UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

December 19, 2022

Tyler Lee
U.S. Forest Service, Inyo National Forest
351 Pacu Lane Suite 200
Bishop, California 93514

Subject: EPA Comments for the Notice of Intent to Prepare an Environmental Impact Statement for the Mammoth Mountain Ski Area Main Lodge Redevelopment Project, Mono County, California

Dear Tyler Lee:

The U.S. Environmental Protection Agency has reviewed the U.S. Forest Service's Notice of Intent to prepare an Environmental Impact Statement for the above referenced project. The EPA's comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The Mammoth Main Lodge Redevelopment, LLC proposes to redevelop the Mammoth Mountain Main Lodge in Mono County, California. The proposed action includes new lifts, lift replacements and realignments, additional ski terrain development, new buildings and parking lots for guest and employee use, rerouting of Highway 203 and construction of a new road, trail construction for pedestrians and bike connectivity, extensions of existing utilities and on-mountain infrastructure, and other infrastructure improvements to support base area development on private parcels. The EIS would be prepared concurrently with an Environmental Impact Report under the California Environmental Quality Act.

We are providing the enclosed detailed comments to assist in the development of the Draft EIS. The topics that the EPA recommends be fully analyzed and disclosed include impacts to water resources, air quality, environmental justice, biological resources, and cumulative impacts, among others.

We appreciate the opportunity to provide comments on this scoping notice and look forward to continued participation in the NEPA process. If you have any questions, please contact me at (415) 972-3961 or samples.sarah@epa.gov.

Sincerely,

SARAH SAMPLES
Digitally signed by SARAH SAMPLES
Date: 2022.12.19 08:41:40 -08'00'

Sarah Samples
Environmental Review Branch

Enclosure: EPA's Detailed Scoping Comments

U.S. EPA'S DETAILED COMMENTS ON THE NOTICE OF INTENT FOR THE MAMMOTH MOUNTAIN SKI AREA MAIN LODGE REDEVELOPMENT PROJECT, MONO COUNTY, CALIFORNIA – DECEMBER 19, 2022

Purpose and Need

According to the Mammoth Main Lodge Redevelopment, LLC (MMLR) Project Proposal Letter Submittal, MMLR has identified a need to renew and improve guest services, guest circulation, accommodations, and portal staging capacity in the Mammoth Mountain Main Lodge base area; expand guest services offerings to meet increased demands; and offer learning progression opportunities for lower ability level skiers through enhanced skier services, improved terrain, and additional lifts (Appendix A p. 2). In the Draft EIS, the purpose and need would be strengthened by including a discussion and analysis of recent visitation/skier data and associated trends to document the level of demand for expanded terrain and facilities. In addition, we recommend that the Draft EIS document how the Forest Service is ensuring the proposed facilities "would be harmonized with natural environment" (16 USC 497(c)(2)(B)(i)) and are consistent with its planning responsibilities under the Federal Land Management and Policy Act of 1976, as amended.

Alternatives Analysis

The EPA recommends that the Forest Service explore and objectively consider a full range of alternatives and evaluate in detail all reasonable alternatives that fulfill the project's purpose and need. We encourage selection of alternatives that protect, restore, and enhance the environment, and we also support efforts to identify and select alternatives that maximize environmental benefits that avoid, minimize, and/or otherwise mitigate environmental impacts.

In the Draft EIS, present the environmental impacts of the proposed action and alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public (40 CFR 1502.14 (b)). Describe how each alternative was developed, how it addresses project objectives, and how it will be implemented. Quantify the potential environmental impacts of each alternative to the greatest extent (e.g., acres of habitat impacted, change in water quality, etc.) and clearly delineate differences in impacts between alternatives analyzed. We also recommend comparing the costs and benefits of each of the alternatives, including the costs for required mitigation measures. Further, discuss reasons for eliminating alternatives to the proposed action (40 CFR 1502.14 (a)).

Water Resources

Nonpoint Source Pollution and Low Impact Development

The Forest Service should identify ways to minimize the project footprint and reduce impervious surfaces. Runoff from parking areas and roadways should be diverted into stormwater treatment structures such as onsite bioretention areas, infiltration trenches or basins, or filter strips. These and other low-impact development features should be included in the project design to ensure there is sufficient space allotted during the planning process. For more information see: http://water.epa.gov/polwaste/green/.

Wastewater Treatment and Drinking Water/Groundwater

The MMLR Project Proposal Letter Submittal indicates that the existing wastewater treatment facilities within Parcel B would be reconfigured to serve the needs of the redeveloped Mammoth Mountain Ski Area (p. 7). In the Draft EIS, specify the projected volumes of sanitary waste, how it will be treated, the effluent disposal method, and the potential impacts of the waste to surface and ground water.

Impacts to Waters and Wetlands/Clean Water Act Section 404

The Draft EIS should describe all waters of the U.S. that could be affected by the project alternatives and include maps that clearly identify all waters within the project area and include acreages and channel lengths,

habitat types, values, and functions of these waters. If water features are found onsite, the project design should make every effort to avoid them. Indirect impacts to these waters from land alteration should also be evaluated. Discuss whether there would be a need for a Clean Water Act Section 404 permit which regulates the discharge of dredged or fill material into waters of the U.S., including wetlands.

Air Quality

In the Draft EIS, provide an air quality impact analysis, including ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the proposed action, including indirect and cumulative impacts. Such an evaluation is necessary to ensure compliance with state and federal air quality regulations, and to disclose the potential impacts from temporary or cumulative degradation of air quality.

Estimate emissions of criteria pollutants from the proposed project and discuss the timeframe for release of these emissions over the construction period of the project. Specify emission sources by pollutant from mobile sources, stationary sources, and ground disturbance. Use source-specific information to identify appropriate mitigation measures and areas in need of the greatest attention.

Construction Emissions

Include a list of all mitigation measures to be implemented as part of the construction emissions mitigation plan developed for the project. In addition to measures necessary to meet all applicable local, state, and federal requirements, the EPA recommends the following mitigation measures be included in the construction emissions mitigation plan:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/ organic dust palliative where appropriate. This applies to both active and inactive sites during workdays, weekends, and holidays.
- Install wind fencing and phase grading operations where appropriate and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Reduce unnecessary idling from heavy equipment.
- Prohibit engine tampering to increase horsepower, except when meeting manufacturers' recommendations.
- Lease or buy newer, cleaner equipment using the best available emissions control technologies.
    - Use lower-emitting engines and fuels, including electric, liquified gas, hydrogen fuel cells, and/or alternative diesel formulations, if feasible.
    - On-highway vehicles should meet, or exceed, the U.S. EPA exhaust emissions standards for model year 2010 and newer heavy-duty on-highway compression-ignition engines (e.g., drayage trucks, long haul trucks, refuse haulers, shuttle buses, etc.).[1]
    - Nonroad vehicles and equipment should meet, or exceed, the U.S. EPA Tier 4 exhaust emissions standards for heavy-duty nonroad compression-ignition engines (e.g., nonroad trucks, construction equipment, cargo handlers, etc.).[2]

[1] See https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100O9ZZ.pdf.

[2] See https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100OA05.pdf.

Administrative Controls:

- Coordinate with appropriate air quality agencies to identify a construction schedule that minimizes cumulative impacts from other planned projects in the region, if feasible.
- Locate diesel engines, motors, and equipment staging areas as far as possible from residential areas and other sensitive receptors (e.g., schools, daycare centers, hospitals, senior centers, etc.).
- Avoid routing truck traffic near sensitive land uses to the fullest extent feasible.
- Use cement blended with the maximum feasible amount of fly ash or other materials that reduce greenhouse gas emissions from cement production.
- Use lighter-colored pavement where feasible.
- Recycle construction debris to the maximum extent feasible.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking.[3]
- Reduce construction-related trips of workers and equipment, including trucks.
- Develop a construction traffic and parking management plan that minimizes traffic interference and maintains traffic flow.
- Identify all commitments to reduce construction emissions and quantify air quality improvements that would result from adopting specific air quality measures.
- Identify where implementation of mitigation measures is rejected based on economic infeasibility.

Redevelopment Design Considerations

Energy Conservation and Efficiency, Renewable Energy

The Notice of Preparation states that the project "would require consumption of energy and fuels during construction and would increase the long-term demand for propane and electricity during project operation" (p. 5). As such, the Draft EIS should evaluate energy conservation potential of the alternatives as required by 40 CFR 1502.14(e). The project should include energy efficiency measures and these measures should be built into the project description. In addition, if the project location is conducive to solar energy generation, consider photovoltaics. Solar water heating should also be discussed and evaluated.

Green Building Certification

We recommend that the Forest Service utilize the Leadership in Energy and Environmental Design (LEED) standard for green buildings. The Forest Service should specify in its development contracts that the developer design and construct the facility for LEED certification. More information about the LEED green building rating system is available at http://www.usgbc.org/leed. This would offer an additional opportunity for marketing the facilities as environment-friendly, and for the Forest Service to establish themselves as recognized leaders in the green building sector.

Materials Management Through Deconstruction and Reuse

Executive Order 14057 was signed by President Biden on December 8, 2021 to reestablish the federal government as a leader in sustainability. It directs agencies to prioritize products that can be reused, refurbished, or recycled; purchase products that contain recycled content, are biobased, or are energy and water efficient; and, to the maximum extent practicable, purchase sustainable products and services identified or recommended by the EPA. The Forest Service can significantly reduce environmental impacts, along with waste management costs and disposal fees, through well-established and low-tech waste management best practices that drive waste reduction and diversion. These strategies, which

[3] Suitability of control devices is based on whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.

include reuse, recycling, and composting of materials that would otherwise be sent to a landfill or combustion facility, are applicable to both categories of waste covered by the goals of E.O. 14057 (i.e., municipal solid waste and construction and demolition debris).

As the Forest Service is planning for the removal of the existing buildings and the construction of new buildings, the EPA encourages deconstruction and reuse of materials, if possible, rather than incineration or landfill disposal. This is supported by EPA's Materials Management Hierarchy, which prioritizes reuse above recycling and composting.[4] Deconstruction of buildings planned for removal reduces disposal site health impacts, reduces spread of toxics in the community from demolition dust (lead, hidden asbestos), provides local jobs and job training, and provides low-cost rebuilding materials. If the Forest Service has questions about materials management through deconstruction and reuse, please contact Timonie Hood, EPA Region 9's Zero Waste and Green Building Coordinator, at (415) 972-3282 or hood.timonie@epa.gov.

Drought Tolerant and Pollinator-Friendly Landscaping

We recommend that the Forest Service utilize drought-friendly landscaping and ground cover that requires minimal irrigation and is appropriate to the increased drought conditions being experienced in California. Landscaping plans for the redevelopment should consider the North American Pollinator Protection Campaign's *Pollinator Friendly Practices*[5] to protect and restore domestic populations of pollinators. In addition, we recommend utilizing the CEQ's *Supporting the Health of Honey Bees and Other Pollinators*[6] guidance. While the guidance is no longer in effect, it was prepared to help Federal agencies incorporate pollinator friendly practices in new construction and landscaping improvements.

Biological Resources, Habitat, and Wildlife

Threatened and Endangered Species

We recommend that the Forest Service work closely with the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife to determine potential impacts of the project on plant and wildlife species, especially species classified rare, threatened, or endangered on either the state or federal Endangered Species Act. We also recommend that the Draft EIS:

- Identify and quantify which species and/or critical habitat might be directly, indirectly, or cumulatively affected by each alternative and mitigate impacts to these species. Emphasis should be placed on the protection and recovery of species due to their status or potential status under the federal or state ESA.
- Include general locations of rare or special status plants and disclose how these sites would be managed to avoid impacts on the plants.
- Demonstrate that the preferred alternative is consistent with the USFWS's biological assessment or opinion and summarize or include the document as an appendix to the Draft EIS.
- Discuss mitigation measures to minimize impacts to special status species, describe the effectiveness of such measures to protect wildlife, and indicate how they would be implemented and enforced.

Other Wildlife Species

Identify and quantify other wildlife species might be directly, indirectly, or cumulatively affected by each alternative and mitigate impacts to these species. Discuss the project's consistency with existing laws and regulations, including the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

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[4] EPA. July 2022. Sustainable Materials Management: Non-Hazardous Materials and Waste Management Hierarchy. Available at https://www.epa.gov/smm/sustainable-materials-management-non-hazardous-materials-and-waste-management-hierarchy.

[5] See https://www.pollinator.org/pollinator.org/assets/generalFiles/PollinatorFriendlyPractices_170624_114657.pdf.

[6] See https://obamawhitehouse.archives.gov/sites/default/files/docs/supporting_the_health_of_honey_bees_and_other_pollinators.pdf.

Invasive Species
Include measures that are consistent with Executive Order 13112 on Invasive Species. The Draft EIS should include any existing Forest Service direction for noxious weed management, a description of current conditions, and best management practices, which will be utilized to prevent, detect, and control invasives in the project area. Discuss measures that would be implemented to reduce the likelihood of introduction and spread of invasive species within the proposed project area. We encourage the Forest Service to promote integrated weed management, with prioritization of management techniques that focus on non-chemical treatments first, and mitigation to avoid herbicide transport to surface or ground waters. Early recognition and control of new infestations is critical to stop the spread of the infestation and avoid wider future use of herbicides, which could correspondingly have more adverse impacts on biodiversity, water quality, and aquatic resources.

Noise
Describe potential adverse noise impacts to sensitive human populations, as well as relevant biological resources. It is important to describe the timing, duration, and reoccurrence of these noises as they may occur over multiple construction seasons. We also recommend comparing noise impacts among alternatives and quantify the number of sensitive receptors that would be exposed for each alternative. We encourage the use of mitigation measures which will lessen or avoid adverse impacts.

Climate Change
Include a discussion of effects that changes in the climate may have on the proposed project and the project area, including its long-term infrastructure. This could help inform the development of measures to improve the resilience of the proposed project. If projected changes could notably exacerbate the environmental impacts of the project, the EPA recommends these impacts also be considered as part of the Draft EIS. We recommend discussing the effects that the project may have on its local environment regarding climate change, and whether the project will exacerbate or protect local resources from the future effects of climate change.

Environmental Justice
Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 16, 1994), directs federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. It further directs agencies to develop a strategy for implementing environmental justice and providing minority and low-income communities access to public information and public participation. As such, we recommend that the Forest Service address adverse environmental effects of the proposed project on these communities and outline measures to mitigate for impacts.

We encourage the Forest Service to use EPA's EJScreen and/or the most recent American Community Survey from the U.S. Census Bureau for the Draft EIS to determine the presence of minority and low-income populations; however, it is important to note that minority and low-income can be measured in various ways.

A minority population does not need to meet a 50 percent standard if "the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis."[7] To best illustrate the presence of a minority population, we also recommend that the Forest Service separately analyze block groups, the smallest geographical unit that

[7] Council on Environmental Quality. Environmental Justice: Guidance Under the National Environmental Policy Act. December 1997. Available at https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf.

the U.S. Census Bureau publishes data for. We caution using larger tracts as the basis for analysis, such as counties or cities, as these may dilute the presence of minority populations.

The NEPA Committee of the Federal Interagency Working Group on Environmental Justice has noted that, in some cases, it may be appropriate to use a threshold for identifying low-income populations that exceeds the poverty level.[8] For this project, a low-income population may not be accurately recognized by U.S. Census Bureau data as it does not account for California's housing costs or other critical family expenses and resources. For example, the California Department of Public Health suggests that "200% of the federal poverty level (FPL) is a more realistic measure of financial hardship than the official 100% FPL" due to California's high cost of living[9]; therefore, we recommend that the Forest Service consider using a 200% FPL when analyzing low-income populations.

After the Forest Service has determined if minority and low-income populations exist in the project area, we recommend that the Draft EIS discuss whether these communities would be potentially affected by individual or cumulative actions of the proposed action. Even though project impacts may be the same for all populations within the proposed project area, please note that social determinants of health,[10] such as language and literacy skills, education, job opportunities, and income, may result in minority and low-income populations bearing a disproportionate burden of environmental health risk from project impacts. For example, non-English speaks may bear disproportionate environmental health risk if burn notifications are not translated to Spanish, or lower educated populations may not fully understand environmental health risks if they are exposed to smoke from prescribed burning. These factors of risk should be accounted for in the Draft EIS and considered in the analysis for determining if any alternative would cause any disproportionate adverse impacts.

If it is determined that minority and low-income populations may be disproportionately impacted, describe in the Draft EIS the measures taken by the Forest Service to fully analyze the environmental effects of the action on minority communities and low-income populations and identify potential mitigation measures. Mitigation measures could include ensuring public notification procedures occur for all project area fuel treatments and pile burns, and media releases to inform locals and visitors about the expected impacts of the fire (specifically related to smoke, closures, and restrictions).

Present opportunities for affected communities to provide input into the NEPA process. In the Draft EIS, include information describing what was done to inform these communities about the project and the potential impacts it will have on their communities (notices, mailings, fact sheets, briefings, presentations, translations, newsletters, reports, community interviews, surveys, canvassing, telephone hotlines, question and answer sessions, stakeholder meetings, and on-scene information), what input was received from the communities, and how that input was utilized in the decisions that were made regarding the project.

Cumulative Effects

Cumulative effects are those that are reasonably foreseeable, related to the proposed action, and subject to the Forest Service's jurisdiction and control. The EPA recommends that the Draft EIS consider

[8] Federal Interagency Working Group on Environmental Justice & NEPA Committee. Promising Practices for EJ Methodologies in NEPA Reviews. March 2016. Available at https://www.epa.gov/sites/production/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

[9] California Department of Public Health. April 2019. Poverty and Health: Healthy Communities Data and Indicators Project, Office of Health Equity (Factsheet). Available at https://data.chhs.ca.gov/dataset/4ea80791-c308-4026-8a94-0e9070b53929/resource/ea66eef9-d854-4792-a587-636579780481/download/hci-one-page-poverty-fact-sheet-june-2019-lm.pdf.

[10] Centers for Disease Prevention and Control. September 2022. Social Determinants of Health. Available at https://health.gov/healthypeople/priority-areas/social-determinants-health.

evaluation of impacts over the entire area of impact and consider the effects of the project when added to other past, present, and reasonably foreseeable future projects in the analysis area. Considering all the actions in this area together would help decision makers to understand more clearly what the cumulative impacts on environmental resources are likely to be. The EPA has issued guidance on how to provide comments on the assessment of cumulative impacts, *Consideration of Cumulative Impacts in EPA Review of NEPA Documents.*[11] The guidance states that to assess the adequacy of the cumulative impact assessment, there are five key areas to consider:

- Resources, if any, that are being cumulatively impacted.
- Appropriate geographic area and the time over which the effects have occurred and will occur.
- All past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern.
- A benchmark or baseline.
- Scientifically defensible threshold levels.

Consultation with Tribal Governments

It is important that formal government-to-government consultation take place early in the scoping phase of the project to ensure that all issues are adequately addressed in the Draft EIS. The principles for interactions with tribal governments are outlined in the presidential "Memorandum on Government-to Government Relations with Native American Tribal Governments" (April 29, 1994) and Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (November 6, 2000).

In the Draft EIS, summarize the results of tribal consultation and identify the main concerns expressed by tribes (if any), and how those concerns were addressed. As a resource, we recommend the document *Tribal Consultation: Best Practices in Historic Preservation*,[12] published by the National Association of Tribal Historic Preservation Officers. Please note that the Advisory Council on Historic Preservation (ACHP) considers that "[c]onsultation is more than simply notifying an Indian tribe about a planned undertaking."[13] While consultation should begin with a formal letter, the ACHP advises that "[f]ace-to-face meetings or on-site visits may be the most practical way to conduct consultation." If the Forest Service needs assistance with consultation or updated tribal contacts, EPA Region 9 has a robust tribal program.

National Historic Preservation Act

Consultation for tribal cultural resources is required under Section 106 of the National Historic Preservation Act. Historic properties under the NHPA are properties that are included in the National Register of Historic Places or that meet the criteria for the NRHP. Section 106 of the NHPA requires a federal agency, upon determining that activities under its control could affect historic properties, to consult with the appropriate State Historic Preservation Office/Tribal Historic Preservation Office. Under NEPA, any impacts to tribal, cultural, or other treaty resources must be disclosed in the Draft EIS. Section 106 of the NHPA requires that federal agencies consider the effects of their actions on cultural resources, following the regulation at 36 CFR Part 800.

In the Draft EIS, discuss how the Forest Service would avoid or minimize adverse effects on the physical integrity, accessibility, or use of cultural resources or archaeological sites, including traditional cultural properties, throughout the project area. Clearly discuss mitigation measures for archaeological

[11] U.S. EPA May 1999. Consideration Of Cumulative Impacts in EPA Review of NEPA Documents. Available at https://www.epa.gov/sites/production/files/2014-08/documents/cumulative.pdf.

[12] National Association of Tribal Historic Preservation Officers. May 2005. Tribal Consultation: Best Practices in Historic Preservation. Available at http://npshistory.com/publications/preservation/tribal-consultation.pdf.

[13] Advisory Council on Historic Preservation. June 2021. Consultation with Indian Tribes in the Section 106 Review Process: The Handbook. Available at https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf.

sites and TCPs. We encourage the Forest Service to append any Memoranda of Agreements to the Draft EIS, after redacting specific information about these sites that is sensitive and protected under Section 304 of the NHPA. We also recommend providing a summary of all coordination with Tribes and with the State and Tribal Historic Preservation Offices, including identification of NRHP eligible sites and development of a Cultural Resource Management Plan.

Executive Order 13007

Executive Order 13007, "Indian Sacred Sites" (May 24, 1996), requires federal land managing agencies to accommodate access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners, and to avoid adversely affecting the physical integrity, accessibility, or use of sacred sites. It is important to note that a sacred site may not meet the NRHP criteria for a historic property and that, conversely, a historic property may not meet the criteria for a sacred site. It is also important to note that sacred sites may not be identified solely in consulting with tribes located within geographic proximity of the project. Tribes located outside the direct impact area the plan area may also have religiously significant ties to lands within the plan area and should be included in the consultation process.

In the Draft EIS, address the existence of Indian sacred sites in the project areas, including seeps and springs, that may be considered spiritual sites by regional tribal nations. Discuss how the Forest Service would ensure that the proposed action would avoid or mitigate for the impacts to the physical integrity, accessibility, or use of sacred sites.