

Appeal Deciding Officer
USDA Forest Service, Region 4
324 25th Street
Ogden, UT 84401

Electronically filed

July 21, 2006

NOTICE OF APPEAL of Decision Notice and Finding of No Significant Impact for 2005 Master Development Plan High Plains Resort & Marina, Inc. Lakeside Lodge Resort, 5/26/06, Forest Supervisor Carole “Kniffy” Hamilton, filed in accordance with 36 CFR Section 215.

Public Employees for Environmental Responsibility (PEER); William Worf, Doc Johnston, Steve Mackey, and Dave Vlcek (together, the “Appellants”) appeal the finding of no significant impact for the proposed development of Lakeside Lodge Resort and projects on Fremont Lake and **request that the Forest Service complete an Environmental Impact Statement (EIS)**. In addition, the appellants request that the Forest Service defer approval until after the Lakeside Lodge Resort expansion is considered in the Bridger Teton National Forest Plan Revision, all planning documents cited in the Revised Environmental Assessment (EA) such as the Storm Water Pollution Prevention Plan and the Formal Spill Response Plan are prepared, and the existing Water-Quality Monitoring Plan has been reviewed and updated.

PEER is a national non-profit alliance of local, state, and federal employees dedicated to upholding environmental laws and values and protecting public employees who protect the environment. Bill Worf is the retired Forest Supervisor of the Bridger National Forest, during Mr. Worf’s tenure he tried to have the Resort closed entirely, and remove a number of private cabins ringing Fremont Lake. Appealing, in their personal capacity only, are long time local residents Doc Johnston, M.D., Sublette County Health Officer, local attorney Steve Mackey, and Dave Vlcek.

The town of Pinedale has a unique, wondrous, and in today’s age of wide-spread pollution, seemingly impossible gift; a clean and natural unfiltered water supply. Indeed, the Forest Service has stated that a water supply such as this is “**one of very few in the nation**” and, therefore, “**this issue is of unique and special concern.**”¹ The Lakeside Lodge and Resort proposal would change a seasonal resort to a year-round resort, and involves construction of a pavilion and 25-unit lodge, a marina with 39 boat slips, 10 duplex cabins, a restaurant expansion, access roads and parking lots. Year-round occupancy of the resort complex will rise to more than 200 people, increasing the lodging

¹ Letter from FS Craig Turlock to Bob Reese, 6/15/06.

capacity from 13,680 people days to at a minimum 20,805 people days. The growing population of Sublette County is increasing the pressure on the watershed system, and our concern is that the additional stress caused by an expanded Lakeside Lodge Resort and Marina will be the breaking point, leading to a degraded water supply, and requiring a filtration system.

The Revised EA clearly indicates that Lakeside Lodge Resort's proposed project will have a significant impact on the environment and thus, under the requirements of the National Environmental Policy Act (NEPA), the preparation of an EIS is mandatory. Because this project directly impacts Fremont Lake which is the source for unfiltered drinking water for the town of Pinedale, the public health and safety issue alone forces an EIS, as based on the criteria specified at 40 C.F.R. 1508.27, it meets the threshold for significance.

Federal agencies, through NEPA, are required to be cautious and deliberative in decision making and the considerable procedure required by an EIS, after a finding of significance in an EA, insures that all aspects are considered by the public, the decision making agency and the participating agencies. Given the Forest Service's expressed concern, the indirect and cumulative impacts and the cost-benefit analysis of a possible failing water supply, it is irregular and violates the NEPA process that the Forest Service would then fail to find significance in the planned changes to the town's watershed and water supply. The most comprehensive and effective tool for the Forest Service in this circumstance would be the preparation of an EIS.

For the participating agencies and the public to adequately evaluate this sensitive project, the Forest Service and the permittee, Lakeside Lodge Resort and Marina, need to provide as much information as possible. NEPA requires that everyone concerned should have access to the information regarding who will be responsible for implementing water monitoring plans and how progress and problems both will be addressed. The Revised EA fails to present essential planning documents that could make or break the town's drinking water supply, such as Storm Water Pollution Prevention Plan and the Spill Response Plan. And in light of such a significant action, has not assessed specifically how it plans to review and update the existing Water-Quality Monitoring Plan. Because of this failure, an EIS is required.

The Bridger Teton National Forest Management Plan is currently in the revision process. In order to do a true cumulative impacts analysis of the Lakeside Lodge and Resort Project, as required at 40 CFR 1508.7, 1508.8 and the CEQ Forty Questions, it makes perfect sense to perform this in conjunction with the Forest Plan revision. It would by its nature, consider all impacts to the water supply and this fragile watershed. The timing is ideal and additionally, this approach has been recommended by the EPA specifically in this project.²

² Letter from EPA Jack Rycheoxy to FS Craig Turlock, 1/25/06, Lakeside EA Response to Comments, p22

Relief Requested:

1. Preparation of an EIS.
2. Defer approval until after the Proposed Action is considered in the Bridger-Teton National Forest Plan Revision.
3. Prepare the Storm Water Pollution Prevention Plan prior to approval.
4. Prepare the Formal Spill Response Plan prior to approval.
5. Review and update the existing Water-quality Monitoring Plan prior to approval.

Appeals filed separately by Dave Vlcek, Steve Mackey and William Worf are incorporated by reference, as are all appellants' previous comment letters on the Lakeside Lodge Resort EA, Revised EA, and attachments. We hope that these more specific comments are carefully considered in conjunction with this group appeal. If you have any questions, please feel free to call me 303/316-0809 or email: rmpeer@peer.org. All correspondence should be mailed to me at 155 Ash Street, Denver, CO 80220.

Sincerely,

Chandra Rosenthal
Rocky Mountain Director
Public Employees for Environmental Responsibility

Appellants:

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Cc: Mayor Stephen Smith, Pinedale
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Director Terri Lorenzon and Lou Harmon, Department of Environmental
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