



Bear River Watershed Council

Leaders in Conservation Issues for the Bear River Basin

October 11, 2011

Cache County Planning and Zoning Commission
179 North Main St.
Logan, Utah 84321

Re: Cherry Peak Ski Resort Proposal

Dear Commission:

We understand the Planning and Zoning staff will summarize the comments from the previous proposal for the commission. We therefore would like to emphasize several points in our previous comments and then continue with further comment.

As the proposal continues through the process, we would request the Cache County planning office have the developer perform the following studies and prepare plans to mitigate any and all impacts revealed in those studies. These studies are not uncommon for this type of recreational complex.

- Slope stabilization study and mitigation plan.
- Noxious weed survey and mitigation plan.
- Ground and surface water geo-technical study. This can compliment and build upon Richmond City's recently adopted water resource protection plan.
- Develop a wild fire prevention, evacuation and suppression plan consistent with current standards.
- A comprehensive wildlife impact study to replace the current and inadequate study that was included in the new master plan. It needs to address traffic flow and wildlife impacts through the Richmond Wildlife Management Area (RWMA) and skier trespass from the resort onto the RWMA and wilderness area. The study would also need to show how they would mitigate the impacts to wildlife from the proposed resort that weren't addressed in the study. The study also needs to address the sharp-tailed grouse that was also omitted from the current study. More details concerning sharp-tailed grouse are included below.
- The wilderness and RWMA boundaries need to be surveyed and a plan presented to control skier access into these special areas.

There is nothing mentioned in the Master Plan that would address skier trespass into adjacent properties. This has two repercussions. 1) Impacts to wildlife including sharp-tailed grouse on the RWMA; 2) And downhill access into the Forest Service wilderness from the upper lift that drops down a very steep and avalanche prone slope. Skiers leaving the resort into avalanche terrain could set up liability issues and insurance requirements. Could this necessitate some type of avalanche control on the resorts part? If so, would they need a permit from the Logan Ranger District? Would this even be possible?

We would also request that the county require the developers to present a business plan to show economic validity in their proposal. This will alleviate any concern for the area becoming an industrial ghost town. We believe if the developer has full faith in the project he would be willing to post a security bond with the County to assure that, in the event this project fails, the county and taxpayers are not held financially liable for any or all necessary restoration

work. We have attached a letter from Associate Professor of Economics, Arthur J. Caplan that outlines a viable procedure that takes into account environmental costs.

Adjacent lands' character & values

We would again like to point out that the resort would stand on a parcel of private property squeezed between the U.S. Forest Service Mount Naomi Wilderness (on the east boundary) and the Division of Wildlife Resources RWMA. The government defines wilderness as “an area of undeveloped Federal land retaining its **primeval character**, influence and . . . has outstanding opportunities for solitude or a primitive and unconfined type of recreation.”

Also of concern is the adjacent RWMA, created with money from Utah hunters and anglers and managed for the benefit of wildlife, including game birds and especially mule deer and elk that winter over in these foothills. Some of this money comes from federal Pittman-Robertson funds, an imposed excise tax on hunting equipment, which is disbursed to state wildlife management agencies.

Because of this unique situation and the *character and value* of these adjacent lands, the proposed use is not compatible with the surrounding uses and will interfere with the public's use and enjoyment of adjoining or area properties. Therefore, the proposal is NOT eligible for a conditional use permit under Cache County's Standards and Criteria (17.06.070) that states the need for “[c]ompatibility of the proposed use with the **character of the . . . adjacent properties**” [emphasis added].

The proposed low elevation ski area in Cherry Creek Canyon has the potential to push large ungulates further West and into private property. For years the Division of Wildlife Resources has made serious strides in holding these herds of large animals back from farmers' fields to prevent depredation impacts and Highway 91 in order to prevent auto collisions.

If the conditional use permit were granted the wildlife impacts to the adjacent RWMA would push these large animals westward into neighboring farms and the highway.

We would also like to bring to your attention the Logan Ranger District's Revised Forest Plan that states: “Big game winter ranges will be monitored in cooperation with the Utah Division of Wildlife Resources to ensure population management and prevent habitat deterioration. Big game winter ranges will be maintained and enhanced with the goal of holding big game on the Forest longer to help decrease impacts on private lands below.”

The implementation of this development will run counter to the intent of the FR 40 zoned property, which is to protect the natural resources “for the benefit of present and future generations.”

Sharp-tailed grouse

The Utah Division of Wildlife Resources has confirmed that a sharp-tailed grouse lek is located on the Wildlife Management Area and within a half mile of the proposed ski resort. Sharp-tailed grouse are a Utah *Species of Concern* and in the future could be Federally listed as an endangered or threatened species.

The Cherry Peak Ski Area's Wildlife Study included in the Master Plan doesn't include or address the sharp-tailed grouse and the winter habitat located in the proposed project area. This is a serious and egregious omission.

The sharp-tailed grouse has had continued range reduction and population decline since the mid-1900s to the present. In fact, sharp-tailed grouse now occupy only 4 percent of their historic range in Utah. Habitat destruction is one of the main reasons for the sharp-tailed grouse's rangewide population decline, and activities that result in habitat destruction (e.g., development including recreational) are continuing, or possibly increasing, within the historic distribution.

The Federal Register states within a Petition To List the sharp-tailed grouse as threatened or endangered that, “the area within 2.5 km (1.6 mi) of a lek is thought to be critical to the management of Columbian sharp-tailed grouse, and this area should contain, or provide access to, suitable wintering habitats.”¹

The buffer area needed for this critical winter habitat extends well into the proposed development and if the project is allowed to continue will negatively impact the local population. Also, the presence of a sharp-tailed grouse lek on this adjacent property is an essential piece of the property’s character and value.

11000 North, county road

During the presentation of the new proposal to the commission, Division of Wildlife Resources, Scott Walker stated that the Utah Attorney General has said that the road right-of-way through the WMA hasn’t been determined. The current designation is a “prescriptive easement” or historical use. Walker said that to change that use from intermittent access to a Forest Service trailhead to a road that will accommodate a ski resort and 700 cars a day isn’t a legal change of use.

There is a nexus with the US Fish and Wildlife Service and the DWR with their relationship concerning the Pittman-Roberts Act that provided federal funds to acquire the WMA. Because of the potential impact to wildlife, we believe a NEPA process to determine the impacts and necessary mitigation should be a condition included in the permit.



Dan Miller, Executive Director

[Bear River Watershed Council](#)

P.O. Box 404

Richmond, Utah 84333-0404

435.258.4432 hm

435.797.1372 wk

Inc: 1) Strategic Management Plan For Columbian Sharp-Tailed Grouse 2002
 2) Letter from Associate Professor of Economics, Arthur J. Caplan

¹ Federal Register: November 21, 2006 (Volume 71, Number 224)