



**BOARD OF DIRECTORS** November 22, 2004

**Guy Burgess** To: Mayor Ruzzin and members of the City of Boulder City Council

**Jim Knopf** Re: Joint City Council and Open Space and Mountain Parks Board of Trustees Visitor Master Plan Study Session, December 14, 2004

**Adam Massey**  
**Chris Morrison**  
**Gary Sprung**  
**Holly Tulin**

The Boulder Area Trails Coalition is very concerned about the potential negative consequences of the present controversy over the Visitor Master Plan content. The disagreement between stakeholder organizations represented by the Community Group Forum and the board and staff of the Open Space and Mountain Parks (OSMP) department jeopardizes the success of the more than five years of planning. The situation is particularly unfortunate because the conflict could have been avoided had the staff and board accepted a little more flexibility in the Visitor Plan.

**Eric Vogelsberg**  
**Suzanne Webel**

We have reviewed the disagreements identified by the OSMP staff; Attachment A contains a summary of the disagreements. There are essentially two major items in dispute: visitor access restrictions in Habitat Conservation and Agricultural Areas, and guidance principles for future management decisions.

With respect to the visitor access issue, the OSMP proposes a blanket on-trail requirement in all Habitat Conservation and Agricultural Areas, while the Community Group Forum developed a consensus for a more flexible approach. Habitat Conservation and Agricultural Areas comprise more than half of all OSMP properties (more than 18,000 acres). Almost 3/4 of this acreage contains no designated trails. Attachment B contains a detailed area analysis. The stakeholder organizations are understandably concerned that an on-trail requirement equates to de facto closure. Promises of future trail construction are an unsatisfactory resolution to the dispute because of budgetary constraints, a large maintenance backlog (more than \$2M dollars in 2003), and a perceived lack of enthusiasm for new trails on the part of OSMP.

There is neither scientific justification nor widespread community support for the all-encompassing on-trail requirement. The Community Group Forum recommendations do not preclude on-trail restrictions or even permanent closures of portions of Habitat Conservation and Agricultural Areas, they merely allow less restrictive management regulations when the staff determines they are appropriate. A directive from City Council that the Visitor Plan allow for a more flexible approach to visitor access in the Habitat Conservation and Agricultural Areas could resolve this issue.

Overall management strategy is the second major point of contention. The stakeholder organizations believe that the proposed guiding principle, Dealing with Uncertainty, prioritizes one Open Space Charter Objective over all others, and will be used inappropriately to preclude new visitor opportunities or justify additional visitor restrictions. The Precautionary Principle has been cited as the basis for the Dealing with Uncertainty clause. In a rigorous scientific context the Precautionary Principle deals with the assessment of potential impacts, not with the final decision process (see Attachment C).

The OSMP staff always has taken and will continue to take a cautious approach to potential impacts to OSMP properties. At best the proposed Dealing with Uncertainty principle will have no effect upon the decision process. At the worst it may lead to gridlock, with the ever-present possibility of negative impact being used to veto any proposals for enhanced visitor access. Mixing a precautionary approach to impact assessment with a guiding principle for management decisions is both unnecessary and unwise. Removing the clause from the plan or rewriting it to deal only with impact assessment could resolve this issue.

It is regrettable that these concerns have not been dealt with previously, but it is not yet too late to salvage the Visitor Plan. It will require decisive action by the City Council to do so and we respectfully request the Council take the required action.

Yours truly,

The Boulder Area Trails Coalition Board of Directors

## Attachment A

### Differences between Community Group Forum & OSMP VMP Recommendations

Summary from City Council Update Packet, Visitor Master Plan Information Requests, October 15, 2004

#### **Community Group Forum recommendations that were not accepted by OSMP:**

1. Dealing with uncertainty and determining management priorities (CGF Recommendation # 11)
- 2-4. Visitor access in habitat conservation and agricultural areas, 3 CGF Recommendations:
  2. Strongly encourage on-trail use in habitat conservation and agricultural areas (CGF Recommendation # 31)
  3. New trails to be considered in habitat conservation and agricultural areas (CGF Recommendation # 32)
  4. Provide seasonal off-trail use in certain habitat conservation areas (CGF Recommendation # 35)
5. Change management designation for Shanahan Ridge from Natural Area to Passive Recreation Area (CGF Recommendation # 36)
6. Change the special use permit group size threshold (CGF Recommendation # 58, p. 22).

#### **Details of CGF recommendations that were not accepted by OSMP:**

##### **11. Determining Management Priorities.**

###### **CGF Version:**

Replace the "Priority of Preservation" Guiding Principle with a "Determination of Priorities" (page 24-25), as follows:

**April Draft Plan Priority of Preservation.** Open Space and Mountain Parks shall take a conservative approach to protect and preserve resources when there is uncertainty about the impacts of visitor use and the effects of management actions. If site-specific conflicts arise between the various purposes of Open Space and Mountain Parks, priority will be given to preservation of natural, agricultural, and cultural resources

###### **CGF Version:**

**Determination of Priorities.** Open Space and Mountain Parks will strive for an appropriate balance among Open Space charter purposes. Cases of uncertainty, conflict, or impact will be resolved according to the focus of the relevant management area (i.e., recreational interests in the Passive Recreation Areas, environmental interests in the Habitat Conservation Areas, agricultural interests in the Agricultural Areas, and all factors will be weighed on a case-by-case basis in Natural Areas).

###### **Staff / OSBT Recommendation:**

**Dealing with Uncertainty.** Protecting native biodiversity is essential to maintaining the quality of the visitor experience. Open Space and Mountain Parks shall take a precautionary approach to protect and preserve resources when there is uncertainty about the conservation status of resources, the impacts of visitor use, and the effects of management actions. When threats of serious or irreversible resource damage are suspected, even in the absence of complete information, OSMP will take actions that are intended to prevent resource degradation or allow restoration of native populations and ecological systems.

**Determining Management Priorities to Address Site-Specific Conflicts.** OSMP shall consider the management context provided by the underlying management area designation when there are site-specific conflicts between resource protection and visitor use activities. OSMP shall attempt, with the involvement of the public, to find creative solutions that mediate between providing new or enhanced recreational opportunities and avoiding, minimizing, or mitigating the impacts of visitor use activities.

##### **31. On-Trail Visitor Use**

**BATCO " PMB 201 " 1705 14<sup>TH</sup> St. " Boulder, CO 80302  
<http://bcn.boulder.co.us/batco/>**

**CGF Version:**

Strongly encourage on-trail use. Require on-trail use in areas with documented fragile resources, unless an off-trail permit is obtained.

**Staff / OSBT Recommendation:**

Require on-trail use. Off-trail use by permit only Consider/provide designated on-trail access to selected destinations.

**32. Trail Functions, New Trails, and Interconnected Trail System****CGF Version:**

Build and maintain a hierarchy of trails that encourage visitors to travel on trail and reduce or avoid conflict with resource protection. Based on best available information and using specific criteria to evaluate the characteristics of the land, new trails will be considered in Agricultural and Habitat Conservation Areas.

**Staff / OSBT Recommendation:**

Minimize new trails and trail density in Agricultural and Habitat Conservation Areas; locate new trails to minimize impacts on habitat quality.

Consider designating/building trails that:

- protect agricultural/ecological systems
- provide appropriate access
- consider appropriate linkages and connections

**35. Tallgrass Prairie West Habitat Conservation Area.****CGF Version:**

Provide more flexibility beyond the standard of on-trail requirement. Encourage on-trail use. Allow off-trail use and monitor impacts from off-trail use.

**Staff / OSBT Recommendation:**

Staff does not support the off-trail provision in the Tallgrass Prairie West HCA.

**36. Shanahan Ridge Natural Area.****CGF Version:**

The middle portion of this sub-area (bounded by the North Fork Shanahan Trail, the South Fork Shanahan Trail, and the Mesa Trail) should be changed from a Natural Area Classification to a Passive Recreation Area classification.

**Staff / OSBT Recommendation:**

The Natural Area designation for Shanahan Ridge should be retained.

**43. Require on-trail use / prohibit off-trail use****CGF Version:**

Require on-trail use / prohibit off-trail use in certain designated areas that are not necessarily entire HCAs.

**Staff / OSBT Recommendation:**

Require on-trail use / prohibit off-trail use in HCAs.

**58. Group Size Threshold.****CGF Version:**

The proposed group size threshold for special use permits of 25 or more participants (a change from the current 50 or more participants) is too restrictive and may not achieve the intended purpose of minimize the impacts of group activities. ....

**Staff / OSBT Recommendation:**

Maintain the existing general group size threshold (50 participants) requiring a special use permit for non-commercial group activities / events. ....

## Attachment B

### Visitor Plan Habitat Conservation & Agricultural Areas

<i>Habitat Conservation Area</i>	<i>Acreage</i>	<i>%</i>	<i>Type</i>	<i>Trails</i>	<i>Trail Access</i>	<i>Acreage Accessible</i>
North Foothills	1,486	10%	Foothills	1	16%	250
Eldorado Mountain	1,467	10%	Foothills	1	20%	300
Jewel Mountain	1,471	10%	Prairie	none	none	0
Tallgrass Prairie West	1,154	8%	Prairie	4	100%	1,154
Tallgrass Prairie East	1,842	12%	Prairie	none	none	0
Southern Grasslands	2,525	17%	Prairie	none	none	0
Lower Boulder Creek	916	6%	Wetland	1	25%	230
Western Mountain Parks	4,209	28%	Mountain	several	50%	2,105
<i>HCA Total</i>	15,070	100%				4,039
 <i>Agricultural Area</i>						
North Boulder Valley	1,452	45%	Prairie	3	50%	726
East Boulder Valley	1,775	55%	Prairie	1	23%	410
<i>Total</i>	3,227	100%				1,136

Note: Accessible acreage is estimated as acreage within 1/4 mile of a designated trail.  
Designated trail corridors occupy less than 1% of the total acreage.

Mountain Parks (fee)	6,399
Open Space (fee)	29,394
<i>Total</i>	35,793

42% Percentage of OSMP to be HCA  
73% Percentage of OSMP HCA without any access

46% Grassland percentage of HCA  
20% Foothill percentage of HCA  
28% Mountain percentage of HCA

83% Percentage of grassland HCA without any access  
81% Percentage of foothill HCA without any access  
50% Percentage of mountain HCA without any access

9% Percentage of OSMP to be AA  
65% Percentage of OSMP AA without any access

51% Percentage of OSMP to be HCA or AA  
72% Percentage of OSMP HCA or AA without any access

## Attachment C

### The Precautionary Principle

Email From: Paul Beier, Professor of Conservation Biology & Wildlife Ecology, School of Forestry,  
Northern Arizona University  
Subject: Precautionary principle  
To: Gary Sprung, IMBA

Alan forwarded your query to me. I'm happy to respond. ...

>If the precautionary principle is not a statement that biodiversity trumps other values, then I need to  
>understand it better. Every time I hear that term used, it is used to mean that decision-makers should say  
>"no" to projects and changes until absence of harm to environment is demonstrated. So I have a request.  
>Can you either provide an explanation of the principle, or could you please provide literature references?

...

The basic distinction is between honest statement of impact, and the decision whether to go forward with a project. NEPA, as I'm sure you know, requires agencies to make their best assessment of impacts, but does NOT require the agency to choose the action that has least impact.

The Precautionary Principle (PP) is relevant to the assessment of impacts, not the decision of which alternative to pursue. In many cases, our understanding of the system and previous research suggest, for instance, a forest restoration project will increase risk of invasion by exotic weeds. The PP means that the agency should NOT say "Well, none of these studies showed a significant increase in weeds at  $P < 0.05$ , so we'll assume no impact." Instead the agency should say "We know that when we create skid trails and open up the forest canopy, we create conditions that favor weeds. Until research can prove that treatments do NOT cause an ecologically significant increase in weeds, we should assume that treatments do have this effect." Proponents of the action could (after the agency defines 'ecologically significant' as, say an increase of 20% ground cover in weeds) do a study testing the null hypothesis "The increase in weeds is at least 20%." This puts the "burden of proof" on the proponent in that, if their research uses an inadequate sample size, then the lack of statistical power means they cannot reject the null hypothesis. Thus they are encouraged to design a rigorous study. Without the PP, the null hypothesis is "Treatment has no effect on weeds" (a hypothesis almost certainly false) and the proponents have every incentive to do a slapdash study that will fail to reject the null. Thus the burden of proof is stacked against the most reasonable point of view, and agencies can pretend that impacts do not exist. Alternatively, the proponents can say "We don't have money to do the study; following the PP, we assume the project will increase weeds."

The decision whether to proceed on the project, however, is an entirely different matter. The agency can say "We assume, until disproven, that the project will increase weeds, which is a negative impact on native biodiversity. However, no action increases the risk of stand-replacing fire. Furthermore, treatments protect watershed values and have other benefits. We have decided to proceed with treatments even though they will have a negative impact on some aspects of biodiversity."

So the PP shifted the burden of proof to those who would deny that restoration treatments impact biodiversity; the PP does not state that biodiversity trumps everything.

Activists can successfully use the PP in a NEPA lawsuit to argue that the agency glossed over the impact to biodiversity. However, if activists argue that the agency cannot make a decision that trumps biodiversity, they will lose. The PP does not state that biodiversity trumps everything.