February 23, 2024
Objection Reviewing Officer
JHMR Recreation Enhancements Project - 2023
Forest Service Intermountain Regional Office
324 25th Street,
Ogden, UT 84401

OBJECTION: Jackson Hole Mountain Resort Recreation Enhancements Project - 2023 #64355

To Whom This May Concern:

Set forth below for your consideration is the OBJECTION submitted by the Jackson Hole Conservation Alliance ("Conservation Alliance"), a nonprofit, 501(c)(3) tax-exempt conservation organization based in Jackson, Wyoming.

Established in 1979, the mission of the Conservation Alliance is to "Protect the wildlife, wild places, and community character of Jackson Hole."

Many of our members and supporters use and appreciate the varied recreational, scenic and aesthetic values and opportunities provided by the Jackson Hole Mountain Resort ("JHMR"), and yet are deeply concerned about the current and future development activities that threaten to negatively impact natural resources and wildlife habitat.

It is readily apparent that JHMR is undergoing a major transformation both in terms of the amenities provided as well as in the basic nature of the experience offered to users. Although an Environmental Impact Statement (EIS) was prepared by the BTNF in 1996 to analyze the effects of development on the mountain, development outpaced the analysis and by 2000 the projects analyzed in the EIS had largely been completed. As a result, all development on the mountain and at the base since then has been authorized by a series of Findings of No Significant Impacts (FONSI) and categorical exclusions, which bypass NEPA analysis altogether. Given the level and pace of development, the preponderance of which has taken place on public lands owned by the American People, it strains credulity to conclude that 23 years of development projects at the Resort have not had a significant impact on the human and natural environment.

The environment-altering activities that have taken place and continue to be proposed include the use of heavy equipment to move tons of earth and hundreds of boulders; the removal of trees and other vegetation from riparian areas, ski runs, and other areas of the mountain; the filling of protected wetlands for recreation purposes; the construction of miles of new trails and roads, a new chair lift, and the construction of a via ferrata infrastructure; major terrain modifications that reshape and smooth natural topographic features, as well as fragmentation and removal of wildlife habitat.

We are at a critical junction in the agency's decision making process concerning the resort: one road leads to several more years of continued *ad hoc* growth without any overarching analysis, full disclosure of impacts, or publicly vetted plan, while the other is based on full environmental

disclosure and knowledge, a hard look at the costs and benefits to our community, and ultimately, community acceptance. The latter road —the better choice in our view— leads to a future that truly advances the public interest associated with hosting a world class mountain resort.

36 CFR Part 218 Requirements

The OBJECTOR'S name, mailing address and telephone number:
Jackson Hole Conservation Alliance
P.O. Box 2728
Jackson, WY 83001
(307) 733-9417

Name and Title of Responsible Official:
Todd Stiles, District Ranger, Jackson Ranger District

Name and Title of Objection Reviewing Officer:
Chad Hudson, Forest Supervisor, Bridger-Teton National Forest

Name and location of Project: Jackson Hole Mountain Resort Recreation Enhancements Project - 2023 #64355, Bridger-Teton National Forest, Jackson Ranger District, Teton County, WY (hereinafter "the Project")

Objection Eligibility Requirements: Jackson Hole Conservation Alliance (JHCA) previously submitted timely and specific written comments on the Project (#64355) in a letter dated July 28, 2023. The issues raised in this objection are based on the previously submitted comments as well as new information arising after the designated comment opportunity.

SUMMARY OF OBJECTION ISSUES

I. The severe impact to the threatened whitebark pine
II. The EA fails to analyze an adequate range of alternatives.
III. The EA fails to properly disclose cumulative impacts to whitebark pine and wildlife habitat.
IV. The direct, indirect and cumulative impacts of past, present and future development activities may have significant impacts on the environment requiring the preparation of an Environmental Impact Statement.

DISCUSSION

According to 36 CFR 218.8(c), "Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment. The burden is on the objector to demonstrate compliance with this requirement for objection issues (see paragraph (d)(6) of this section)."

The issues raised in this Objection address the specific concerns outlined in the Conservation Alliance's July 28, 2023 letter, as well as issues based on new information and analyses presented in the Environmental Analysis (EA) and Finding of No Significant Impact

(FONSI) for the Project. The information and analyses contained in the EA and FONSI were not available for public review during the 30-day scoping period and as such are considered new information under Forest Service regulations. The exact situation is addressed by the Forest Service in the Federal Register notice adopting 36 CFR Part 218:

> Regarding the respondents' concern about the limited information that may be available for comment if a draft EA is not circulated for public comment and how that may affect the ability to raise issues in objection, the direction of the proposed and final rules provides an appropriate response. Section 218.8, paragraph (c) specifies that "[i]ssues raised in objections must be based on previously submitted specific written comments regarding the proposed project and activity and attributed to the objector, *unless the issue is based on new information that arose after the opportunities for comment."* [italics added] Thus, when objection issues are based on information in a final EA that is made available at the beginning of an objection filing period, and where that information was not made available during any prior opportunity to comment, those issues will be accepted for review by the reviewing officer.

See U.S.D.A Forest Service, Project-Level Predecisional Administrative Review Process, Final Rule, 78 FR 18481, 18483, March 27, 2013, Public Involvement and Response to Public Comments.

Accordingly, our Objection raises concerns about severe impacts to whitebark pine, a lack of an adequate range of alternatives for projects that impact whitebark pine and important habitat features like wetlands and riparian corridor. Also, our Objection states the BTNF has made inadequate accounting of cumulative impacts over time and space, thus we firmly believe a full accounting of cumulative and likely future impacts necessitate the preparation of an Environmental Impact Statement (EIS).

I. The severe impact to the Threatened and declining whitebark pine is not adequately addressed in the EA.

In the Greater Yellowstone Ecosystem whitebark pine (*Pinus albicaulis*) functions as a keystone species as well as a foundation species (Tomback et al. 2001, Ellison et al. 2005). It produces large, highly nutritious seeds that are a critical food source for black bears, Clark's nutcracker, red squirrels, as well as the threatened Yellowstone grizzly bear. Research has shown that when grizzlies have access to abundant whitebark pine seeds, they have more cubs and a lower likelihood of mortality (Matson 2000, Pease & Mattson 1999). Whitebark pines are tremendously hardy and long-lived trees able to establish on inhospitable sites where other tree species cannot survive. They are a pioneering species at treeline, provide shelter and site conditions for other species to establish, increasing subalpine diversity (Callaway 1998). Whitebark pines also improve alpine hydrology by stabilizing soils, reducing erosion, deepening snowpack, delaying snowmelt, reducing the likelihood of spring flooding, and prolonging summer streamflow (Hann 1990, Tomback et al. 2001). For these reasons, the

health of the whitebark pine is central to the health of the Tetons, the Greater Yellowstone Ecosystem, and other forests where whitebark pine plays a central role.

Currently, the whitebark pine population in the Teton region is experiencing a second epidemic of mountain pine beetle mortality since the early 2000's. In 2022, focused surveys revealed that 54% of overstory whitebark pines have died in the Tetons, and that 35% had died since 2019 (Bockino et al. 2023). This second epidemic has the potential to "result in so few whitebark pine that the delicate mutualism between the tree and the Clark's nutcracker, it's only means of seed dispersal, could collapse" (Bockino et al. 2023). It is in this context that it becomes clear that any unnecessary taking of whitebark pines should be avoided, especially cone-producing trees.

Figure 1 shows maps of whitebark pine mortality in the Greater Yellowstone Ecosystem in 2013 and 2023. Notice how the mortality has worsened in the last decade across most of the GYE. Notice also that areas of low mortality in 2013, like the Grand Tetons, Wind River Range, and Eastern Beartooth Mountains, are all experiencing concerning levels of whitebark pine mortality in 2023. Figure 2 shows the maps from Figure 1 zoomed in on the Teton Range for better comparisons.

With the major threats to whitebark pine populations (bark beetles, blister rust, climate change, and altered fire regimes) only exacerbating in the coming years and being out of direct control of humans, would it not be wise to stem any unnecessary taking of this important species? In the backdrop of a precipitous decline, extinction by a thousand cuts, such as the JHMR projects, becomes much more likely. For the US Fish and Wildlife Service to recover and delist this species at this perilous time, it must reduce unnecessary takings such as those proposed at JHMR. In 2013 the Tetons were a refuge of low mortality for whitebark pine (likely due to lower winter minimum temperatures), in 2023, even the Teton Range population of whitebark pine has been hard hit by mortality.

It is with this understanding of the importance of the whitebark pine to the entire ecosystem and the current dire level of peril for the population, that we submit an Objection to the severe impact to whitebark pine that these proposed projects will have, especially to the 51 cone-bearing trees in the project areas.

The foremost experts on whitebark pine in the Greater Yellowstone Ecosystem from the US Forest Service, the National Park Service, and the Northern Rockies Conservation Cooperative just published a research note in summer of 2023 (Bockino et al.), in which they wrote,

> **"…the loss of any of the few remaining cone bearing whitebark is a significant setback for conservation and restoration."**
>
> **"The prioritization of retaining every possible existing seed tree at all costs is unquestionable."**
> **(Bockino et al. 2023)**

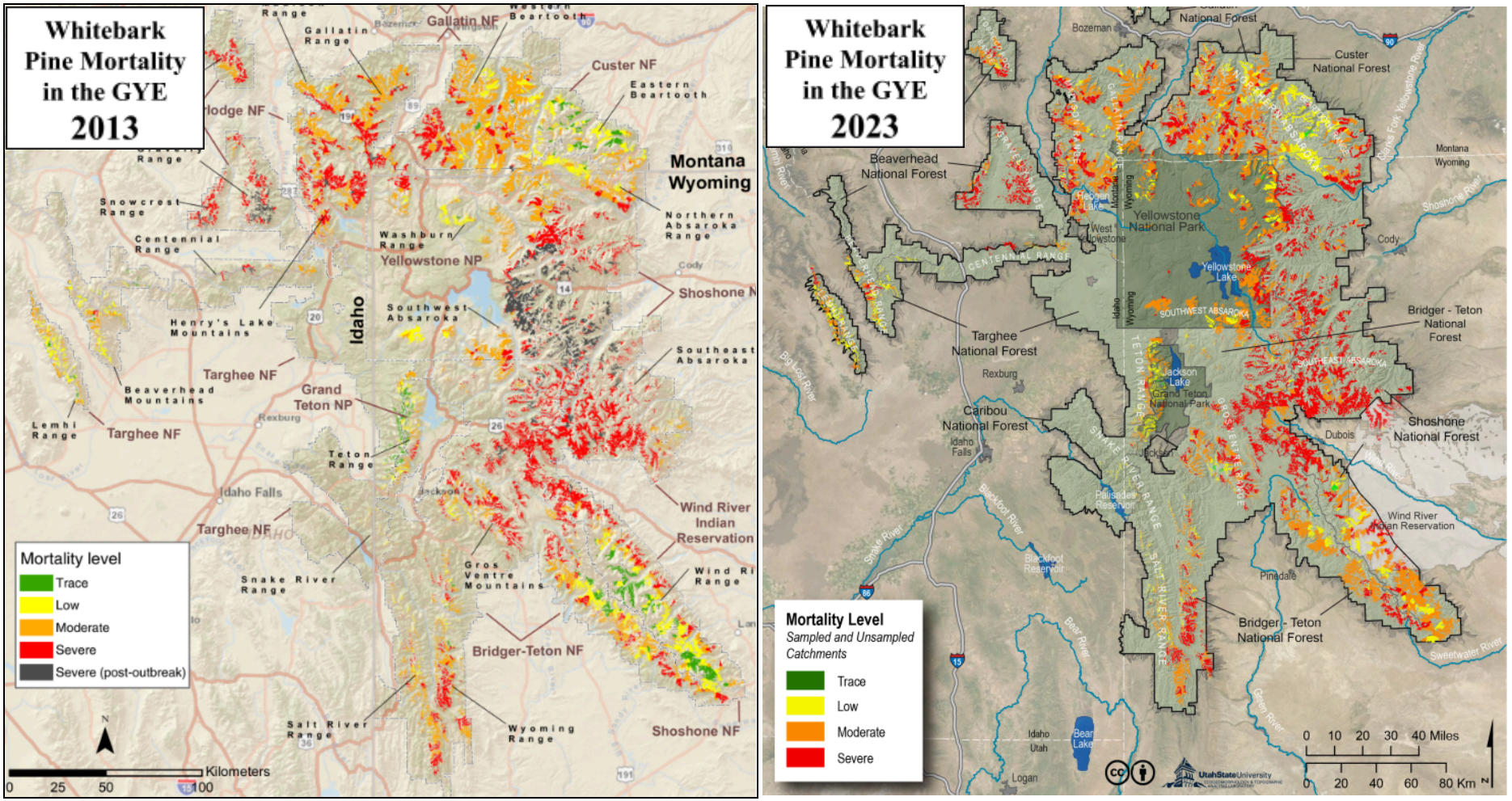
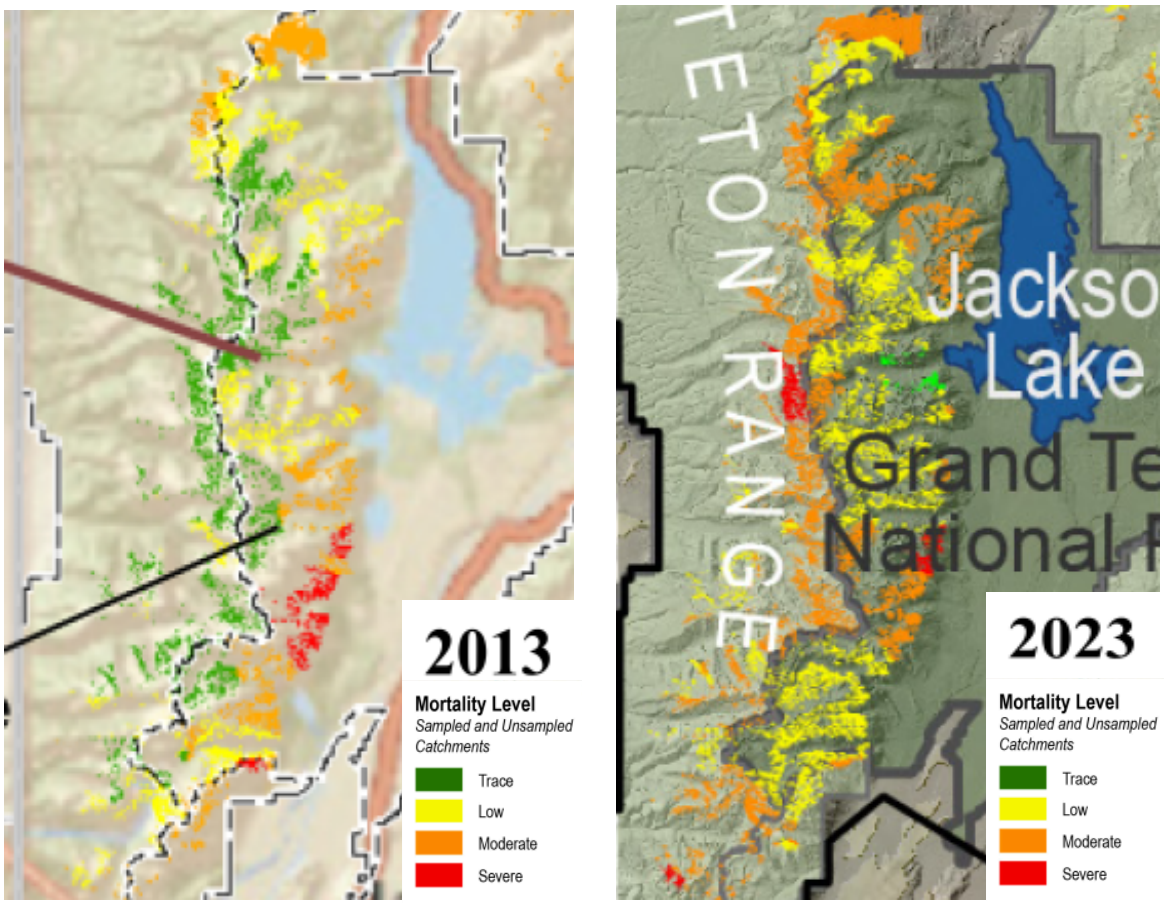


Figure 1: Whitebark pine mortality in the Greater Yellowstone Ecosystem assessed with the Landscape Assessment System in 2013 and 2023 (LAS, Macfarlane et al. 2013 and 2023).



<u>Figure 2:</u> A close up of whitebark pine mortality in the Teton Range (from Macfarlane et al. 2013 & 2023). In 2013 the Tetons were a refuge of low mortality for whitebark pine, in 2023, those stands that then showed "trace" mortality are now showing "moderate" to "severe" mortality.

This puts the foundation of our objection to these developments in context. These projects will impact 382 whitebark pines, including 51 irreplaceable cone bearing trees. When we conducted a tree ring study of the forests in the Teton Region in 2014-2016, the white pines were the oldest trees, with the oldest tree being 758 years old. The cone bearing trees at JHMR are likely hundreds of years old – irreplaceable in a human lifespan (or even two)!

We believe it is clear that any additional taking of whitebark pines, especially of cone-bearing trees, will further jeopardize the existence of the whitebark pine population and should not be allowed in these projects. We respectfully request that the EA be revised to fully address the aforementioned concerns regarding the whitebark pine.

II. The EA fails to analyze an adequate range of alternatives

The Conservation Alliance's July 28, 2023, letter to the BTNF raises significant concerns with the Project's potential impacts to whitebark pine, as detailed above. Although we agree with the Forest Service's determination that the Project, as configured, is "likely to adversely affect" the whitebark pine, we do not understand how or why the EA fails to analyze any alternatives that would reduce or mitigate the threat, as required by NEPA.

The Forest Service's own NEPA procedures require the consideration of one or more alternatives in an EA where there are "unresolved conflicts concerning alternative uses of available resources" (NEPA Section 102(2)(E)). Yet after dropping from further consideration the Alta Chutes and North Hoback Woods projects, the Forest Service asserts in its draft Decision Notice (at 6) that "[t]here are no other unresolved conflicts associated with the proposed action."

This is a surprising claim given the potentially devastating impacts to the whitebark pine, a federally listed threatened species. We also believe there are unresolved conflicts associated with the proposed filling of wetlands and modification of stream channels and in the loss of important wildlife habitat and permeability due to these projects. All of these issues present "unresolved conflicts concerning alternative uses of available resources" deserving of alternatives analysis; particularly when combined with recent past, ongoing and reasonably foreseeable future development actions. These are potentially significant impacts that should not be relegated to an EA that was not made available for public review and comment until well after the close of the public comment period in July, 2023.

To cite just a few examples, the EA should analyze alternative designs for the proposed Sublette lift replacement, Gros Ventre upgrade, Sundance Upgrade, and Corbets's Cabin utility lines that do not impact whitebark pines to the same degree, especially cone-bearing trees. Likewise, alternative locations for via ferrata installations and rappel stations should be examined if the current locations will impact whitebark pines (there is no analysis of this, but those cliffs are likely to have whitebark pines in and around them). Appropriate and no-action alternatives should also be analyzed for any filling of wetlands and alterations of riparian channels.

Fundamentally, we believe it is necessary for the Forest Service to go back to the drawing board to reexamine these 34 projects in a way that accurately identifies and fully discloses the individual and combined effects from development, and to develop a range of alternatives that truly endeavors to resolve the many unresolved conflicts identified by the public during the scoping period.

III. The EA fails to adequately disclose cumulative effects on whitebark pine and wildlife habitat.

Regarding cumulative impacts to whitebark pine and wildlife, the EA improperly confined its analysis to the federal actions noted in the BTNF's schedule of proposed activities (SOPA) as well as a few projects in Grand Teton National Park. See Table 3-7. Contrary to NEPA's clear requirements, the EA fails to examine the combined effects of all activities on all adjacent lands.

Likewise, the Biological Assessment fails to properly consider cumulative impacts over time by simply stating "there is little potential for any non-federal activity to generate cumulative effects on whitebark pine" and end their cumulative impacts analysis in three short sentences. The Biological Assessment only considered other current federal projects going on today and completely failed to consider any cumulative impacts to whitebark pine OVER TIME – narrowing the cumulative impact analysis to only the present moment. This is clearly an inadequate cumulative impacts analysis.

The Council on Environmental Quality (CEQ) regulations implementing NEPA define cumulative effects as follows:

> "Cumulative effects, which are effects on the environment that result from the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time." (40 CFR § 1508.1)

Understanding that "cumulative effects can result from individually minor but collectively significant actions taking place over a period of time" the EA should analyze the total impact to whitebark and wildlife habitat – specifically wetlands and riparian channels, from previous JHMR projects, as well as other "Federal or non-Federal" actions in the watershed. This would entail reviewing all previous development in whitebark pine zones and important wildlife habitat features such as wetlands and riparian corridors. Only the analysis of all of these impacts over space and time would provide an accurate accounting of the cumulative impacts in the project area.

The lack of adequate disclosure of environmental impacts is perhaps the most significant flaw in the draft EA. Twenty-plus years of significant growth and change at the mountain resort have been evaluated separately and piecemeal by the Forest Service without any comprehensive "big picture" examination of the combined effects of past, present and reasonably foreseeable future development. The segmentation of NEPA analysis over the past two decades has resulted in a narrow and incomplete picture of the sum of these actions. Even to the casual observer, it is clear that the existing NEPA documentation of "no significant

impact" does not accurately reflect the actual on-the-ground conditions at the Resort and on adjacent public lands that exist today.

IV. The direct, indirect and cumulative impacts of past, present and future development activities have impacted and may have significant future impacts on the environment requiring the preparation of an Environmental Impact Statement.

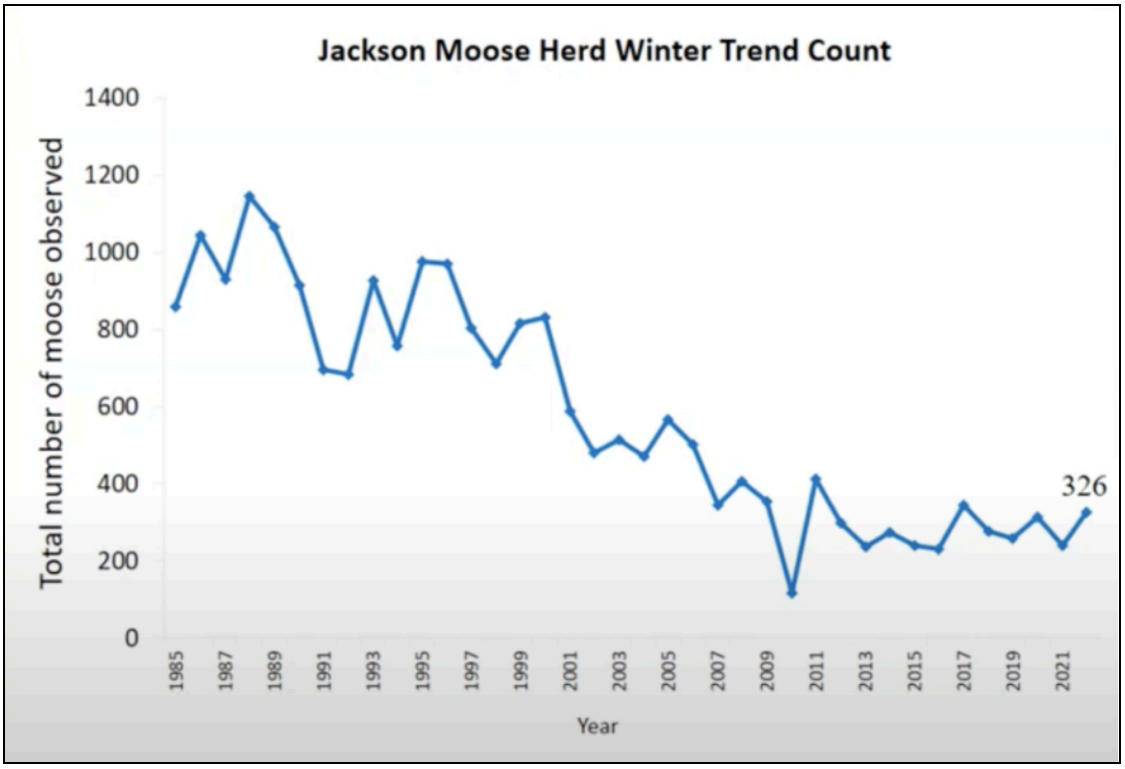
It is time for full accounting of the impacts over the past 28 years and the foreseeable future at JHMR. For illustrative purposes, *and based on the multiple FONSI filings*, we have assessed just the cumulative impacts to wetlands, stream channels, and ground disturbance since 1996 in Table 1 below. It is easy to see that impacts accumulate over time and that continuous findings of "No Significant Impact" are likely the results of *segmentation* of the NEPA process, not a full accounting of impacts over time and space. A full accounting of the real cumulative and likely future impacts will make it clear that an Environmental Impact Statement is needed to fully analyze the environmental impacts of these proposed actions.

Cumulative Impacts - JHMR Permit Area						
		Disturbance Area by year (the mean was used when a range was given)				
Type	Total disturbed area*	1996	2000	2015	2017	2023
Wetlands total impact (acres)	**10.255**	5	0.355	1.5	0.1	3.3
Wetlands permanent impact (acres)	**1.6**			1.5	0.1	
Ground disturbance (acres)	**164.9**		21.5	69		74.4
Stream chanel impact total (linear ft)	**5,135**			761	2,366	2,008
Stream chanel impact perennial (linear ft)	**2,313**			138	1,183	992

Table 1. *Cumulative impacts totals above ***do not include JHMR development in the permit area from 1965-1995*** or reasonably foreseeable future impacts from proposed development activities extending over a six year period from today (e.g. JHMR 2023 Master Development Plan).

NEPA further directs federal agencies to "analyze the potentially affected environment and degree of the effects of the action…" as well as "consider connected actions consistent with § 1501.9(e)(1)." On this basis, the cumulative impacts analysis in the EA is inadequate and does not fully consider the impacts to the Resort and connected areas over time and space. A full cumulative impact analysis would include connected actions impacting common resources such as Fish Creek and the wildlife populations that migrate from and through the JHMR project area.

For instance, accounting for the cumulative impacts to migratory animals who use the project area for habitat should be part of the cumulative impacts analysis. Moose (*Alces alces)* used to be much more common in Jackson Hole (and at JHMR) than they are today (see Winter Moose Count trend below).



Wyoming Game and Fish Department,
https://www.wyomingpublicmedia.org/open-spaces/2023-03-03/volunteers-spread-out-across-the-region-to-tally-moose

The EIS should seek to answer such questions as: What role has loss of habitat like wetlands and riparian vegetation played in their decline? What role has wildlife vehicle collisions from increased traffic played on their population? What role has increased development at JHMR and surrounding private lands had on moose habitat and calving grounds? What impacts can be identified from connected actions in the watershed, like the new wildlife fencing, road underpasses, and proposed development at Stilson?

Likewise, what alternatives or mitigations can be put in place to reduce these impacts? These are the tough questions that have not been asked in this environmental review process and that the Jackson Hole Conservation Alliance feels need to be addressed in a full Environmental Impact Statement.

We appreciate the opportunity to present this objection letter and respectfully request a meeting in accordance with 36 CFR §218.11(a) to discuss these concerns in greater detail. Thank you for your consideration.

Sincerely,

Dave Sollitt
Executive Director

Kevin Krasnow, PhD
Conservation Director

References:

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Ellison, A. M., Bank, M. S., Clinton, B. D., Colburn, E. A., Elliott, K., Ford, C. R., ... & Webster, J. R. (2005). Loss of foundation species: consequences for the structure and dynamics of forested ecosystems. Frontiers in Ecology and the Environment, 3(9), 479-486.

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Pease, C. M., & Mattson, D. J. (1999). Demography of the Yellowstone grizzly bears. Ecology, 80(3), 957-975.

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