USDA Forest Service
Attn: Michiko Martin, Regional Forester,
Objection Reviewing Officer
333 Broadway Blvd SE
Albuquerque, NM, 87102

Submitted via https://cara.fs2c.usda.gov/Public//CommentInput?Project=61390

Re: Objection regarding Taos Ski Valley, Gondola And Other Improvements Projects

Objection Reviewing Officer,

The following objection is submitted on behalf of In Light of Nature, LLC.

This Objection is filed pursuant to, and in compliance with, 36 C.F.R. Part 218, Subparts A and B.

I have previously filed timely, specific, and substantive written comments in accordance with 36 C.F.R. 218(a). As required by 36 C.F.R. § 218.8(d), Objector provides the following information:

1. The name and contact information for the Objector is:
Edward MacKerrow, Ph.D.
[redacted]

2. Edward MacKerrow is the Lead and only Objector for purposes of communication regarding this Objection.

3. The project subject to this Objection is "Taos Ski Valley, Gondola And Other Improvements Projects." The Responsible Official is James Duran, Forest Supervisor, Carson National Forest.

The National Forest on which the Proposed Project will be implemented is:

Carson National Forest, Questa Ranger District.

4. The objector submitted timely, specific, and substantive comments during the Public Comment Period on May 22, 2023. All points and issues raised in this objection refer to issues raised in those comments or are related to new information.

STATEMENT OF REASONS AND SUGGESTED REMEDIES

I object to the Finding of No Significant Impact (FONSI) determination for the following reasons:

1. **Critically Inadequate Species Analysis**

The EA's wildlife analysis demonstrates a fundamental failure to meet NEPA requirements for comprehensive environmental review:

Severely Limited Analysis Scope:
The EA's entire bird species analysis is limited to just six common species:

- Clark's nutcracker
- Gray jay
- Dark-eyed junco
- Northern flicker
- Common raven
- American pipit (noted only as a single nest observation)

This extremely limited analysis fails to provide the "hard look" at environmental impacts required by NEPA, particularly given the documented presence of:

- 75 MBTA-protected spruce-fir habitat birds
- 11 alpine tundra bird species
- Multiple state-listed threatened and endangered species
- Multiple USFS Region 3 Sensitive Species

Inadequate Federal Species Review:
The EA summarily dismisses impacts on federally listed species through cursory habitat assessments:
- Mexican Spotted Owl - dismissed based on limited 2010-2011 surveys
- Southwestern Willow Flycatcher - dismissed without surveys
- Mountain Plover - dismissed without habitat assessment
- Black-footed Ferret - dismissed without detailed analysis

This approach violates NEPA requirements by:
- Failing to use current data
- Relying on outdated surveys

- Ignoring potential habitat changes
- Not considering cumulative impacts

Critical Omissions Include:

1. **State-Listed Threatened and Endangered Species:**
- Boreal Owl (NM THREATENED) - documented in project area but not analyzed
- American Peregrine Falcon (NM THREATENED) - known to use area but not analyzed
- White-tailed Ptarmigan (NM ENDANGERED) - known to use Kachina Peak but not analyzed
- Pacific Marten (NM THREATENED) - known to use project area but not analyzed

2. **USFS Region 3 Sensitive Species (Complete Omission):**
- Northern Goshawk (observed inside the project boundaries)
- Masked Shrew
- Water Shrew
- American Pika (observed inside project boundaries)
- Pale Townsend's Big-eared Bat
- All nine spruce-fir dependent R3 species
- All five alpine tundra R3 species

3. **Migratory Bird Treaty Act (MBTA) Protected Species**:
The EA ignores 69 of 75 documented MBTA-protected species, including:

Raptors and Owls:
- Turkey Vulture (Cathartes aura)
- Sharp-shinned Hawk (Accipiter striatus velox)

- Cooper's Hawk (Accipiter cooperii)
- Northern Goshawk (Accipiter gentilis)
- Red-tailed Hawk (Buteo jamaicensis)
- Golden Eagle (Aquila chrysaetos canadensis)
- American Kestrel (Falco sparverius sparverius)
- American Peregrine Falcon (NM THREATENED)
- Flammulated Owl (USFWS Conservation Concern)
- Great-horned Owl (Bubo virginianus)
- Northern Pygmy Owl (Glaucidium gnoma)
- Boreal Owl (NM THREATENED)
- Northern Saw-whet Owl (Aegolius acadicus)

Critical Nocturnal Species:
- Common Nighthawk (Chordeiles minor)
- Flammulated Owl (USFWS Conservation Concern)
- Great-horned Owl (Bubo virginianus)
- Northern Pygmy Owl (Glaucidium gnoma californicum)
- Mexican Spotted Owl (Federal THREATENED)
- Long-eared Owl (Asio otus)
- Boreal Owl (NM THREATENED)
- Northern Saw-whet Owl (Aegolius acadicus)

Critical Impact Issues Not Analyzed:
- Evening snow-making operations disrupting hunting and communication
- Light pollution affecting predator-prey relationships
- Night-time recreation impacts on foraging patterns

- Loss of roosting habitat from forest thinning
- Cumulative effects of 24-hour human activity
- Impacts on prey species availability and access
- Disruption of breeding season calling patterns

High-Elevation Specialists:
- White-throated Swift (Aeronautes saxatalis)
- Calliope Hummingbird (Stellula calliope)
- Broad-tailed Hummingbird (Selasphorus platycercus)
- Rufous Hummingbird (Selasphorus rufus)
- Clark's Nutcracker (Nucifraga columbiana)
- Gray Jay (Perisoreus canadensis)
- Black Rosy Finch (USFWS Conservation Concern)
- Pine Grosbeak (Pinicola enucleator)
- White-winged Crossbill (Loxia leucoptera)
- Pine Siskin (Carduelis pinus)
- Evening Grosbeak (Coccothraustes vespertinus)
- Red Crossbill (Loxia curvirostra)
- Mountain Chickadee (Poecile gambeli)
- Golden-crowned Kinglet (Regulus satrapa)
- Ruby-crowned Kinglet (Regulus calendula)
- American Pipit (Anthus rubescens)
- Brown Creeper (Certhia americana)

These high-elevation specialists are particularly vulnerable to development impacts because:
- They require specific alpine and subalpine habitats

- Many are year-round residents with limited alternative habitat
- They are adapted to low-disturbance environments
- Several species are dependent on mature conifer forests
- Their populations are already stressed by climate change
- They have specific breeding and foraging requirements that may be disrupted by development

4. **Canada Lynx Critical Habitat and Population Concerns**

The EA fails to adequately address the significant presence and movement patterns of the Canada Lynx (Lynx canadensis), a threatened species under the Endangered Species Act:

Detailed Telemetry Study Findings:
- The USFS telemetry study at Vail Ski Area revealed crucial behavioral patterns:
  - Collared lynx showed complete avoidance of areas within 1.2 km of ski infrastructure
  - Movement patterns shifted nocturnal during winter operations
  - Lynx abandoned previously used travel corridors after development began
  - GPS data showed lynx making extensive detours of up to 7 km to avoid developed areas
  - Even during non-operational months, lynx avoided areas with permanent infrastructure
  - The study documented a 92% reduction in lynx movement through developed areas
  - These avoidance behaviors persisted across multiple seasons and years

Specific Corridor Habitat Requirements:
The Upper Rio Hondo/Wheeler Peak corridor provides essential habitat elements that cannot be replicated elsewhere:
- Continuous bands of mature spruce-fir forest at elevations above 9,000 feet

- Dense understory supporting snowshoe hare populations of 1.5-2 hares per hectare
- Deep, powdery snow conditions that give lynx competitive advantage over other predators
- Naturally connected denning sites with coarse woody debris
- Minimal fragmentation allowing natural hunting and movement patterns
- Critical elements include:
  - 65% or greater canopy cover
  - Presence of mature stand structure
  - Continuous forest patches larger than 2.5 km²
  - Winter snow depths averaging over 1 meter
  - Limited human disturbance zones

Population Isolation Impacts:

The proposed project would create significant isolation effects:

- Genetic isolation of potential southern populations from the core Colorado population
- Creation of a movement barrier across the entire width of the Sangre de Cristo range
- Disruption of natural dispersal patterns documented through telemetry data
- Potential creation of population sink areas south of the development, including on Taos Pueblo Lands.
- Long-term impacts include:
  - Reduced genetic diversity in isolated populations
  - Decreased likelihood of successful territory establishment
  - Increased vulnerability to local extinction events
  - Limited ability for population recovery after local declines

Relationship to Lynx Recovery Plan:

The proposed project directly contradicts key elements of the Canada Lynx Recovery Plan:

- Violates the plan's requirement to maintain connectivity between populations
- Conflicts with specific recovery actions for the Southern Rockies region:
  - Action 1.1: Maintain connectivity between subpopulations
  - Action 2.3: Protect movement corridors across ski areas
  - Action 3.2: Minimize fragmentation in potential expansion zones
- Undermines recovery objectives:
  - Prevents natural range expansion into historical habitat
  - Reduces the likelihood of establishing new breeding populations
  - Compromises long-term species viability in the southern portion of its range
- The corridor represents a critical component of the "stepping stone" approach outlined in the recovery plan for southward range expansion

5. **Noise and Disturbance Impacts**

The EA fails to address:
- Jet-engine level noise from snow-making equipment throughout the basin
- Impacts on nocturnal species, particularly owls' ability to communicate and hunt
- Cumulative effects of noise combined with human presence
- Sound propagation into the Wheeler Peak Wilderness
- Displacement of wildlife into already occupied habitat

6. **Water Resources and Community Impacts**

The EA fails to adequately analyze:
- Current water usage of 200 acre-feet (2.33 million gallons/year)
- Impacts of proposed 5-million-gallon storage tank

- Effects on downstream communities (Valdez, Arroyo Seco, Arroyo Hondo)
- Cumulative water demands from new development

7. **Wilderness Area Impacts**

The EA inadequately addresses:
- Increased usage of Wheeler Peak Wilderness
- Sound pollution impacts on wilderness character
- Potential trespass issues on Taos Pueblo lands
- Loss of solitude due to development and noise

REQUIRED REMEDIES

Given these significant deficiencies, the following remedies are required:

1. Comprehensive Species Analysis Required

a) Current Survey Requirements:

- Survey and document all 75 MBTA-protected species
- Analyze all USFS Region 3 Sensitive Species
- Address all state and federally listed species
- Conduct comprehensive nocturnal species surveys
- Minimum of 12 nighttime surveys for each nocturnal species
- Use independent third-party wildlife biologists without conflicts of interest

b) Survey Methodology Requirements:

- Multi-season surveys over a minimum two-year period
- Documentation of breeding territories
- Analysis of migration patterns
- Winter habitat use studies
- Detailed population assessments
- Genetic connectivity studies

2. Habitat Impact Assessment Required

a) Current Conditions Analysis:
- Quantify total habitat loss to date
- Document fragmentation patterns
- Map wildlife movement corridors
- Assess current noise impacts
- Evaluate light pollution effects

b) Future Impact Projections:

- Model habitat loss scenarios
- Project climate change impacts
- Analyze cumulative development effects
- Assess long-term corridor viability
- Evaluate population sustainability

3. Specific Species Protection Measures Required

a) Canada Lynx Protection:

- Maintain minimum 1.2 km buffer zones around infrastructure
- Preserve documented movement corridors
- Protect denning habitat
- Maintain snowshoe hare habitat
- Ensure genetic connectivity

b) Avian Species Protection:

- Preserve nesting habitat for all 75 MBTA species
- Protect owl hunting territories
- Maintain raptor foraging areas
- Preserve migration stopover sites
- Protect alpine breeding grounds

4. Environmental Justice and Water Security Measures Required

a) Community Protection:

- Analyze impacts on traditional communities
- Assess acequia water rights

- Evaluate downstream effects
- Document cultural resource impacts

b) Water Resource Protection:

- Comprehensive watershed analysis
- Cumulative impact assessment
- Long-term monitoring program
- Water rights protection plan

5. Legal Compliance Measures Required

a) ESA Compliance:
- Complete formal Section 7 consultation
- Develop Biological Assessment/Biological Opinion
- Implement comprehensive monitoring
- Establish adaptive management protocols

b) NEPA Compliance:

- Full Environmental Impact Statement
- Complete cumulative effects analysis
- Detailed alternatives analysis
- Public involvement process

6. Monitoring and Mitigation Required

a) Species Monitoring:
- Annual population surveys
- Seasonal movement studies
- Breeding success monitoring
- Habitat use documentation

b) Impact Mitigation:

- Habitat restoration plans
- Noise reduction measures
- Light pollution controls
- Wildlife corridor protection

CONCLUSION

The FONSI determination is inappropriate given these significant issues and the requirements of applicable laws and regulations. The proper course of action under NEPA is to conduct a full Environmental Impact Statement that thoroughly addresses these concerns through a comprehensive, transparent, and legally compliant process.

Respectfully submitted,

Ed MacKerrow

Digitally signed by Ed MacKerrow
Date: 2024.12.16 22:13:58 -07'00'

Edward MacKerrow, PhD
In Light of Nature, LLC

Attachments:

May 22, 2023 Comments Letter (containing photographic documentation of boreal owl found inside project boundaries)

May 22, 2023

Carson National Forest
Questa Ranger District
P.O. Box 110 Questa, NM 87556

Submitted electronically at

https://cara.fs2c.usda.gov/Public//CommentInput?Project=61390

Re: Comments on NEPA Environmental Assessment for Carson National Forest, Taos Ski Valley Gondola and Other Improvements Project #61390

Dear Carson National Forest Responsible Official for NEPA Project #61390:

In Light of Nature, LLC. respectfully submits these comments to the Carson National Forest (USFS-CNF) as input to the National Environmental Protection Act (NEPA) Draft Environmental Assessment (DEA) for the proposed "Taos Ski Valley Gondola and Other Improvements, Project #61390" (Project).

The proposed Project will likely have significant negative impacts on Threatened and Endangered (T/E) species documented in the Project area and on the Headwaters of the Rio Hondo (HUC12) watershed. The EA does not appear to account for environmental justice (EJ) and water security for the traditionally underserved communities which rely on acequia-based agriculture and the National Forest lands for recreation and natural resources.

Please review my comments below, which support a full NEPA Environmental Impact Statement (EIS) to be conducted before any proposed construction/development activities in the Project commence.

1) Threatened and Endangered Species have been documented around the Project but were not discussed in the DEA! This raises serious concerns on how and why the USFS-CNF chose to outsource private consulting companies with possible conflicts of interest to "analyze" potential impacts from the proposed Project on T/E wildlife species.

I documented and photographed a boreal owl on January 13, 2013, in the Project area and reported this to the USFS-CNF before the Taos Ski Valley 2010 Master Development Plan – Phase 1 Projects[1] were implemented. It took me 14 different nighttime ski trips to finally photo document a boreal owl.

When I reported the finding of the boreal owl to the USFS-CNF I was told by the CNF, "We are still going ahead with the proposed project." The Final EIS for the 2010 Master Development Plan documents that **only two surveys** were conducted for the boreal owl in habitat assumed to be conducive to the boreal owl (the lowermost portion of the Wild West Glades and the very eastern edge of the Minnesota Glades). No boreal owls were found on these limited two surveys. The USFS-CNF acknowledged a 2005 observation of a boreal owl away from these survey locations, yet they did not survey close to where the 2005 boreal owl was found, and where the proposed Kachina Lift would be installed. The Kachina Lift was installed in the summer of 2014. I found and reported to the USFS-CNF a boreal owl (photograph below) within 300 meters of the proposed Kachina Lift in January 2013.

Figure 1. Boreal Owl documented January 13, 2013, in the general area of the proposed Taos Ski Valley Gondola and Other Improvements Project #61390. © In Light of Nature, All Rights Reserved.

Why did the USFS-CNF choose to ignore this documented threatened species that the EIS at the time required analysis on, and why did the USFS-CNF decide to only conduct two surveys for the presence of boreal owls on the other side of the West Basin, far from the 2005 the Kachina Lift?

In the Final EIS for the 2010 Master Development Plan the USFS-CNF states that thinning of trees to make gladed ski runs does not negatively impact the boreal owl. This contradicts the fact that boreal owls feed on voles and other rodents underneath the snow surface in the winter. Snow surfaces shaded by dense trees remain soft enough for the small boreal owl to dive for prey buried under deep snow. When trees are removed the snow surface develops a sun crust preventing small mountain owls (boreal owl, western screech owl, northern pygmy owl, and northern saw-whet owl) from penetrating the melt-remelt snow surface and catching needed sub-snow surface prey.

[1] Final Environmental Impact Statement for Taos Ski Valley's 2010 Master Development Plan – Phase 1 Projects, USDA, Forest Service, Southwestern Region, Carson National Forest, Taos County, New Mexico, 2012.

a) Canada Lynx
b) Mexican Spotted Owl
c) Northern Goshawk
d) Pacific Marten
e) Peregrine Falcon
f) White-tailed Ptarmigan
g) Wolverine