



September 20, 2024

Director, Ecosystem Management Coordination
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 DEIS and proposal to amend land management plans for units of the National Forest System to include consistent direction to conserve and steward old-growth forest conditions. NSAA is the trade association for ski area owners and operators nationwide. 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 storing 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. As your partner in recreation, we value working together in support of multiple use management and achieving our common goals of sustaining the health of National Forests and promoting active participation in mountain recreation. We particularly appreciate the agency's responsiveness to NSAA's comments filed on the NOI in February on this old growth initiative and improvements made to the proposed standards toward accommodating certain management activities and authorizations of occupancy and use.

Today, we are asking the agency to lean in more on the commitments already made to special use permit holders, particularly ski areas with 40-year terms, in crafting the final old growth amendment. Forest plans and long-term permits have already dedicated these lands to intensive recreation use. Developed recreation plays a special role in delivering the agency's recreation mandate and allowing millions of people to enjoy health and wellness benefits, improve their quality of life, and enhance their appreciation of the natural environment. It supports rural economies and jobs and provides a significant return to the government in permit fees. Valuing both stewardship and the many benefits of developed recreation is the very foundation of our partnership.

The proposed amendment adds an unnecessary management overlay onto these permitted areas and will interfere with the most basic management functions at ski areas including operations, maintenance, development and even wildfire risk reduction. The purpose of ski area timber removal is not to harvest trees for economic reasons, rather it is an operational necessity to provide a quality, modern and safe recreation environment for the public. Trees are removed to develop trails; install or replace chairlifts; develop facilities that are ancillary to

recreation operations and support year-round activities; reduce wildfire risk; and remove hazards to structures and public safety. As elaborated upon below, a management overlay that hampers our ability to carry out basic management activities is unprecedented and contrary to the principles of our partnership.

We urge the agency to adopt a workable and simple approach in the final amendment that does not conflict with existing management direction, forest plan allocations and permit terms. Just as the agency honored existing permits and valid existing rights in its Roadless regulations, it needs to take the same approach here with respect to managing for old growth. There is no good reason for the agency to take a different approach with old growth than it did with Roadless management. Ski area acres represent a tiny fraction of old growth, and not applying this management overlay to ski area acres would be of negligible effect. Moreover, at this time, public recreation demand at ski areas is dramatically outpacing supply. The ski industry is experiencing record visitation and domestic participation is at an all-time high with over 11 million American skiers and snowboarders. Many ski areas have experienced a record number of days 'at capacity' over the past two seasons. The Roadless policy respected the dynamic nature of ski area operations yet allowed the agency to meet Roadless objectives at the same time. Similarly here, the agency can manage for old growth protection and developed recreation at the same time by amending and clarifying the proposed standards as suggested below.

As a practical matter, we urge the Forest Service to take a hard look at the state of the agency's workforce in making this impactful and long-term decision on managing old growth. The agency's recreation program is significantly understaffed and under-resourced and is struggling to keep up with its existing workstream. Ski forests lack permit administrators and district rangers; vacant positions can't be back filled; and the agency won't be able to hire seasonal employees in FY2025, including avalanche forecasters. As drafted, this amendment creates more work for the agency on permitted acres by adding layers of process, analysis and decision making for the removal of any tree. It will also undo the tremendous progress made through the agency's [Environmental Analysis and Decision Making \(EADM\)](#) initiative and undermine its goals of reducing the time and cost of environmental analysis and decision making and producing efficient and effective land management decisions to "accomplish more work on the ground and be more responsive to the public we serve." We thank you for taking into account our specific comments below.

Comments

Standard 2.b

NSAA respectfully requests that the agency amend and clarify Standard 2.b to remove the management conflict it presents on ski area permitted acres.

Standard 2.b provides:

The cutting or removal of trees in old-growth forest for purposes other than proactive stewardship is permitted when (1) incidental to the implementation of a management activity not otherwise prohibited by the plan, and (2) the area – as defined at an ecologically appropriate scale – continues to meet the definition and associated criteria for old-growth forest after the incidental tree cutting or removal.

Part (1) of Standard 2.b allows for removal of trees in old growth forest when it is incidental to the implementation of a management activity not otherwise prohibited by the plan. NSAA appreciates the agency's addition of this provision into the plan standards. NSAA offered this language as a suggestion in our February comments on the NOI because it is consistent with the approach adopted by the agency in the Roadless context. It would be helpful for the agency to provide ski area timber removal for maintenance, development, and operations or wildfire reduction as an example of management activities covered by this language in the Final EIS. Part (2) of Standard 2.b is problematic, however, because this added requirement should not be applied to ski area permitted acres which are allocated in forest plans for resort development and permitted for development and management of four-season recreation facilities. It would require a survey, analysis and an agency determination every time a ski area proposes to remove a tree for any reason. The agency should either eliminate this second requirement or make it clear that it does not apply to ski area permitted lands.

Standard 2.c

NSAA appreciates the inclusion of the deviations provided in Standard 2.c to allow for timber removal in old growth related to specific purposes. We offer suggested changes below to the **bolded** components of Standard 2.c.

Standard 2.c provides:

*Deviation from Standard 2.a and 2.b may only be allowed if the responsible official determines that vegetation management actions or **incidental tree-cutting** or removal are **necessary** for the following reasons and includes the rationale in a decision document or supporting documentation:*

- i. in cases where this standard would preclude achievement of wildfire risk management objectives **within municipal watersheds or the wildland-urban interface (WUI)** as defined in Section 101 of the Healthy Forest Restoration Act of 2003 (16 USC 6511) and its application by the local planning unit, or would prevent protection of critical infrastructure from wildfire;*
- ii. to protect public health and safety;*
- iii. to **comply with** other statutes or regulations, valid existing rights for mineral and energy resources, **or authorizations of occupancy and use** made prior to the old-growth amendment decision;*
- iv. for culturally significant uses as informed by tribes or for de minimis use for local community purposes;*
- v. in areas designated for research purposes, such as experimental forests or research natural areas; or*
- vi. in cases where it is determined – based on best available science, which includes Indigenous Knowledge – that the direction in this standard is not relevant or beneficial to a particular species or forest ecosystem type.*

Incidental tree cutting

There is a difference between tree removal incidental to a management activity and incidental tree removal, the latter of which suggests a very small number of trees. If a new road at a ski area is needed to provide an evacuation route in the event of a wildfire or to allow access to explosives magazines in summer so that contents can be moved to a different location due to fire risk, more than just a few trees might be impacted. We would suggest removing the term incidental in this context: “vegetation management actions or ~~incidental~~ tree-cutting or removal.”

Necessary

If the agency’s objective here is to allow deviations, the word “necessary” is too strong in this context and will invite challenges and controversy as to whether any vegetation management or tree removal rises to the level of being “necessary.” NSAA’s suggested phrasing would be:

“...if the responsible official determines that vegetation management actions or ~~incidental~~ tree-cutting or removal ~~are necessary for~~ would support the following ~~reasons~~ objectives and includes the rationale in a decision document or supporting documentation.”

Within municipal watersheds or the wildland-urban interface (WUI)

The limitation of wildfire risk reduction activities within municipal watersheds or the wildland-urban interface (WUI) in Standard 2.c(i) is too narrow. Providing more flexibility in allowing ski areas to manage their acreage without unnecessary constraints is critical because ski areas need to reduce fire risks across their landscape and take action to reduce risk to infrastructure, natural resources and the public. As currently drafted, Standard 2.c does not allow that for resorts outside of WUI or municipal watersheds. The need for this flexibility is all the more important since ski areas are not a priority in the agency’s implementation of the Wildfire Crisis Strategy. The initial landscapes targeted for protection and investment focus on WUI, just like this Amendment, despite the fact that ski areas operating on NFS lands have invested over \$9.5 billion in infrastructure. That infrastructure is critical to the millions of people who recreate at ski areas, the hundreds of thousands of people employed by ski areas, and the rural, mountain economies that rely on ski areas being open and operating. Look no further than the haunting images of ski areas currently impacted by wildfire in California, Nevada and other fire risk locations as a powerful reminder that an entire resource can be lost in a matter of hours if protection and management of ski area acres are not prioritized.

Comply with

The phrase “comply with” is too strong in the context of referencing authorizations of occupancy and use in subsection (iii). NSAA suggests a change to 2.c(iii) as follows:

“to comply with other statutes or regulations, valid existing rights for mineral and energy resources, or be consistent with authorizations of occupancy and use made prior to the old-growth amendment decision;”

Authorizations of occupancy and use made prior to the old-growth amendment decision

There are two ways to interpret the phrase “authorizations of occupancy and use made prior to the old-growth amendment.” The first is to broadly include any *permit* issued prior to the old-growth amendment. This is a reasonable interpretation since the standard ski area special use permit (Form FS-2700-5b (2020)) provides:

“Holder Name (the holder) is authorized to use and occupy National Forest System (NFS) lands in the _____ National Forest, subject to the terms of this ski area term special use permit (the permit).”

The commentary in the DEIS that “[A]ll alternatives allow for “continuation of existing special use authorizations” can be read to support this interpretation. Unfortunately, the DEIS also includes commentary focused on *project decisions* issued prior to the old growth amendment, a much narrower approach. This latter interpretation is too limited and is not consistent with the terms of a ski area’s 40-year permit.

The Final EIS should make it clear that if a special use permit exists before issuance of the old growth decision, tree removal within that area consistent with the authorized use and occupancy should not be prohibited. This includes any master development plan (MDP) boundaries as well since the MDP is incorporated by reference into a ski area permit. (See agency’s Roadless rule language: “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...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). Additionally, the agency should make it clear in the FEIS that any *subsequent* renewal of occupancy and use for an existing (pre NOGA) permit that expires or the issuance of a new permit in the event of a sale or change in ownership of a ski area are also covered under Standard 2.c(iii).

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We urge the agency to take the suggestions provided here and implement the old growth forest plan amendment in a manner that that positions our partnership for success.

Thank you for taking our comments into consideration.

Sincerely,

Geraldine Link

Geraldine Link
Director of Public Policy