



February 2, 2024

Jennifer McRae, Planning Team Leader
USDA Forest Service
201 14th Street SW
Washington, DC 20250-1124
<https://cara.fs2c.usda.gov/Public//CommentInput?Project=65356>

Re: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System

Dear USDA Forest Service:

The National Ski Areas Association (NSAA) submits the following comments on the agency's Notice of Intent to Prepare an EIS on its proposal to amend all 128 forest land management plans to conserve and steward old-growth forest conditions on national forests and grasslands nationwide. NSAA is the national trade association for ski area owners and operators in the U.S. It represents over 330 alpine resorts, accounting for over 90% of the skier/snowboarder visits in the United States. NSAA submits these comments on behalf of the 127 ski areas that operate on National Forest System lands.

Background

NSAA appreciates the agency's recognition of the value of old growth forest stands in terms of their role in storage of large amounts of carbon, increasing biodiversity, reducing wildfire risks, enabling subsistence and cultural uses, providing outdoor recreational opportunities and promoting sustainable local economic development. Old-growth forests are a vital part of ecosystems, and we support the agency's efforts to conserve and steward old growth conditions.

At the same time, ski areas appreciate the value and role of managed recreation on national forests in improving quality of life, providing health and wellness benefits, and enhancing the public's appreciation of the natural environment. This is the very foundation of our partnership with the Forest Service. At this time, demand at ski areas is dramatically outpacing supply. On a national level, the ski industry has broken all-time visitation records two seasons in a row. Last season (2022-23), ski areas accommodated 65.4 million skier visits, and domestic participation reached an all-time high of 11.6 million American skiers and snowboarders. Many ski areas experienced a record number of days at capacity over the past two seasons. In order for our partnership to be successful and respond to changing public demand, flexibility in managing developed recreation sites is essential. Ski areas must be provided sufficient opportunity to

improve or expand in the future to accommodate shifting demands in use. This flexibility is particularly necessary given that the forest plan amendment proposed here is national in scope and would presumably be applied with no deviation at the local forest level.

In shaping this proposed forest plan amendment and the alternatives to be addressed in the EIS, ski areas respectfully ask the agency take developed recreation and our public-private partnership into account. More specifically, we ask that the agency consider the limited clarifications suggested below to provide ski areas and agency decision makers with much needed flexibility down the road.

Comments

In the context of the scoping process, the agency is requesting comments on the proposed action, including any “modifications or additional language, potential alternatives, and identification of any relevant information, studies, or analyses concerning impacts” that should be considered in further developing the proposed action, alternatives and the EIS. The ski industry is asking for clarification on application of the standards for management actions and the exceptions listed to those standards in the proposed forest plan amendment (see [Federal Register](#) page 88047).

The proposed standards would prohibit vegetation management within old-growth forest conditions when the primary purpose is to grow, tend, harvest, or regenerate trees for economic reasons; prohibit degradation or impairment in a manner that prevents the long-term persistence of old-growth; and require that vegetation management be for the purpose of proactive stewardship, unless it meets one of these enumerated exceptions:

- i. to reduce fuel hazards on National Forest System land within the wildland-urban interface to protect a community or infrastructure from wildfire;
- ii. to protect public health and safety;
- iii. to comply with other statutes or regulations;
- iv. for culturally significant uses; or
- v. in cases where it is determined that the direction in this amendment is not relevant or beneficial to a particular forest ecosystem type.

Application of the Standards to Ski Areas

NSAA is seeking clarification on how these standards will be interpreted and applied through forest plans to developed recreation sites such as ski areas. The purpose of ski area timber removal is not to “grow, tend, harvest, or regenerate trees for economic reasons,” rather it is an operational necessity to provide a quality and safe recreation environment for the public. Timber removal is necessary at ski area for a variety of reasons, including reducing wildfire risk; removing hazard trees that pose a risk to capital improvements or public safety; developing trails; installing or replacing chairlifts; and developing facilities that are ancillary to recreation operations or that support year-round ski area activities. While public health and safety are key

reasons for removing timber at ski areas, there are other valid reasons as well that are inherent in a developed recreation setting and consistent with our authorized use and occupancy. NSAA is concerned that without clarification and amendment, the standards could be applied in an overly narrow fashion that compromises the operation of existing ski areas and the expansion of a ski area's footprint in the future.

NSAA's Suggested Clarification

It would be beneficial for the agency to clarify that old growth timber removal is not prohibited within a ski area permit area, master development plan (MDP) boundary, or on lands allocated in a forest plan for resort development currently or in the future if the removal is incidental to the implementation of authorized management activities. This suggested approach is based on the agency's chosen path in applying the 2001 Roadless Rule, which provided needed exemptions both inside and outside ski area permit boundaries on the basis of valid existing rights. The explanation of this exemption in the *Federal Register* provided as follows:

"Under paragraph (a), road construction or reconstruction associated with ongoing implementation of special use authorizations would not be prohibited. For example, all activities anticipated and described in an authorized ski area's master plan, such as construction or maintenance of ski trails and ski runs, the use of over snow vehicles or off-highway vehicles necessary for ski area operations, including associated road construction, would not be prohibited even if a specific decision authorizing road construction has not been made as of the date of publication of this rule in the Federal Register." (3244 Federal Register / Vol. 66, No. 9 / Friday, January 12, 2001).

The 2001 Rule also allowed timber removal inside and outside ski area permit boundaries if such harvest was incidental to the implementation of management activities not otherwise prohibited by the rule. For timber removal, the explanation in the *Federal Register* was as follows:

"Paragraph (b)(2) allows timber cutting, sale, or removal in inventoried roadless areas when incidental to implementation of a management activity not otherwise prohibited by this rule. Examples of these activities include, but are not limited to trail construction or maintenance; removal of hazard trees adjacent to classified roads for public health and safety reasons; fire line construction for wildland fire suppression or control of prescribed fire; survey and maintenance of property boundaries; other authorized activities such as ski runs and utility corridors..." See 36 C.F.R. § 294.13(b)(2) (2001).

In the context of this proposed old growth forest plan amendment, since the purpose of ski area timber removal is not to "grow, tend, harvest, or regenerate trees for economic reasons," but rather to provide a quality and safe recreation environment for the public, clarification from the agency would be helpful. We additionally suggest an exemption to the standard for vegetation management as follows:

vi. in cases where vegetation management is incidental to the implementation of an authorized management activity.

It is important to note that the suggested exemption is not for incidental timber removal, as in a small quantity, but for timber removal that is incidental to, or associated with, an authorized management activity. The Forest Service successfully argued to a Federal Court in the roadless

context that the exception allows timber removal that is incidental to the management activity, such as ski area management, rather than incidental timber removal. (See Hogback Basin Pres. Ass'n v. U. S. Forest Service, No. 48, slip op. at 20, 2008 WL 4186849 at *10 (W.D. Wash. filed Sept.10 2008).

* * *

Thank you for taking our comments into consideration.

Sincerely,

Geraldine Link

Geraldine Link
Director of Public Policy