



May 27, 2020

Constance Cummins, Forest Supervisor
Superior National Forest
8901 Grand Avenue Place
Duluth, MN 55808

Submitted online at <https://www.fs.usda.gov/project/?project=52440>

Re: Lutsen Mountains Ski Area Expansion Project

Dear Supervisor Cummins,

Winter Wildlands Alliance (WWA), a national non-profit, whose mission is to promote and protect winter wildlands and quality human-powered snowsports experiences on public lands. WWA has 33 grassroots groups in 15 states and a collective membership exceeding 50,000. One of our grassroots groups is Superior Highland Backcountry (SHB), an advocacy group for backcountry skiers in the Superior Highlands. WWA has a keen interest in the Lutsen Mountains Ski Area Expansion Project EIS. We appreciate the opportunity to comment on the Notice of Intent and proposed action.

The proposed Lutsen Mountains Ski Area Expansion Project threatens the future of backcountry skiing opportunities on the North Shore. Backcountry skiers have enjoyed skiing on Moose and Eagle Mountains for years. These mountains offer backcountry skiers a wild mountain experience but with a big lake view. Moose Mountain, in particular is a unique physical feature in the Midwest that is unrivaled in its size and prominence. With a 700-foot vertical relief and a deep and consistent snowpack Moose Mountain offers the best backcountry skiing in Minnesota and perhaps in the entire Midwest. Often after a big snowfall, temperatures in Lutsen get quite cold, preserving the powder snow for a lengthy time, allowing for excellent skiing conditions for days without the threat of avalanches.

The Superior National Forest should deny LMC's request for a Special Use Permit (SUP) to authorize LMC to construct, operate, and maintain an expansion to a winter sports resort onto approximately 495 acres of National Forest System lands. Any development by Lutsen Mountains Corporation (LMC) on public lands would displace backcountry skiers from Moose and Eagle Mountains, eliminating the best option for backcountry skiing in Minnesota. A backcountry ski area on Moose Mountain would be a far better use of this land. A backcountry ski area would have a significantly smaller environmental impact, diversify the winter sports offerings in this region, and attract new visitors to the North Shore. Our comments explore these topics and address the Proposed Action in detail.

I. HOLDING A 30-DAY COMMENT PERIOD IN THE MIDST OF THE COVID-19 PANDEMIC SUPPRESSES PUBLIC ENGAGEMENT

Due to the ongoing public health crisis as a result of COVID-19 and the executive order declaring a national state of emergency on March 13, 2020,¹ WWA and SHB sent you a letter on April 15, 2020 requesting that the public comment period associated with this Notice of Intent be extended until at

¹<https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>



least 30 days after the COVID-19 pandemic is well enough under control to allow for appropriate public engagement and oversight as required by law. This request – to which we have received no response - was in line with a multitude of other requests submitted across the country, including requests from Members of Congress, attorneys general, and state and local governments to extend public comment periods for rulemaking efforts and other processes during the novel coronavirus pandemic.² Even as states begin to re-open, the COVID-19 pandemic is having a significant impact on normal working and living conditions, impairing the ability of the general public, issue experts, and others to conduct their daily routines and regular business, much less weigh in on federal government actions affecting them.

Access to broadband internet and a computer at home is a privilege and individuals without access to these resources rely on public spaces, such as government facilities, schools, community centers, and libraries, which are all currently closed due to public health concerns. As such, the ongoing pandemic has made it extremely difficult for many people, especially those without broadband internet access, to review and comment on this Notice of Intent. It is the Forest Service's responsibility to provide sufficient hard copies to the public, a responsibility that is impossible to fulfill during the ongoing pandemic. Furthermore, without access to broadband internet at home, members of the public cannot access the ArcGIS story map prepared to accompany the scoping notice and explain the process and proposed action.

For the Forest Service's request of public comment to be meaningful the entire public must have adequate time and capacity to comment. It is noteworthy that administrative actions and public comment periods for other federal agency actions are being suspended or extended for "to be determined" amounts of time due to the national emergency.³ Forest Service guidance, published April 3, 2020⁴, recognizes and lists a number of ways in which the current pandemic interferes with public engagement and provides direction to forests. Forests are instructed to consider several factors in determining whether to carry forward with new comment or objection filing periods. These include but are not limited to:

- The scope and complexity of the analysis and the likely degree of public interest

² E.g., Letter from 22 US Senators, including MN Senator Klobuchar to Acting Director of OMB Russell Vought, submitted April 8, 2020: <https://www.tomudall.senate.gov/news/press-releases/udall-leads-senate-democrats-in-urging-trump-administration-to-indefinitely-extend-public-comment-periods-and-pause-unrelated-federal-rulemakings-during-covid-19-pandemic-emergency->; Letter from fourteen House of Representatives Committee Chairs to Acting Director Russell Vought, submitted April 1, 2020: https://www.eenews.net/assets/2020/04/02/document_gw_08.pdf; Letter from Senators Wyden, Merkley, and Udall to Secretary Bernhardt requesting a pause on comment periods, submitted April 3, 2020: <https://www.wyden.senate.gov/imo/media/doc/040320%20Letter%20on%20DOI%20comment%20periods.pdf>; Letter from state attorneys general to Acting Director Russell Vought, submitted March 31, 2020: https://portal.ct.gov/-/media/AG/Press_Releases/2019/COVID-19-Rule-Delay-Letter---Final.pdf?la=en; Letter from various state and local government organizations requesting a pause on all public comment and rulemaking processes, submitted March 20, 2020: <https://www.nga.org/letters-nga/state-and-local-government-organizations-seek-pause-on-public-comments-on-rulemaking-processes/>.

³ E.g., The Daniel Boone National Forest Supervisor sent a letter to relevant parties suspending the public objection period in light of COVID-19; U.S. Forest Service extended a public comment period for the Nantahala and Pisgah forest plan revision with the length of time to be determined. Available at: <https://www.fs.usda.gov/detail/nfsnc/home/?cid=stelprdb5397660>.

⁴ File Code 1950 "COVID-19 Pandemic New Comment or Objection Filing Period Guidance" To Regional Foresters from Christopher B. French, Deputy Chief, National Forest System



- *The Superior National Forest is initiating an EIS process. The Lutsen Mountains Resort expansion would be a completely new use of Superior National Forest lands and analysis of this proposal is a complex process that should not be shortchanged at the outset.*
- Federal, state, tribal, or local public health direction
 - *Minnesota Governor Tim Walz issued Emergency Executive Order 20-20, a stay-at-home order, effective March 27, 2020. It was extended until May 18, 2020, thus encompassing the majority of this comment period. Additionally, even after the stay at home order expired, physical distancing continues to apply, and places that people access high speed internet - like libraries, remain closed.*
- The ability of interested governments, organizations and individuals to engage
 - *Many people in this region lack access to high speed internet at home and rely on public spaces - which are currently closed - for this resource. Superior National Forest offices are also closed and hard copies of the project documents are unavailable. Many individuals are unable to review the project scoping materials or participate in the comment period. Furthermore, the pandemic has eliminated the possibility of public meetings, meaning that many members of the public are completely unaware of the proposal and scoping period.*
- The ability of interested parties to engage using virtual technology
 - *The Superior National Forest has offered no opportunity for interested parties to engage using virtual technology.*

This Washington Office guidance goes on to state that “If this evaluation leads to the conclusion that meaningful public engagement will be challenging or unachievable under the current circumstances, responsible officials should carefully consider the timing of beginning new public comment periods.”

The National Environmental Policy Act (NEPA) is designed to foster informed and transparent decision-making.⁵ To achieve NEPA’s goal of ensuring public participation, the statute requires federal agencies to “[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment.”⁶ “Accurate scientific analysis, expert agency comments, and public scrutiny are essential components to implementing NEPA.”⁷ To comply with this statute, the Superior National Forest must ensure that the Lutsen Mountains Ski Area Expansion Project EIS scoping period allows for robust public participation by the interested public.⁸ However, rather than encouraging and facilitating public involvement and scrutiny, as NEPA requires, the Superior National Forest has demonstrated a clear intent to suppress public engagement. While the Forest did extend the public comment period by almost two weeks, this extension was in no way related to the COVID-19 pandemic. The following was posted on the Forest Service project website until April 27, 2020 “On April 15th, 2020, a notice of intent to prepare an environmental impact statement for the Lutsen Ski Area Expansion Project will be published in the Federal Register. This publication date is earlier than we anticipated, therefore project scoping documents are not currently available. To address this error, we will publish a correction in the Federal Register with an updated scoping comment period, and update this website with scoping materials at that time. We will notify the public when this occurs. Thank you for your patience and understanding.” Clearly, the extended

⁵ 40 C.F.R. § 1500.1; *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

⁶ 40 C.F.R. § 1500.2(d).

⁷ *Id.* § 1500.1(b).

⁸ 40 C.F.R. § 1503.1(a)(4).



comment period is simply a byproduct of the scoping notice originally being published in the Federal Register earlier than expected.

We are extremely disappointed in the Superior National Forest's lack of response to our concerns about this comment period to-date and fear that the Forest Service will continue to ignore our concerns throughout the EIS process.

II. THE PURPOSE AND NEED AS CURRENTLY WRITTEN IS INSUFFICIENT

The Purpose and Need statement in the Notice of Intent reads "The purpose of, and need for, the Forest Service's action is to decide whether to grant a SUP for the project." "The project" is described as the proposed action developed by LMC as part of their Master Development Plan. This is insufficient - the Purpose and Need should not be solely defined by the ski resort's desires and proposal, rather, the Forest Service must develop a Purpose and Need based on its own assessment and a stated need for action. When the project proponent defines the Purpose and Need it skews the entire environmental review process, including the development of alternatives. The Purpose and Need statement should be more broadly stated, such as "The purpose of, and need for, the Forest Service's action is to determine whether to authorize a Special Use Permit for commercial ski resort operations on the Superior National Forest." This broader Purpose and Need statement allows the Forest Service to consider a range of commercial ski resort operation scenarios, including but not limited to LMC's proposal, as well as to determine whether or not to grant a SUP at all.

III. RELEVANT DATA DOES NOT SUPPORT THE NEED FOR LUTSEN MOUNTAINS RESORT TO EXPAND

LMC's claims that they need to double their skier days to survive flies in the face of current trends in the ski industry. According to the Snowsports Industry of America, Alpine skiing participation has ceased growth in the United States since the early 1990's.⁹ Furthermore, Minnesota already has 20 ski areas, and skier visits in the Midwest have been fairly stagnant since the 1980s, when the National Ski Areas Association began keeping track.⁹ Those numbers don't show demand for a ski resort expansion. What's more, even with an expansion, Lutsen Mountains Ski Resort, can't change its terrain. LMC claims this expansion is necessary to draw destination skiers, but the expansion wouldn't alter the ski area's 800 vertical feet. And 800 vertical feet isn't going to sway destination visitors, considering LMC considers its competition to be Western resorts. Western resorts generally have considerably more vertical relief and lower ticket prices than LMC. For example, Red Lodge Mountain (Montana), which draws many Midwestern skiers, has a maximum advertised full price adult lift ticket at \$69/day, while LMC's lift ticket is \$83/day. Red Lodge also offers over 2,000 feet of vertical relief. The same holds true for Bridger Bowl (\$63/day, 2,700 feet), also in Montana and a short, direct flight away from the Twin Cities, and for many other Western resorts. A skier at Lutsen is paying significantly more to ski less than half the vertical relief offered by these two, and many other, competitor resorts. It doesn't add up that expanding will do anything to increase skier days at Lutsen. If this were true, Lutsen would have already seen an uptick in winter visitation after the new gondola was installed. Instead it has necessitated an increase in lift ticket prices, just as this expansion will do, which further tips the scales toward Western ski areas in terms of affordability and value for the destination skier.

⁹ <http://www.nsaa.org/media/303945/visits.pdf>



IV. THE PROPOSED ACTION WILL CAUSE SIGNIFICANT ENVIRONMENTAL HARM

The Proposed Action would necessitate huge clearing operations of old growth sugar maple, white pine and northern white cedar and will destroy the intact highland hardwood forest present on Moose and Eagle mountains. Public lands on Moose and Eagle mountains are equivalent in ecological value to the neighboring Lutsen Scientific and Natural Area (SNA), a designated Site of Outstanding Biodiversity Significance by the Minnesota Department of Natural Resources Biological Survey (which borders National Forest lands on Eagle Mountain). This area has also been designated by the Minnesota County Biological Survey (MCBS) as a Site of Outstanding Biodiversity (the "Onion River Hardwoods"). Furthermore, the 82-acre stand of Northern Mesic Hardwood (Cedar) Forest (MHN45c) on top of Moose Mountain is ranked "S3- Vulnerable to Extirpation" by MCBS. And, on the north slope of Moose Mountain, there is a "S3- Vulnerable to Extirpation" Upland White Cedar Forest (FDn43c). The Proposed Action would clearcut much of these stands, causing significant environmental harm. The EIS must address impacts to these hardwood stands from each alternative.

We are concerned about how the Proposed Action, or any development of a traditional ski resort on National Forest lands would impact Rollins Creek, a designated trout stream, and the two intermittent streams (MAJ-23249 & MAJ-23237) that flow into Lake Superior. Removal of forest and conifer cover in upstream watersheds is associated with elevated peak flows, sedimentation, bank erosion, and loss of water clarity. We are also concerned that the proposed new snowmaking ponds pose a threat to trout, especially if the ponds were to breach and cause significant flooding during spawning season. The EIS must consider how each alternative will affect water quality in Rollins Creek and other waterways.

Groomed ski runs and traditional ski resorts cause significant snow compaction, which poses a threat to wildlife species which rely on the subnivean zone. Marten are one species that is impacted by loss of subnivean habitat, and recent research has shown that Pacific marten are negatively impacted by ski resort development.¹⁰ It is likely that American martens are similarly affected. Ski resorts also impact wildlife by fragmenting habitat and increasing human activity and thus disturbance. For example, while recent research in Colorado has shown that while lynx are surprisingly tolerant of dispersed winter recreation, they avoid ski resorts.¹¹ In this EIS, the Forest Service must document how each alternative will impact wildlife, including but not limited to American marten, lynx, Eastern pipistrelle, Northern myotis, black bear, cougar, fisher, timber wolf, heather vole, Northern bog lemming, moose, and smoky shrew. Several of these species are listed in the Minnesota Rare Species Guide.

With shorter, warmer winters and more rain-on-snow events, the climate is becoming increasingly less suitable for winter sports. As winter sports enthusiasts, it pains us to observe how climate change is impacting winters, and we believe it's critical that everybody – including corporations and government – act to reduce carbon emissions. Ironically, given their dependence on cold temperatures and snow, ski resorts are a significant source of carbon emissions. Ski lifts, grooming equipment, snow making, and facilities operations are all extremely energy-intensive. For example, the energy to power a single ski lift for one month is roughly equivalent to what is used by 3.8 households over the course of a year. If we continue to permit carbon-intensive projects on public

¹⁰ Slauson, Keith & Zielinski, William & Schwartz, Michael. (2017). Ski areas affect Pacific marten movement, habitat use, and density: Marten Occupancy, Density, and Movement. *The Journal of Wildlife Management*. 10.1002/jwmg.21243.

¹¹ Olson, L.E.; Squires, J.R.; Roberts, E.K.; Ivan, J.S.; Hebblewhite, M. 2018. [Sharing the same slope: Behavioral responses of Canada lynx to winter recreation](#). *Ecology and Evolution*. 1-18.



lands - in Minnesota and elsewhere - skiing faces an uncertain future. However, skiing does not require energy-intensive ski resorts, and the Superior National Forest can encourage new opportunities for skiing in the region *without* permitting the expansion of a traditional ski resort. Human-powered backcountry skiing eliminates many of the sources of emissions associated with ski resorts. A backcountry ski area would have no lifts, grooming equipment, or snow making, and far fewer (if any) facilities, thus facilitating public enjoyment of winter sports on the National Forest with a far smaller carbon footprint.

In this EIS, the Forest Service must examine the immediate and long-term environmental effects of each alternative. These will include impacts from clearing traditional and gladed ski runs, those associated with snowmaking – including the impact of the proposed retention ponds, and the likely consequences if the ponds were to breach - and the impacts from and related to road building, parking lots, and new facilities construction. The EIS must also consider those effects related to and contributing to climate change.

V. THE PROPOSED ACTION WILL CAUSE CONFLICTS WITH OTHER USES

The proposed action will cause conflicts with other uses in a number of ways. First and foremost for our interests, any expansion of Lutsen Mountains Resort onto Moose Mountain will significantly impact backcountry skiing, by eliminating the opportunity to backcountry ski in what is currently the best place in all of Minnesota for this activity. Backcountry skiing is a distinctly different sport from lift-access skiing. Backcountry skiers are not simply looking to slide downhill - the exercise gained from uphill travel, quiet environment, and natural settings are as central to the experience as skiing downhill. While many skiers enjoy both activities, in the Midwest there are far more opportunities for lift-served skiing on terrain with a significant vertical drop. The Superior National Forest lands on Moose Mountain are one of the few places backcountry skiers in the Midwest can find steep, sustained, vertical drop and Moose Mountain has, by far, the most vertical relief. If Moose Mountain is developed into a downhill resort, the opportunity to enjoy backcountry skiing on the Superior National Forest will be significantly reduced.

The proposed action will impact people on the Superior Hiking Trail. Even once the trail is realigned, hiking a trail adjacent to a ski resort is a very different experience than hiking through undisturbed woods. Currently the SHT almost entirely avoids the ski resort, but if the resort is allowed to expand onto Moose Mountain, this section of the trail will go right through the resort and completely change the experience for those hiking on the trail. For example, natural sounds will be lost to the noise of ski lifts and other resort operations, the trail's microclimate and associated vegetation will be affected, and the viewshed will completely change. We are also concerned that ski resort operations in the vicinity of the SHT will impact trail conditions in summer. Manmade snow increases snow depth above natural conditions and snow compaction from grooming and skier traffic inhibits spring melt. In other places where trails travel through ski resort permit areas - including at Spirit Mountain in Duluth - trails remain saturated and muddy well into the summer because of unnatural snow conditions from ski resort operations.

Expanding the ski resort onto Moose Mountain will not only affect the quality of the SHT experience, it will likely affect access. The 0.8-mile spur from the Lutsen Mountains gondola to the SHT is closed from November through June - will the section of trail on Moose Mountain be closed from November through June if the resort expands? Winter access along the SHT should not be limited due to LMC operations.



The Proposed Action includes a re-route of the SHT to avoid cleared ski runs. It is not clear whether the proposed reroute was designed by a trails specialist, and any reroute of the SHT should be designed in conjunction with the Superior Hiking Trail Association and trail specialists. In addition, LMC should be required to cover all costs associated with re-routing the SHT if the Forest Service permits LMC to expand its operations onto public lands on Moose Mountain.

Finally, the proposed action will cause conflict with hunters who currently use Forest Service lands on Moose and Eagle Mountains. Hunting is often prohibited or strongly discouraged on ski resort lands, even when resorts are located on public land and it is not ski season.

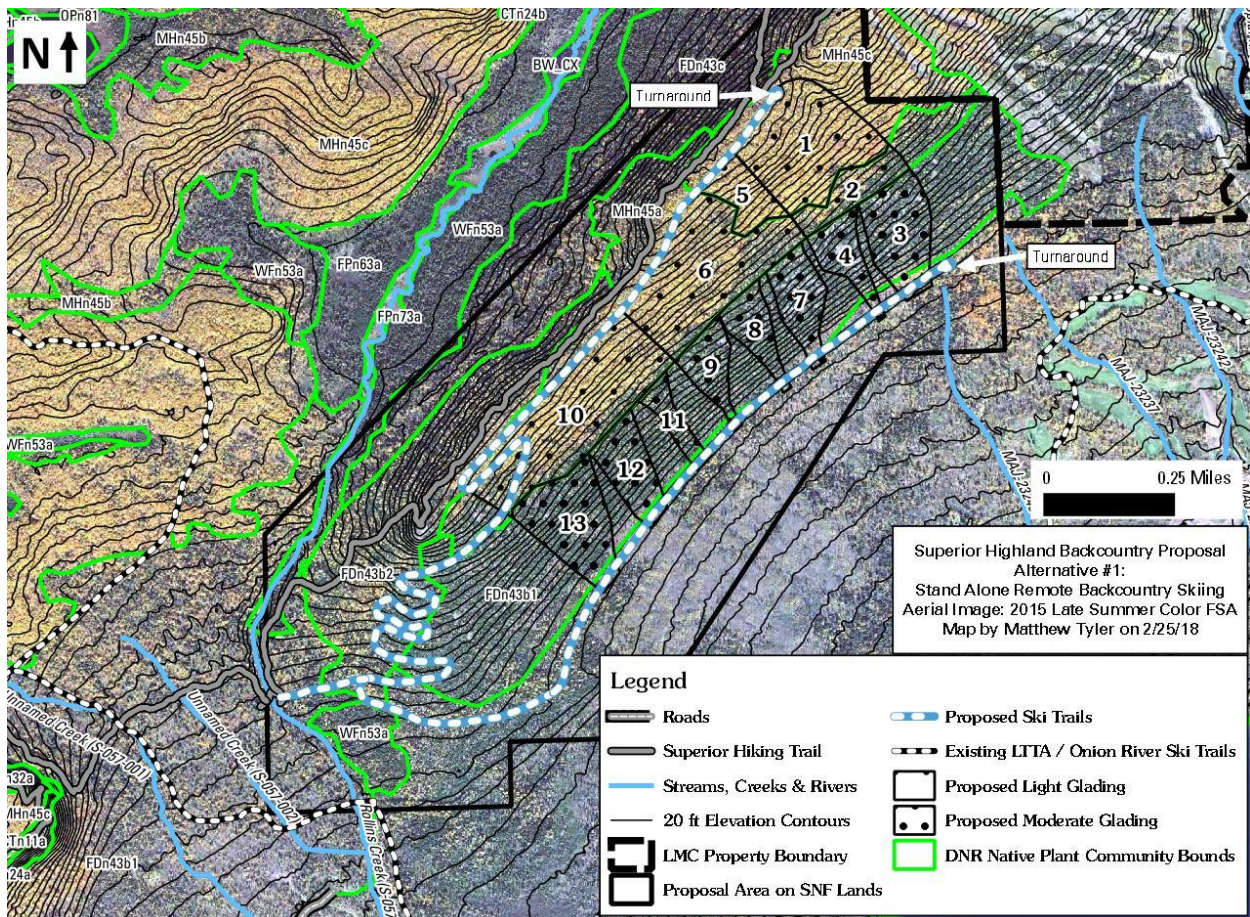
If the Forest Service decides to issue a Special Use Permit to LMC, the permit should not prohibit public use of Forest Service lands within the permit area outside of the ski resort operating season.

VI. THE FOREST SERVICE SHOULD CONSIDER A BACKCOUNTRY SKI AREA ON MOOSE MOUNTAIN AS AN ALTERNATIVE TO THE PROPOSED ACTION

Superior Highland Backcountry has previously proposed the idea of a backcountry ski area on Moose Mountain to both the Forest Service and LMC. In SHB's previously submitted proposal they offered two alternatives for developing a backcountry ski area on Moose Mountain. **We request that the Superior National Forest analyze at least one of these alternatives in this EIS, as an alternative to the proposed action.**

Alternative #1 (A1): Stand-Alone Remote Backcountry Skiing

- 8 large interconnected backcountry glades through scenic mature sugar maple and boreal forest.
- Remote, scenic, and low noise skiing experience ensured by minimum 700-foot buffer from existing LMC Alpine Ski runs.
- Average slopes between 14.5 to 16.5 degrees with maximum slopes of 20 to 26 degrees.
- Nearly level return trail at base connects to switch back return trail.
- Switch-back return trail for self-powered cross-country ski return.
- Access via existing trails from Oberg Mountain Trailhead.
- Trails, cleared to 10' wide:
 - Base Trail: 1.2 miles
 - Switchback Trail: 1.9 miles
 - Ridgetop Trail: 1.0 miles
 - Access Trail: 910 feet

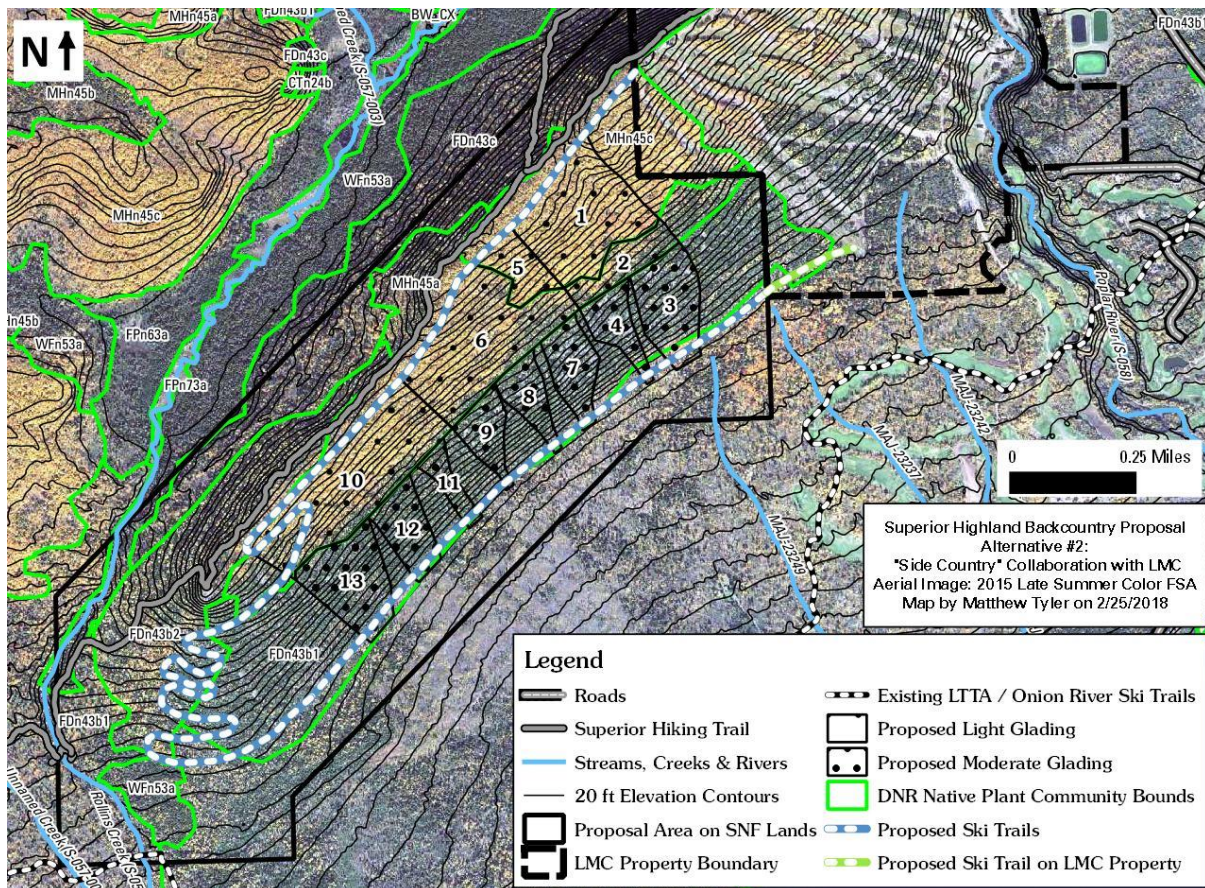


Map of Superior Highland Backcountry Alternative 1

Alternative #2(A2): “Side Country” Collaboration with LMC

Although we, and SHB, would prefer to see a stand-alone backcountry ski area on Moose Mountain, we also believe a “side country” collaboration with Lutsen Mountains Resort would be successful and beneficial to the public. Developing “side country” terrain in collaboration with LMC would involve:

- 8 large interconnected backcountry glades through scenic mature sugar maple and boreal forest.
- Average slopes between 14.5 to 16.5 degrees with maximum slopes of 20 to 26 degrees.
- Access to glades from the ridgetop trail connected to adjacent LMC ski lift.
- Return trail at the base gently sloping towards adjacent LMC ski lift for cross country or cat rides.
- Alternate switch-back return trail for self-powered cross-country ski return or cat ride to ridge top.
- Trails, cleared to 10' wide:
 - Lower Trail: 1.3 miles
 - Switchback Trail: 1.9 miles
 - Ridge top Trail: 1.3 miles
 - Return Trail on LMC Property, to Timberwolf Chair Lift: 1,063 feet



Map of Superior Highland Backcountry Alternative 2

The light glading required to develop a backcountry (or side country) ski area would clear small saplings and brush from the understory that would otherwise inhibit downhill travel. All slash would be dispersed and laid flat and no piles will be made. All glade treatments would be done with the end goal of preserving the natural appearance of Moose Mountain.

Glade treatments for a backcountry ski area generally consists of thinning and clearing of all brush and saplings up to 6" in diameter at breast height. Under SHB's proposal, no cedar or white pine saplings of any size, or overstory or canopy trees of any type, of any diameter, could be cut on the upper mountain. Additionally, small islands of saplings and brush would be left on the downhill side of mature trees. Mature trees (6" dbh or larger) within glades would be trimmed to remove all branches from the ground to a height of 12', in order to facilitate skier movement. On the lower mountain, where forest density is thicker, SHB's proposal includes removing select overstory trees as necessary to allow safe downhill skier travel and cutting select cedar and white pine of less than 6" in diameter, where these trees are growing in dense stands. In order to minimize glade treatments on the lower mountain (where more thinning within glades would be necessary, due to the thicker growth on the lower mountain), SHB's proposed glades are wider on the upper mountain and narrower on the lower mountain. Funnel-shaped glades also help to direct skiers towards the base of the mountain and return trail. Additionally, each glade would include a safe "run out" (flat section of a ski run at the bottom of a hill) 10-20' long and 12' wide for skiers to safely maneuver as they transition from the mountain terrain to the base/return trail. Finally, because trails within a backcountry ski area are winter use trails, intended for use when snow blankets the ground, no



grading or ground disturbance is required - signs and flagging would mark trails as well as gladed runs.

If a backcountry ski area were approved for Moose Mountain, SHB would take responsibility for all planning, oversight, and execution of all aspects of the project, including, but not limited to, all initial glading and trail clearing, all ongoing glade and trail maintenance, promotional campaigns including safety campaigns, and public relations. In their Special Use Permit proposal, SHB described in detail how a backcountry ski area would be designed and implemented, as a 3-phase project done in part by insured contract workers, and in part by trail crews of volunteers, under the supervision and guidance of a qualified crew leader, on foot, using hand held tools.

Unlike the Proposed Action, a backcountry ski area would have very little environmental impact or impact on other uses. Moose Mountain would remain much as it is today, to be enjoyed in all the ways the public currently enjoys it, with minor changes to enhance backcountry skiing. With nearly zero development footprint and no permanent facilities required on National Forest land, a backcountry ski area is a much lower-impact alternative to the Proposed Action. A backcountry ski area would provide new options for skiers of all abilities and would diversify winter recreation opportunities on the North Shore, drawing visitors and locals to recreate in Lutsen. The concept of a backcountry ski area is one that is gaining momentum nation-wide, with the nation's first backcountry ski area opening in Colorado this past winter.¹²

Backcountry skiing is the fastest growing segment of the snowsports industry. Sales in uphill gear more than doubled between 2015 and 2017 while winter backcountry equipment sales increased by over 50% in 2016.¹³ According to the Snowsports Industry Association, 1.354 million people went backcountry skiing or splitboarding.¹⁴ Approximately 22% of these participants live in the Midwest.¹⁵ This is a large percentage of the backcountry ski community considering the limited opportunities for backcountry skiing in the Midwest. Moose Mountain is arguably the best backcountry ski terrain in Minnesota, as it offers the most significant uninterrupted vertical relief in the state. A backcountry ski area adjacent to, and part of Lutsen Mountains traditional ski area would meet a growing demand and bring new visitors to the region.

A backcountry ski area is a low-impact way to boost northern Minnesota's winter tourism industry. A backcountry ski area would better serve the public's interest than simply expanding Lutsen Mountains Ski Resort and offering more of the same experience that is already available. A backcountry ski area would not preclude any other public use, it would be accomplished with no heavy machinery, the ascetic and scenic value of the North Shore Highlands would not be impaired, and the biological significance of the old growth Superior Highland Ecosystem would not be negatively nor permanently impacted. In contrast, the proposed action would entail an enormous amount of clearing, grading and maintenance traffic that would forever change the nature of the Superior Highlands, and likely not increase winter visitation to the region in any meaningful way.

¹² bluebirdbackcountry.com/about/

¹³ Snowsports Industries of America (2015-2016) Snow Sports Market Intelligence Report.

¹⁴ Snowsports Industry Association 2018-2019 Participation Study.

¹⁵ *Id.*



VII. THE FOREST SERVICE SHOULD CONSIDER AN ALTERNATIVE THAT ONLY GRANTS A SPECIAL USE PERMIT TO LMC FOR TERRAIN ON EAGLE MOUNTAIN

While we do not believe LMC's rationale for needing to expand onto Forest Service lands is supported by the available evidence, and that the Forest Service should deny LMC's application for a Special Use Permit to LMC, the EIS should analyze a full range of alternatives. This analysis should include an alternative wherein the Lutsen expansion is limited to Eagle Mountain. This alternative would preserve backcountry ski opportunities on Moose Mountain (including the option to develop a backcountry ski area), and allow LMC to expand. According to the scoping letter and story map developed by SE Group, expanding onto Forest Service lands on Eagle Mountain would add several new ski runs on 31 acres of terrain. LMC would also be able to develop a new base area, maintenance facility, and additional parking lots as desired. This would satisfy LMC's desire for new terrain, expanded parking, and improved guest services without sacrificing Moose Mountain.

VIII. THE ALTERNATIVES CONSIDERED IN THE DEIS MUST COMPLY WITH CONGRESSIONAL AND AGENCY DIRECTION CONCERNING SKI AREA DEVELOPMENT

The Ski Area Outdoor Recreation Enhancement Act (SAOREA) and Forest Service Manual (FSM) provide direction on what activities and developments are permissible concerning ski areas operating on Forest Service lands. Under SAOREA, "Each activity and facility authorized...shall (A) encourage outdoor recreation and enjoyment of nature; (B) to the extent practicable (i) harmonize with the natural environment of the National Forest System land on which the activity or facility is located; and (ii) be located within the developed portions of the ski area"¹⁶ The Proposed Action's mountain top chalet and parking lots are not natural resource-based facilities. Likewise, SAOREA mandates that activities and facilities authorized shall encourage outdoor recreation and enjoyment of nature. Not all activities that occur outside necessarily further the enjoyment of nature.

The proposed action also conflicts with direction in the Forest Service Manual. Section 2343.11(2) of the FSM states that "Any expansion of a ski area permit boundary must be based solely on needs related to snow sports." However, LMC's primary rationale for this proposal is to improve their marketability, not necessarily because of needs associated with snow sports.¹⁷ The fact that this proposal relates to a ski resort does not necessarily mean that all of LMC's desires are "needs related to snow sports." LMC's Master Development Plan is not the only option the Forest Service should be considering for Moose and Eagle Mountains, even within the realm of snow sports.

FSM §2343.14(1)e1 states that recreation and facilities at ski areas must harmonize with the natural environment of the site where they would be located by being visually consistent with or subordinate to the ski area's existing facilities, vegetation and landscape. However, the facilities and structures listed in the Proposed Action will visually dominate the landscape. Two new base areas with associated multi-acre parking lots, a mountaintop chalet, and clear-cut ski runs will all stick out like sore thumbs from the otherwise intact forest and natural landscape on the Tofte Ranger District. FSM §2343.14(1)e, part 2, also mandates that construction of new facilities or ski area operations not require significant modifications to topography, yet constructing new parking lots, several miles of roads, and massive retention ponds constitute a significant modification to topography. Finally,

¹⁶ Ski Area Outdoor Recreation Enhancement Act §3

¹⁷ As stated in the Notice of Intent: "The MDP and this proposal were developed in response to the Lutsen Mountains' need to expand terrain offerings and improve the guest experience across the ski area to ensure the ski area's survival and competitiveness in the Midwest ski area market."



FSM §2343.14(1)f states that new activities or associated facilities at skis areas must not compromise snow sports operations or functions. The entire proposal severely compromises backcountry snowsports – an existing use of these lands.

FSM 2343.14(1), part g directs that activities and associated facilities at ski resorts increase utilization of snow sports facilities and not require extensive new support facilities, such as parking lots, restaurants, and lifts. The entire proposed action comprises considerable new development, conflicts with FSM direction, and should not be authorized. LMC already owns thousands of acres of land that could easily serve some if not most of their stated needs, such as the area at the base of Moose Mountain near the golf course that already has road access, past Papa Charlies around the north side of Ullr Mountain and the area between Mystery and Moose Mountains. These areas could easily serve as overflow parking areas for peak weekends with a shuttle service (a normal service at most midsize-large ski resorts). Furthermore, while LMC states that they need to expand the resort to provide additional beginner and moderate terrain, the private land south of Mystery Mountain is well suited for this terrain. LMC has the terrain available on its private holdings to accommodate the growth and changes they desire, without expanding onto Forest Service land and constructing new facilities in conflict with FSM 2343.14(1), part g.

The proposed mountaintop chalet on Moose Mountain and new base areas are incompatible with Forest Service policy. FSM 2340.3(3) directs the Forest Service to deny proposals to construct facilities and services on NF lands if these facilities and services are available in the general vicinity. There are already a number of dining options in the vicinity of Lutsen Mountains Resort, including two on-mountain options: Papa Charlies and the Moose Mountain Summit Chalet. There are also several other dining options located very close to the ski hill, as described on the Lutsen Mountains Resort website.¹⁸ While FSM 2343.4(1) does direct the Forest Service to authorize concessioners to provide food at temporary dining facilities that are part of a resort operation, Lutsen Mountains already has adequate facilities for these purposes. Indeed, it is unclear why LMC requires a *second* summit chalet on Moose Mountain. The proposed action does not provide enough detail about the proposed base facilities and mountaintop chalet for the public, or Forest Service, to determine if these facilities would comply with FSM 2343.4(1).

The proposed action does not align with Forest Service policy or Congressional direction. The draft EIS must include a range of reasonable alternatives that do comply with agency policy and federal law.

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¹⁸ <https://www.lutsen.com/dining-events/area-dining-guide/>



Vertical rise, skiable terrain, slope pitch and snow depth are all natural resources that are extremely rare on the Superior National Forest, in Minnesota, and in the greater Midwest. LMC's private property holdings already monopolize these resources in the Superior Highlands. Backcountry skiers are public land owners and have a right to recreate and enjoy our National Forests. We urge the Superior National Forest to not to grant LMC a special use permit and instead encourage LMC to work with Superior Highland Backcountry on a more sustainable and multi-use approach to helping northeast Minnesota's economy and ecology survive for the long term.

Sincerely,

A handwritten signature in black ink, appearing to read "Hilary Eisen". The signature is fluid and cursive, with a large loop at the end.

Hilary Eisen

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