

Data Submitted (UTC 11): 8/23/2022 7:00:00 AM
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Comments: To: Deputy Reviewing Officer

Deputy Regional Forest Elizabeth Berger

USDA Forest Service Pacific Southwest Region

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Subject: 2022 Land Management Plan for the Sierra National Forest Plan Revision-Objection under the responsible official, Forest Supervisor Dean Gould.

My objection issue: The 2022 Sierra National Forest Land Management Plan language under Tribal Relations and Uses, Desired Conditions 02, Page 94, states: 'The Sierra staff coordinates with Tribes in managing traditional cultural properties, resources and sacred sites where the historic preservation law alone may not adequately protect resources or values' (Plan Language). This Plan Language should be deleted or made perfectly clear that pre-existing recreation facilities or uses and other pre-existing entities are not subject to any possible mitigation measures and will not preclude NHPA law in any manner. The following supports my Plan Language Objection:

If the Sierra National Forest is going to manage Traditional Cultural Properties (TCPs), resources, and sacred sites where historic preservation law of the National Historic Preservation Act (NHPA) does not protect them; does this mean that other resources such as pre-existing recreation facilities could possibly be unprotected where historic law (NHPA) now protects them? This Plan Language implies Forest staff personal can make up their own laws, regulations, and policies as they go along without any legal laws, guidelines protocols, rules etc. to go by. If so, wouldn't this action be unlawful, inconsistent, and conflicting with Forest Service regulations, policies, and required NHPA Historic laws? Should there be a required NHPA Section 106 review, since the Plan Language directly mentions historic law and thus, the possibility of adversely effecting historic properties?

The apparent basis for this Plan Language is the Sierra National Forest Final assessment Snapshot of 2013, Chapter 13, for understanding a need to change that states: "Historically, Region 5 and the SNF have viewed cultural resources through the framework of legal compliance with Section 106 of the NHPA", and the condition for a need to change states ... "many existing recreation facilities are currently located on or near cultural resources their impact free management is problematic". This language supporting a need to change Section 106 of the National Historic Preservation Act that protects pre[shy]existing recreation resources and uses i.e. "impact free", is obviously not lawful and severely conflicts with NHPA law, Forest Service regulation and policy. How can there be any legal basis for precluding or changing the NHPA ("historic preservation law") as indicated in the assessment and implied in this Plan Language?

The definition of a Traditional Cultural Property (TCP) and all Historic properties is that their integrity is not affected by pre-existing recreation conditions i.e. "impact free", or they would not be defined as a TCP under the NHPA. Forest Service Policy FSM 2363.17 states TCP's are to be managed under the authority of the NHPA.

For a Mono Hot Springs Resort, April 1, 2011, permit public scoping review, there was a comment that the resort was adversely affecting a nearby TCP. The Supervisor's rebuttal comment left no doubt that pre-existing

conditions cannot affect a TCP by stating: "Had Planas or you identified that there were adverse effects to the integrity of the TCP during the evaluation and consultation process, the results would most likely had a profound impact on the nature and number of contributing elements, as well as the physical boundaries of the TCP"

My comments of September 22, 2019, for the 2019 Draft Revised Sierra National Forest LMP included two issues: #1 being appendix D with language stating, "Management strategies can be applied to new or existing sites and whenever a conflict between recreation use and resources are detected", and some of the direct-action management taken can be the to "decommission facilities and permanently Discontinue visitor use". The appendix D was deleted by Forest Service.

My second September 22, 2019, comment, issue #2 was regarding the same Plan Language of this 2022 objection process under Tribal Relations and uses, Desired Conditions where there was a oversight in that my comments were never acknowledged or commented on by the Forest Service. Only my #1 comment received a reply that was mistakenly under Tribal relations and uses. My 2019 #2 comments should have been under Tribal Relations and uses (please see the enclosed comments).

I commented in 2019 that the objection Plan language supported the deleted appendix D language and therefore should also be deleted.

In review, because the Plan Language is so broad, lacking guidelines, arbitrary, potentially conflicting with Section 106 of the NHPA, Forest Service regulations and policy, I recommend the Plan Language be deleted or revised in such a manner that it is clear that existing recreation facilities and other pre[shy]existing facilities and uses will not be affected by this Plan Language, and nor will NHPA law be precluded in any manner.

Please find enclosed copies of my previous Sierra National Forest LMP substantive formal comments that allow me eligibility for this objection process.

Thank you for the opportunity to object to 2022 Sierra National Forest Land Management Plan Revision.

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