standards prescribed by applicable law and regulations, agency guidance, information pertinent to the planning area, as well as coordination with other government agencies and the public. These criteria guided the BLM in developing management alternatives for the SOLRC PRMPA/FEIS and include the following:

- The PRMPA/FEIS is a management plan amendment for the long-range protection and management of the BLM lands within the project area.
- The PRMPA/FEIS reflects the legislative intent to conserve, protect, and enhance the area to benefit current and future generations and the unique and

nationally important values of the land.

- The PRMPA/FEIS complies with the Federal Land Policy and Management Act (FLPMA) of 1976 and all other applicable laws.
- The planning process includes a PRMPA/FEIS that will comply with the standards of the National Environmental Policy Act (NEPA) of 1969.
- The planning process involves consultation with Native American tribes.
- The PRMPA/FEIS considers the geological, cultural, paleontological, natural, scientific, recreational, environmental, biological, wilderness, wildlife education, and scenic resources, allowing establishment of interpretive sites or facilities designed to protect these resources.
- The PRMPA/FEIS allows continued management of grazing leases and permits in accordance with current BLM policy.
- The PRMPA/FEIS recognizes the Colorado Division of Wildlife's (CDOW) responsibility to manage wildlife on BLM-managed lands. The BLM consults with CDOW in establishing policy for the purposes of protecting public safety, administration, and public use and enjoyment.
- The PRMPA/FEIS strives to comply with existing plans and policies of adjacent local, state, and federal agencies, other laws and regulations, and other applicable legal or regulatory guidance.

## 2.5 PLANNING PROCESS

### 2.5.1 - Relationship to BLM Policies, Plans, and Programs

BLM policies, plans, and programs pertinent to the SOLRC proposal are reflected in the San Juan/San Miguel Planning Area Resource Management Plan (RMP). In general terms, the RMP's recreational resource objective is as follows (p. 13): "A wide range of outdoor recreation opportunities will continue to be provided for all segments of the public, commensurate with demand."

The RMP goes on to provide specific management guidance for areas with a recreation emphasis (Area C). These areas are of two types, special recreation management areas (SRMAs) "where recreation is defined and recognized as *the* principal management objective," and extensive recreation management areas (ERMAs), "where recreation is not the principal management objective but may be an issue or concern of some significance."

For areas with recreation management emphasis, "[t]he primary management goal is to insure the continued availability of outdoor recreation opportunities which the public seek and which are *not* readily available from other public or private entities. Secondary goals include protecting resources, meeting legal requirements for visitor health and safety, and mitigating resource user conflicts involving recreation" (RMP, p. 33.).

Recreation objectives for these recreation management areas are "to provide dispersed and resource-dependent types of recreation opportunities such as cross-country skiing, hunting, hiking, boating, jeeping, and fishing and to deal with the limited number of situations which require special or more intensive types of recreation management. Decreases in non-recreational outputs may occur. Invest-

ments will be concentrated in SRMAs and in those ERMAs where these recreation program goals apply.” (RMP p.33.)

The Silverton area is identified as an SRMA. The RMP includes direction to “continue intensive recreation management of the Silverton Special Recreation Management Area. Provide for a blend of settings and opportunities that tend toward the resource-dependent end of the BLM’s Recreation Opportunity Spectrum (ROS) system.” The RMP calls for development and implementation of a recreation area management plan (RAMP) for the Silverton SRMA. This plan was completed in May, 1986 (BLM 1986b). The stated purpose of the plan is “to establish management objectives and actions to effectively provide for appropriate recreation activities, settings, and experiences” (p. 4). It notes that the ROS is the framework for planning and management of recreation, and that the ROS recognizes individual recreationists differ in needs and desired experiences. It emphasizes the dispersed forms of recreation (i.e. those that involve mobile activities on extensive land areas and are generally not site specific) that were and continue to be the primary use of the SRMA. While it does not mention fixed-base, commercial recreation of the type represented by SOLRC, the plan does recognize that the public seeks diverse and changing recreational opportunities. Thus, while the plan provides no specific direction relevant to SOLRC, the proposal is consistent with its purpose and overall objectives.

Neither the RMP nor the Silverton area RAMP specifically address lift-served skiing and sightseeing at SOLRC. To update the RMP accordingly, and amendment is being proposed to add these activities to the allowable uses (kinds and levels of recreation) authorized on BLM-administered public land specific to the SOLRC permit area within the Silverton SRMA.

## **2.5.2 - Relationship to Non-BLM Policies, Plans, and Programs**

The most relevant non-BLM plans, policies, and programs are those of San Juan County. On June 12, 2000, the Board of County Commissioners, San Juan County approved SOLRC’s Final Plan as it addresses development on private land. A letter to SOLRC from the Board documenting this approval states, “When making its final decision, the Board considered this [public] input along with the application requirements set forth in by San Juan County’s Zoning and Land Use Regulation . . . While the Board approved development of the SOLRC based on the proposal’s compliance with San Juan County’s land use regulations and Master Plan, the Board also supports the project on the grounds that it will likely be of great benefit to the local economy” (Board of County Commissioners, San Juan County 2000). While the project must comply with specific county regulations to obtain required permits, these statements indicate that the SOLRC project has been reviewed for compliance with the county policies and plans applicable to this phase of project planning and has been found to comply.

On November 20, 2003, San Juan County adopted the *SOLRC/San Juan County Cooperative Avalanche Reduction Plan for San Juan County Roads 110 and 52* (San Juan County 2003), authorizing SOLRC to conduct specified avalanche control activities and associated road closures in portions of the CR 110/52 corridor. The purpose of the plan is to reduce some of the hazards on CR 110 and CR 52 from adjacent avalanche paths, thereby keeping these roads safe for public use. A discussion of this plan has been included in appropriate sections throughout this PRMP Amendment/Final EIS.

Other permits, approvals, and consultations that may be required include the fol-

lowing:

1. USF&WS- Section 7 Consultation and Biological Opinion
2. US Army Corps of Engineers- Section 404 permits
3. Colorado Tramway Board- Permit to operate chairlift
4. Colorado State Historic Preservation Office- Section 106 Consultation
5. Colorado Department of Health and Environment- Various health and environmental permits
6. Private landowners- Access agreements
7. Southern Ute, Northern Ute, and Ute Mountain Indian Tribes- Consultation

## **2.6 MANAGEMENT DECISIONS**

### **2.6.1 - Goals and Objectives**

The SOLRC project area is located with the Silverton Special Recreation Management Area (SRMA). Within the SRMA, recreation is defined and recognized as the principle management objective in the San Juan/San Miguel RMP. For areas with a recreation management emphasis, the San Juan/San Miguel RMP states, “the primary management goal is to insure the continued availability of outdoor recreation opportunities which the public seek and which are not readily available from other public or private entities. Secondary goals include protecting resources, meeting legal requirements for visitor health and safety, and mitigating resource user conflicts involving recreation” (RMP, p.33). See Section 2.5.1 of the ROD for further discussion on the San Juan/San Miguel RMP goals and objectives.

SOLRC’s objective is long-term continued operation of a small-scale, year-round, outdoor learning and recreation facility. SOLRC plans on providing continuing education programs that promote safe and responsible recreation with a strong environmental ethic. Educational programs will include but not be limited to field sessions in avalanche safety, backcountry ski travel, mountaineering, backcountry medicine, mountain rescue, weather studies, geology, environmental studies, ecology, adventure writing, film making, environmental art, nature photography, outdoor adventure, and sustainable building techniques.

SOLRC will include a lift-assisted backcountry type ski area that will provide a skiing experience that resembles helicopter or guided skiing. SOLRC will serve a specialized clientele of advanced and expert skiers and snowboarders interested in difficult alpine terrain, and will offer opportunities to educate users in the skills of ski mountaineering and alpine responsibility.

The ski operation is the core of SOLRC’s proposal. The project area’s location, in the heart of the San Juan Mountains, provides an ideal locale for meeting the center’s objectives in regard to skiing. The area is isolated, and the alpine terrain is high, steep and rugged, including ridges, bowls, and couloirs above timberline as well as natural glades and avalanche chutes below. By facilitating access to such terrain with the bare minimum of ski-area infrastructure, SOLRC intends to create and fill a dynamic new niche in a ski industry that has seen little growth in more than a decade. SOLRC will also build on the unique aspects of the setting in expanding other four-season recreational and educational programs.

SOLRC has offered similar programs on a limited basis for the past 4 years, using private land and BLM administered land under annual permits. Their current pro-

posal would allow SOLRC to expand, offering a more comprehensive program to a larger segment of the public.

## **2.6.2 - Actions (Amendment Approval and Issuance of Lease)**

### **Land Use Plan Decision Approval**

The decision is to approve the Proposed Resource Management Plan (PRMP) Amendment and the Preferred Alternative (Alternative C, Integrated Guided and Unguided Operation), as modified to incorporate limited helicopter use, of the Final

Environmental Impact Statement for the Silverton Outdoor Learning and Recreation Center. Approval of the RMP Amendment allows the BLM to issue a lease to SOLRC.

### **Implementation Decision to Issue the Lease**

The lease is being issued in the form of a 40 year commercial occupancy lease. The commercial occupancy lease is being issued under the authority of FLPMA, section 302(b), as implemented through regulations under 43 CFR Part 2920, Leases, Permits, and Easements (see Appendix 2- Lease).

## APPENDIX 1 – GLOSSARY OF ACRONYMS

### ACRONYMS

ATV	All Terrain Vehicle
BA	Biological Assessment
BLM	Bureau of Land Management
CAA	Clean Air Act
CAIC	Colorado Avalanche Information Center
CDOT	Colorado Department of Transportation
CEQ	Council on Environmental Quality
CNHP	Colorado Natural Heritage Program
CR 2	San Juan County Road 2 (includes the road formerly called State Highway 110B)
CR 52	San Juan County Road 52
CR 110	County Road 110 (formerly State Highway 110A)
DEIS	Draft Environmental Impact Statement
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ERMA	Extensive Recreation and Management Areas
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
LAU	Lynx Analysis Unit
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NOA	Notice of Availability
NOI	Notice of Intent
RAMP	Recreation Area Management Plan
RMP	<i>San Juan/San Miguel Planning Area Resource Management Plan</i>
ROD	Record of Decision
ROS	Recreation Opportunity Spectrum
SAFO	Silverton Avalanche Forecast Office
SHPO	State Historic Preservation Office
SOLRC	Silverton Outdoor Learning and Recreation Center
SRMA	Special Recreation and Management Areas
SRP	Special Recreation Permit
VRM	Visual Resource Management
VTF	Vertical Transport Feet

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## APPENDIX 2 – LEASE

### U. S. DEPARTMENT OF THE INTERIOR Bureau of Land Management

#### Commercial Occupancy Lease Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732)

COC-64613

#### **Section 1 – Basic Agreement**

The United States of America, acting by and through the Colorado State Director, Bureau of Land Management, United States Department of the Interior (hereinafter referred to as the “BLM”), hereby leases to Core Mountain Enterprises (hereinafter referred to as the “holder”), a Colorado limited liability company, whose address is P.O. Box 856, Silverton, Colorado 81433, for the purposes stated herein, a parcel of public land described as follows:

All public lands within a metes and bounds parcel located within portions of Sections PB 55, 56, 57, 63, 64, 65, 66, 68, and 69 of T. 42 N., R. 7 W., New Mexico Principal Meridian, Colorado, as shown on Amended Protraction Diagram No. 24 C (accepted on September 25, 2000), excluding any patented mining claims or portions thereof within the parcel. The exterior boundaries of said parcel are depicted on the location map, which is attached hereto as Appendix A and made a part of this lease.

The above-described area comprises approximately 1,300 acres and shall be referred to herein as the “lease area.”

#### **Section 2 – Purpose of Lease**

This lease is issued to authorize the holder to use the above-described public lands for the following purposes:

- Constructing, operating, and maintaining a public ski and winter sports area. This lease authorizes, at holder’s discretion, the right to offer to the public, either a combination of guided and unguided access or all guided access, for approximately 475 skiers daily, to the entire lease area not closed or otherwise restricted for snow safety reasons.
- Operating and maintaining lift service and other aerial access to the lease area as may be approved in the appropriate annual operating plan and in compliance with applicable law. If approved in the annual operating plan, and after an opportunity for public comment, the authorized officer may allow limited helicopter access to the lease area for avalanche mitigation, rescue operations, and for guests accompanied by guides to access specific terrain identified in the operating plan.
- Conducting special events, public hiking, mountaineering, mountain biking, sight-seeing, and educational programs year-round.
- Constructing, operating, and maintaining up to six temporary foot/skier bridges across Cement Creek within the lease area.

- Constructing, operating, and maintaining an approximately 1.7-mile long non-mechanized hiking trail from the ridgeline near the upper lift terminal down into the Colorado Basin, connecting with San Juan County Road 52.
- Constructing, operating, and maintaining an approximately 2.3- mile long trail/road, up to 15 feet in width, from the base area to the top of the lift for hiking, mountain biking, and snow machine access, ingress, and egress for purposes related to operating and maintaining the public ski and winter sports area authorized in this lease.
- Operating and maintaining an approximately 2.6 mile long summer and winter mountaineering route generally following the ridgeline south from the upper terminal of the chairlift, eastward across the top of Storm Peak, then northward and westward around the lease area boundary to tie into San Juan County Road 52 between the cirque lake in Colorado Basin and Gladstone.
- Construction, operation, and maintenance of a solar-powered radio repeater near the existing radio reflector on 13,053 Peak (an unnamed peak northwest of Storm Peak, within the lease area).

The facilities and uses authorized under this lease are more particularly described in the plan of development and the annual operating plans referenced in Section 6 of this lease.

### **Section 3 – Authority and Authorized Officer**

A. Authority. This lease is issued pursuant to the Section 302(b) of the Federal Land Policy and Management Act (43 U.S.C. 1732), and the regulations at Title 43, Code of Federal Regulations, Subpart 2920. This lease, and the activities or uses authorized hereunder, shall be subject to the terms and conditions specified in the regulations of the Secretary of the Interior and any subsequent amendment to them.

B. Authorized Officer. The San Juan Public Lands Center Manager, 15 Burnett Court, Durango, Colorado 81301, is hereby designated as the authorized officer with the authority to perform the BLM's duties under the terms and conditions of this lease. The authorized officer may designate a representative or representatives to administer specific portions of this lease.

### **Section 4 – General Terms and Conditions**

A. Amendment. This lease may be amended in whole or in part by the BLM when, at the discretion of the authorized officer and with the agreement of the holder, such action is deemed necessary or desirable to authorize additional uses or facilities or to incorporate new terms, conditions, and stipulations as may be required by law, regulation, land management plans, or other management decisions.

B. Existing Rights. This lease is subject to all valid existing rights and claims of third parties. The United States shall not be liable to the holder for damages the holder incurs as the result of the exercise of any such right or claim.

C. Nonexclusive Use and Public Access. The United States reserves the right to use the public lands included in the lease area or to authorize the use of the public lands included in the lease area by the general public in any way compatible or consistent with the holder's authorized use. Unless expressly provided for in additional terms in this lease or in the ap-

proved annual operating plans referenced in Section 6 of this lease, the holder shall not close or otherwise obstruct the use of roads or trails commonly in public use on any of the public lands included in the lease area. The final determination of any conflicting uses is reserved to the authorized officer.

D. Federal Government Right of Entry and Inspection. Authorized representatives of the Department of the Interior, other federal agencies, and state and/or local law enforcement personnel shall at all times have the right to enter the lease area and related facilities that are directly involved with lease operations on official business. The United States reserves the right of unrestricted access to the lease area, and reasonable access to the ski lift, base lodge, patrol shacks (top and bottom), and explosive mixing shacks and storage areas owned by Core Mountain Enterprises and located on private land adjacent to the lease area, by federal personnel and/or their authorized agents or representatives on official business to ensure compliance with laws, regulations, and ordinances, and the terms and conditions of this lease.

E. Assignability. This lease may be voluntarily transferred only in accordance with the regulations at 43 CFR 2920.7(j) and upon the filing with the authorized officer of a written request for transfer and a statement, in writing, that transferee agrees to be bound by all the terms, conditions, and stipulations of the lease. If a transfer is requested, the authorized officer may modify the terms and conditions of this lease to reflect any new requirements imposed by current federal or state land use plans, laws, or regulations, and the transferee shall agree, in writing, to comply with and be bound by the terms and conditions of the lease, as modified. The lease must be in good standing in order to be transferred, and the transfer shall not take effect until approved by the authorized officer. The authorized officer shall in his or her discretion decide whether to approve the transfer.

F. Transfer of Operating Rights (Subleasing). The holder may transfer its right to conduct operations on the lease area and facilities covered under this lease to a third party for an agreed upon period of time, provided the holder has obtained the prior written consent of the authorized officer. The authorized officer reserves the right in his or her discretion to decide whether to approve the transfer of operating rights. The holder shall continue to be responsible for compliance with all conditions of this lease by persons to whom operations may be transferred for a period of time pursuant to this paragraph.

G. Involuntary Transfer. If the holder, through involuntary sale or transfer, enforcement of contract, foreclosure, or other valid legal proceedings ceases to be the owner of any of the facilities authorized under this lease, or the ski lift, base lodge, patrol shacks (top and bottom), and explosive mixing shacks and storage areas located on private land adjacent to the lease area, this lease shall automatically terminate by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

H. Lease Limitations. The holder shall not commence any activities authorized under this lease until the plans referenced in Section 6 of this lease have been submitted and approved by the authorized officer. Nothing in this lease allows or implies permission for the holder to build or maintain any structure or facility, or to conduct any activity other than those specifically provided for in this lease and a current approved annual operating plan. Any use or facility not specifically identified in this lease, or a current, approved annual operating plan, must be approved, in advance, as a written amendment to this lease issued by the authorized officer and accepted by the holder in writing.

I. Use of Non-Public Lands. This lease only authorizes the holder to use the lands described in Section 1. It does not explicitly or implicitly authorize the holder to use any non-public lands, including private, city, county, state, or any federal land other than the public lands included in the lease area, except those owned or controlled by the holder, its members, or its affiliates. The holder shall comply with the Colorado Ski Safety Act of 1979, as amended.

J. Access to Public Lands. The BLM does not guarantee legal access to any of the public lands included in the lease area. Where legal public access is not available to the public lands included in the lease area, the holder shall comply with the Colorado Ski Safety Act of 1979, as amended, including provisions requiring the holder to mark the boundaries of the area. To the extent the holder wishes to access public lands included in the lease area to which legal access is not available, the holder shall be responsible for obtaining permission from other landowners to travel through or use non-public lands. As part of the annual operating plans referenced in Section 6 of this lease and in order to facilitate the BLM's orderly administration of the lease, the holder shall provide evidence satisfactory to the authorized officer of agreements indicating the holder's right to access public lands through non-public lands in a form including, but not limited to, properly executed affidavits.

### **Section 5 – Tenure and Issuance of a New Lease**

A. Term of Lease. This lease shall be for a term of forty (40) years, which shall commence on the date the lease is signed by the BLM San Juan Public Lands Center Manager.

B. Expiration at the End of the Authorized Period. This lease will expire forty (40) years from the date the lease is signed by the BLM San Juan Public Lands Center Manager, at midnight on the day before the anniversary date when the lease was actually signed. Expiration shall automatically occur by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

C. Notification of Authorized Officer. If the holder desires issuance of a new lease after expiration, the holder shall notify the authorized officer in writing not less than six (6) months prior to the expiration date of this lease.

D. Conditions for Issuance of a New Lease. At the expiration of this lease, the holder shall, upon the filing of a request for a new lease, be the preferred user for a new lease, if the public lands are not needed for another use, and subject to the following conditions:

1. The lease area is still needed for the purposes previously authorized;
2. The lease area is being operated and maintained in accordance with the provisions of the lease; and
3. The holder has shown previous good faith compliance with the terms and conditions of all prior or other existing leases and has not engaged in any activity or transaction contrary to Federal contracts, permits, laws, or regulations.

E. Discretion of the Bureau of Land Management. Notwithstanding any provisions of any prior or other lease, the authorized officer may prescribe new terms, conditions, and stipulations when a new lease is issued.

## **Section 6 – Responsibilities of the Holder**

A. Compliance with Laws, Regulations, and other Legal Requirements. The holder shall comply with all applicable Federal, State, and local laws, regulations, and standards established for air and water quality, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq.; and other relevant laws established to minimize damage to scenic, cultural, and aesthetic values, fish and wildlife habitat, and otherwise protect the environment. The holder shall comply with Federal, State, and local public health and safety laws and other laws relating to environmental protection and the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the lease area consistent with the purposes of this lease.

B. Compliance with State, County, and Municipal Laws. The holder shall comply with all present and future state, county, and municipal laws, ordinances, or regulations that are applicable to the area or operations covered by this lease to the extent they are not in conflict with federal law, policy or regulation. The BLM assumes no responsibility for enforcing state, county, and municipal laws, ordinances, regulations, or other legal requirements that are under the jurisdiction of other governmental bodies.

C. Plan of Development. The holder shall provide a plan of development encompassing all facilities envisioned for development in connection with the public lands authorized for use under this lease. The plan of development shall identify measures and best management practices to be implemented to mitigate environmental impacts associated with construction of all facilities authorized under this lease. The plan of development, as well as revisions of such plan, must be prepared by a licensed engineer, architect, and/or landscape architect or other qualified individual acceptable to the authorized officer, including but not limited to, holder, and shall be approved by the authorized officer, in writing, prior to commencement of any work. Additional construction beyond maintenance of existing improvements shall not be authorized until the plan of development has been amended. When approved by the authorized officer, the approved plan of development, and any revisions thereto, shall be incorporated into and made a part of this lease.

D. Site Development Schedule. The holder and the BLM shall jointly prepare a schedule for the progressive development of the lease area and installation of facilities, which shall be incorporated into and made a part of this lease. Such schedule shall be prepared and submitted to the authorized officer within sixty (60) days following execution of this lease. The authorized officer shall have thirty (30) days after receipt of the schedule, to review and approve the schedule or identify changes that need to be made prior to approval of the schedule. Within twenty-one (21) days after the BLM receives a revised schedule from the holder, the BLM shall respond and approve the schedule or identify further required changes. The schedule shall set forth an itemized priority list of planned improvements and the date for completion. The holder may accelerate the scheduled date for installation of any improvement authorized, provided the other scheduled priorities are met, and all priority installations authorized are completed to the satisfaction of the authorized officer and ready for public use prior to the scheduled date for completion.

1. All required plans and specifications for site improvements and structures included in the site development schedule shall be properly certified and submitted to the authorized officer at least forty-five days before the construction date stipulated in the site development schedule.
2. In the event there is agreement with the BLM to expand the facilities and services provided on the lease area, the holder shall jointly prepare with the BLM a development schedule for the added facilities prior to any construction. Before facilities and services may be expanded, the holder must also comply with and meet the requirements of paragraphs 4.A, 4.G, 6.C, and any other applicable paragraphs of this lease.

E. Annual Operating Plans. The holder shall prepare and annually revise by October 1 of each calendar year a winter operating Plan, and by May 1 of each calendar year a summer operating plan for the Silverton Outdoor Learning and Recreation Center (hereinafter referred to as SOLRC). The annual operating plans shall be prepared in consultation with the authorized officer or designated representative and shall cover all winter or summer operations, as appropriate. The authorized officer shall have thirty (30) days after receipt of any operating plan, to review and approve the plan or identify changes that need to be made prior to approval of the operating plan. Within twenty-one (21) days after the BLM receives a revised operating plan from the holder, the BLM shall respond and approve the plan or identify additional changes that need to be made. The provisions of the annual winter and summer operating plans, when approved by the authorized officer, shall be incorporated into and made a part of this lease.

F. SOLRC Winter Operating Plan. At a minimum, the winter operating plan shall include, but not be limited to the following sections and sub-headings:

1. Introduction.
  - a. Statement of purpose.
  - b. Statement of responsibilities of the holder and other principals.
2. SOLRC ski area organizational policy and procedures.
  - a. Organizational structure and SOLRC organizational chart.
  - b. Names and telephone numbers of SOLRC ski area staff.
  - c. Job descriptions and qualifications required for snow safety team members, ski patrol, and guides.
  - d. Copies of SOLRC policies and procedures pertaining to ski area operations and a reference documentation list stating where policy and procedural documents that address ski area operations are located.
  - e. Advertising policy.
  - f. Commercial filming and still photography policy.
3. Snow safety and avalanche control plan.
  - a. Guided and unguided skiing protocols.
  - b. Dispatching and sweeping procedures for unguided skiing areas.
  - c. Procedures for identifying extreme conditions.
  - d. Implementing and enforcing closures to protect public health and safety.
  - e. Avalanche control.
  - f. Storage and use of explosives, including explosives make-up room.
  - g. Corridor avalanche management for access roads, including San Juan County Roads 52 and 110.
  - h. Search and rescue.

- i. Avalanche rescue.
  - j. Ski patrol and first aid.
  - k. Emergency access and egress.
  - l. Aerial lift evacuation.
4. Boundary management plan.
  - a. Identifying, marking, and managing external and internal boundaries for guided and unguided skiing.
  - b. Posting closed private property boundaries as required by the Colorado Ski Safety Act of 1979 (as amended), including roping off and/or clearly posting closed boundaries delineated by private property owners.
  - c. Sign and gate placement and maintenance.
  - d. Coordinating enforcement of the boundary management plan with local authorities.
5. Operations and maintenance.
  - a. Dates of winter operating season.
  - b. Special events schedule.
  - c. SOLRC resort services and facilities on private land.
  - d. SOLRC resort services on BLM administered lands.
  - e. Trail map for guests.
  - f. Ski patrol facilities.
  - g. Public warming room.
  - h. Health and sanitation.
  - i. General safety measures.
  - j. Communications and emergency contact procedure.
  - k. Accident reporting.
6. Best management practices to address impacts on natural resources.
  - a. Erosion control.
  - b. Vegetation management.
  - c. Fire management.
  - d. Watershed management.
  - e. Aesthetic resources.
  - f. Cultural resources.
  - g. Recreation.
  - h. Transportation.
  - i. Wildlife resources.

G. SOLRC Summer Operating Plan. At a minimum, the summer operating plan shall include, but not be limited to, the following sections and sub-headings:

1. Introduction.
  - a. Statement of purpose.
  - b. Statement of responsibilities of the holder and other principals.
2. SOLRC summer activities and operations organizational policy and procedures.
  - a. Organizational structure and SOLRC organizational chart.
  - b. Names and telephone numbers of SOLRC summer staff.
  - c. Copies of SOLRC policies and procedures pertaining to summer activities and operations and a reference documentation list stating where policy and procedural documents that address summer operations are located.
  - d. Advertising policy.
  - e. Commercial filming and still photography policy.

3. Boundary management plan.
  - a. Identifying, marking, and managing external and internal boundaries for summer activities.
  - b. Posting closed private property boundaries delineated by private property owners.
  - c. Coordinating enforcement of the boundary management plan with local authorities.
4. Operations and maintenance.
  - a. Dates of summer operating season.
  - b. Summer activities and events schedule.
  - c. Summer lift operations and maintenance.
  - d. Trail maintenance and signing.
  - d. General safety measures.
  - e. Summer hazards and lightning protocols.
  - f. Health and sanitation.
  - g. Communications and emergency contact procedure.
  - h. Accident reporting.
5. Best management practices to address impacts on natural resources.
  - a. Erosion control.
  - b. Vegetation management.
  - c. Fire management.
  - d. Watershed management.
  - e. Aesthetic resources.
  - f. Cultural resources.
  - g. Recreation.
  - h. Transportation.
  - i. Wildlife resources.

H. Permission. Nothing in this lease shall be construed to imply permission to conduct any activity or build or maintain any improvement not specifically named in the plan of development, or a current, approved annual operating plan, or as further authorized in writing by the authorized officer, or which is outside the scope of the uses authorized in Section 2 of this lease.

I. Operation and Maintenance. The holder shall operate and maintain the improvements and lease area to standards of repair, orderliness, neatness, sanitation, and safety reasonably acceptable to the authorized officer. The authorized officer may conduct periodic inspections, and the holder shall comply with any requirements identified by the authorized officer as necessary to meet reasonable standards for operations and maintenance of the improvements and lease area.

J. Reporting Requirements. Within 30 days after the close of the business year for the Silverton Outdoor Learning and Recreation Center, the holder shall provide the authorized officer a financial report representing the ski area's financial condition at the close of its business year and an annual operating report representing the results of operations. The annual financial report shall include, at a minimum, the total number of clients served during the business year, total number of staff and other non-paying clients served during the business year, total receipts, and total deductions claimed. The annual operating report shall report and describe any accidents or injuries that occurred during the business year, avalanche and snow safety data collected, and any management problems or concerns.

K. Access to Records. For the purpose of administering this lease, the holder agrees to make all of the accounting books and supporting records for the business activities conducted by the Silverton Outdoor Learning and Recreation Center available for analysis by qualified representatives of the BLM or other federal agencies authorized to review BLM activities. The holder agrees to make these records available within a reasonable period of time upon request, but no later than twenty-one (21) days after the request. The holder shall retain these records and keep them available for review for 5 years after the end of each business year, unless disposition is otherwise approved by the authorized officer in writing, or if reporting requirements are eliminated. All confidential business information and all information covered by the Privacy Act of 1974 (5 U.S.C. §552a), as amended, shall be protected to the extent allowed under federal law.

L. Hazard Analysis. The holder has a continuing responsibility to identify substantially hazardous conditions on the lease area that would affect the improvements, resources, or pose a risk of injury to individuals. Any non-emergency actions to abate such hazards shall be performed after consultation with the authorized officer. In emergency situations, the holder shall notify the authorized officer, or representative, of its action as soon as possible, but not more than 24 hours, after such actions have been taken.

M. Change of Address. The holder shall immediately notify the authorized officer, in writing, of a change in address.

N. Change of Ownership. The holder shall immediately notify the authorized officer, in writing, when a change in ownership or control of business entity is pending. Upon receipt of the proper documentation and in accordance with paragraph 4.E of this lease, the authorized officer may approve assignment of the lease to the party who acquires ownership of, or a controlling interest in, the improvements or business entity. Notwithstanding anything in this lease to the contrary, holder shall have the right to sublease, transfer or assign this lease to any affiliate of holder by giving prior written notice to the authorized officer. As used in this Section 6(N), the term “affiliate” shall mean any entity controlling, controlled by, or in common control with holder.

## **Section 7 – Liability**

A. Definitions. For the purposes of this section, the term “holder” includes Core Mountain Enterprises, its successors, assigns, and transferees.

B. Loss of Improvements. The holder assumes all risk of loss to the improvements authorized under this lease.

C. Damages to Public Lands and Property. The holder shall pay the United States the full value for all injuries or damage to public lands or other property of the United States caused by the holder or by its employees, agents or servants, or by a contractor, its employees, agents or servants, in connection with the uses and facilities authorized by this lease.

D. Damages or Injuries to Third Parties. The holder shall pay third parties the full value of all injuries or damage to life, person, or property caused by the holder, its employees, or agents, or by a contractor, its employees, or agents as required by law.

E. Indemnification. The holder shall indemnify, defend, and hold harmless the United States for any damages to life, person, or property arising from or in connection with the holder's occupancy or use of the lease area under this lease, including, but not limited to, any claim of personal injury, loss of life, or damage to private lands or property, within or in proximity to the lease area. This clause shall survive the termination or expiration of this lease, regardless of cause. The authorized officer may allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions, to the satisfaction of the authorized officer, in order to mitigate damages in addition to or as an alternative to monetary indemnification.

F. Liability Insurance. The holder shall maintain liability insurance, covering: (1) property damage in the amount of \$50,000 (fifty thousand dollars), and (2) damage to persons in the minimum amount of \$300,000 (three hundred thousand dollars) in the event of death or injury to one individual, and the minimum amount of \$1,000,000 (one million dollars) in the event of death or injury to more than one individual. These minimum amounts and terms are subject to change at the sole discretion of the authorized officer at the five-year anniversary date of this lease. The insurance policy shall name the United States as an additionally insured, and coverage shall extend to property damage, bodily injury, or death arising out of the holder's activities under the lease including, but not limited to, occupancy or use of the land and the construction, operation, and maintenance of the structures, facilities, or equipment authorized by this lease and any amendments thereto. The holder shall furnish proof of insurance to the authorized officer prior to execution of this lease and verify annually, in writing, to the authorized officer, that the liability insurance required under this clause remains in effect. The policy shall also contain a specific provision or rider to the effect that the policy shall not be cancelled or its provisions changed or deleted before thirty days written notice to the authorized officer by the insurance company.

G. Strict Liability. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States. The authorized officer has determined that the activities authorized under this lease present a foreseeable hazard or risk of danger to the public lands and other interests of the United States. The holder shall be strictly liable (liability without proof of negligence) to the United States for any injury, loss, or damage arising under this lease, unless such damage or injury results from acts of war by any party, terrorism, acts of God, or negligence of the United States. Such strict liability shall not exceed \$1,000,000 (one million dollars), unless the authorized officer determines at the time of issuance of this lease that a lesser amount of strict liability is appropriate based upon a risk assessment for the use authorized by this lease. Liability for injury, loss, or damage to the United States in excess of the prescribed amount of strict liability shall be determined under the general law of negligence.

Notwithstanding anything to the contrary in this lease, in no event shall the United States be entitled to double recovery from the holder for any damages. For example, if insurance proceeds from holder's insurance required by Section 4(F) cover the damages in a particular instance, the holder shall not also be strictly liable for such amount.

H. Hazards. The BLM has no duty to inspect the lease area or to warn of hazards and, if the BLM does inspect the lease area, it shall incur no additional duty or liability for identified or non-identified hazards.

I. **Bonding.** The holder shall provide the authorized officer with an originally executed corporate or personal surety bond in the amount of \$10,000.00 to insure fulfillment of the terms and conditions of this lease. The bond and the security for the bond shall be in a form acceptable to the authorized officer and shall be maintained until the authorized officer determines that the holder has satisfied all obligations under this lease and releases the bond. In the event the holder breaches any of the terms or conditions of this lease, the authorized officer may, on reasonable notice, cure the breach and collect the expenses of the corrective action by collecting the bond security. If the BLM at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the terms and conditions of this lease, the sum or sums so paid by the United States, shall, at the election of the authorized officer, be deemed to be additional fees to be collected under the bond.

### **Section 8 – Fees**

A. **Rental.** The holder shall pay annually, in advance, the fair market rental value for the rights conveyed under this lease. The fair market rental value shall be determined by an appraisal prepared under the control and direction of, and approved by, the Department of Interior Appraisal Services Directorate (ASD). The appraised fair market rental must be paid on or before the anniversary date of each year for the term of the lease. The BLM reserves the right to reevaluate the fair market value determination at reasonable intervals of not less than every five years and to request that ASD conduct a reappraisal if necessary to ensure that the United States is receiving fair market value for the use of the public lands in the lease area. The authorized officer shall notify the holder, in writing, as to the rental amount due each year, and the last official fair market value payment will continue in effect until a new value is established and a written notice is mailed to the holder.

B. **Late Charges.** The rental fee required by this section is payable when due. The holder shall pay a late charge, in addition to the regular rental, for failure to meet the rental payment due date. The late charge shall be one percent per month of the unpaid amount, or \$15.00 per month, whichever is greater. The authorized officer will notify the holder, in writing, as to the office location where the payment shall be made. Payments shall be credited on the date received at the designated location. If the due date falls on a non-workday, the late charge shall not apply until the close of business on the next workday.

C. **Failure to Pay Rental.** If the holder fails to pay rental for two consecutive months following notice of payment due, the authorized office may take action to terminate the lease.

D. **Processing Fees.** Each request for renewal, transfer, or assignment of this lease shall be accompanied by a non-refundable processing fee of \$25.00. Each request for modification of or addition to the lease or reconstruction or relocation of any facilities authorized under this lease shall be treated as a new application for cost recovery purposes and shall be subject to the reimbursement of costs regulations at 43 CFR 2920.6.

E. **Monitoring Fees.** The holder shall reimburse the BLM for reasonable administrative, salary, and other costs incurred for monitoring the operations and maintenance activities authorized under this lease, including those costs incurred to monitor snow safety. The authorized officer shall develop a schedule of monitoring fees to be paid during the term of this lease, which amounts shall be paid annually, in advance, and simultaneously with the

rental payments required under this section. The BLM shall provide documentation to holder within thirty (30) days after the end of each lease year, specifying the monitoring activities which occurred in the prior year, the time spent on each such activity, and the actual costs attributable to each item. In the event the monitoring fees paid by the holder during the prior lease year exceeded the actual costs incurred by the BLM, the holder shall receive a credit for the excess, which shall be applied toward the monitoring fees assessed against holder, or other amounts due and payable pursuant to this Section 8, for the following lease year.

## **Section 9 – Termination, Revocation, and Suspension**

A. Automatic Termination. This lease shall terminate automatically by operation of law upon the occurrence of either of the events described in paragraph 4.F or paragraph 5.B of this lease.

B. Termination, Revocations, and Suspensions for Cause. This lease may be terminated, revoked, or suspended for cause, after notice and a reasonable opportunity to cure or for an appropriate hearing (pursuant to Sections 9(C) and 9(D) below), under the following circumstances:

1. The holder fails to comply with applicable laws, regulations, or the terms and conditions of this lease.
2. The holder fails to use the lease area for any of the purposes enumerated herein. Failure to operate under the lease for any continuous two-year period shall constitute a presumption of abandonment.
3. The holder fails to pay rental for two consecutive months, following holder's receipt of notice of payment due, provided, however, that such an event shall not constitute an act of default if a good faith protest or approval of an appraisal or reappraisal has been filed with the BLM.
4. The holder and the authorized officer mutually agree that the lease should be terminated.

C. Opportunity to Take Corrective Action. Prior to termination, revocation, or suspension for cause, the authorized officer shall give the holder written notice of the legal grounds for each action and a reasonable time, not to exceed 90 days, to complete the corrective action prescribed by the authorized officer.

D. Notice and Opportunity for Hearing. If the holder fails to take corrective action within the time specified in the written notice specified in paragraph 9.C above, the authorized officer shall give written notice to the holder and refer the matter to the Department of the Interior's Office of Hearings and Appeals for a hearing before an administrative law judge pursuant to 43 CFR 4.420-4.439. The authorized officer shall suspend or revoke the lease if the administrative law judge determines that grounds for suspension or revocation exist and that such action is justified.

E. Immediate Temporary Suspension. Notwithstanding any of the other provisions in this section, the authorized officer shall order an immediate temporary suspension of the rights

and privileges granted under this lease prior to any hearing or any final administrative finding if the authorized officer determines that the holder's noncompliance with the terms and conditions of this lease adversely affects the public health, safety, or welfare, or the environment. An order of immediate temporary suspension is subject to the following conditions:

1. The authorized officer may give an immediate temporary suspension order orally or in writing to the holder or a contractor or subcontractor of the holder, or to any representative, agent, employee, or contractor of any of them, and the suspended activity shall cease at that time. As soon as practicable, the authorized officer shall confirm an oral order by a written notice to the holder addressed to the holder or the holder's designated agent.
2. The authorized officer may also take such action considered necessary to require correction of the adverse effects prior to an administrative hearing.
3. The authorized officer may order an immediate temporary suspension of an activity regardless of any action that has been or is being taken by another federal or state agency.

F. Request for Permission to Resume. An order of temporary suspension shall remain in effect until the authorized officer issues a written order permitting resumption of activities. Any time after an order of immediate temporary suspension has been issued, the holder may file with the authorized officer a request to resume, subject to the following conditions:

1. The request shall be in writing and shall contain a statement of the facts supporting the request.
2. The authorized officer may render an order to either grant or deny the request to resume within five working days of the date the request is filed. If the authorized officer does not render an order on the request within five working days, the request shall be considered denied, and the holder shall have the same right to appeal the denial as if an order denying the request had been issued.

G. Removal of Improvements. Upon termination or revocation of this lease, the holder shall remove all structures and improvements within sixty days notice of termination or revocation and shall restore the site to its pre-use condition, unless otherwise provided in a written agreement with the authorized officer. If the holder fails to remove all such structures or improvements within the time specified by the authorized officer, they shall become the property of the United States, but that shall not relieve the holder of liability for the cost of their removal and restoration of the site.

## **Section 10 – Other Provisions**

A. This lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

B. This lease shall take full force and effect upon signing by both the holder and the authorized officer and shall remain in effect until expiration, or is otherwise terminated or revoked as provided herein.

C. Neither the execution and delivery of this lease, nor anything contained herein, shall be construed as a representation, warranty, or covenant by the United States as to the condition of the leased area, the suitability of the leased area for the holder's use or enjoyment, or for the future maintenance, development, improvement, or protection of the leased area.

FOR EXECUTION BY HOLDER:

By executing this lease, I certify that I am acting under authority given me by Core Mountain Enterprises, LLC, as its managing general partner and that I am acting within the scope of my authority when doing so. My execution of this lease constitutes full and complete acceptance by Core Mountain Enterprises, LLC, its successors and assigns, of this lease and all of the terms and conditions contained herein and incorporated herein by reference.

\_\_\_\_\_  
Aaron Brill, Managing Partner, Core Mountain Enterprises, LLC

\_\_\_\_\_  
(Date of Execution)

FOR EXECUTION BY THE UNITED STATES OF AMERICA:

Acting by and through the Bureau of Land Management

By: \_\_\_\_\_  
Mark W. Stiles, San Juan Public Lands Center Manager

\_\_\_\_\_  
(Date of Execution)

Notary Acknowledgement

Attachment

Appendix A – Location Map

## **APPENDIX 3 – SOLRC PROJECT ELEMENTS MAP**

(Identical to Appendix A of the Lease)