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#### FORMAL OBJECTION - 36 CFR PART 218

Objector: Pinecrest Lake Resort

Project: Pinecrest Basin Management Direction - Community Center Forest Plan  
Amendment and Special Use Permit (#68965)

#### EXECUTIVE SUMMARY

This objection challenges the proposed Forest Plan Amendment and Special Use Permit for the Pinecrest Community Center as legally deficient, factually unsupported, and inconsistent with governing land management direction. The Environmental Assessment ("EA") and Finding of No Significant Impact ("FONSI") fail to take the "hard look" required under the National Environmental Policy Act ("NEPA"), are inconsistent with the National Forest Management Act ("NFMA"), and reflect arbitrary, capricious, and inequitable decision-making in violation of the Administrative Procedure Act ("APA").

The proposal is not a minor administrative correction or clarification. It represents a substantive, precedent-setting expansion of commercial use within the Pinecrest Basin. The proposed action would fundamentally alter the management direction for the site by reclassifying an area historically governed by noncommercial land management objectives to one that permits expanded commercial flexibility and intensified use. The proposal authorizes additional commercial activity without adequately demonstrating infrastructure capacity, unmet public demand, financial feasibility, technical capability, or consistency with prior agency representations, enforcement history, and past Forest Service determinations regarding allowable use at this location.

Forest Plans are intended to serve as the long-term framework governing management decisions on National Forest System lands. The U.S. Forest Service's direction is to implement existing Forest Plans and management direction as the governing structure for land stewardship, recreation management, infrastructure planning, and public benefit. These plans are developed through extensive public involvement and are intended to provide durable guidance for the foreseeable future. They are not intended to be routinely amended, weakened, or selectively modified to accommodate the preferences or business objectives of individual applicants or permit holders. To do so undermines the integrity of the forest planning process, erodes public confidence in agency decision-making, and converts long-range public land management into a reactive process driven by private interests rather than consistent public stewardship and resource protection.

The administrative record also reflects critical omissions and analytical failures. The EA does not adequately analyze wastewater and sewer capacity constraints within the Basin, despite longstanding, documented infrastructure limitations. The analysis fails to include meaningful occupancy data, sales data, or operational demand projections for existing year-round businesses in the Basin, and omits a thorough evaluation of the cumulative impacts of expanding commercial activity on already constrained public lands. The document further fails to adequately address the presence of an operating school at the facility, the implications of the facility's liquor license and alcohol-related operations, or the reasonably foreseeable public safety concerns associated with expanded visitor concentration and alcohol service in an area characterized by limited law enforcement presence, constrained emergency response capability, traffic congestion, and seasonal infrastructure strain.

## TABLE OF AUTHORITIES

*Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989): NEPA requires agencies to take a "hard look" at environmental consequences and disclose them before action is taken; unsupported conclusions are insufficient.

*Sierra Club v. Marsh*, 976 F.2d 763 (1st Cir. 1992): Agencies must analyze indirect and cumulative effects where the proposed action may trigger future environmental consequences or stress known limits.

*Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233 (9th Cir. 2005): Agency decisions cannot rest on assumptions or speculation where relevant data is available or necessary.

*Great Basin Resource Watch v. Bureau of Land Mgmt.*, 844 F.3d 1095 (9th Cir. 2016): Environmental analysis must be grounded in credible baseline information sufficient to assess impacts.

*Mid States Coalition for Progress v. Surface Transp. Bd.*, 345 F.3d 520 (8th Cir. 2003): NEPA requires consideration of indirect impacts, including economic and operational effects that foreseeably flow from the action.

*Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437 (4th Cir. 1996): Agencies must disclose and meaningfully analyze community-level economic impacts rather than minimize them through conclusory treatment.

*Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989 (9th Cir. 2004): Cumulative effects analysis must address how the action combines with other pressures and precedents, rather than isolate the project from its context.

*Friends of Southeast's Future v. Morrison*, 153 F.3d 1059 (9th Cir. 1998): Forest planning requirements cannot be avoided by reshaping plan direction to fit an otherwise inconsistent project without adequate planning justification.

*Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983): Agency action is arbitrary and capricious when the agency relies on unsupported assumptions, ignores important aspects of the problem, or fails to explain departures from prior practice.

*Westar Energy, Inc. v. Fed. Energy Regul. Comm'n*, 473 F.3d 1239 (D.C. Cir. 2007): Agencies must explain materially different treatment of similarly situated parties and cannot change position without a reasoned explanation.

*FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000): Agencies may not enlarge statutory authority beyond what Congress actually delegated, especially where the claimed Authority would affect a major policy change.

*City of Arlington v. FCC*, 569 U.S. 290 (2013): An agency's authority is bounded by the statute Congress enacted; statutory interpretation cannot manufacture powers the statute does not grant.

## I. STATEMENT OF OBJECTION

Pursuant to 36 CFR Part 218, Pinecrest Lake Resort, submits this formal objection to the proposed Pinecrest Basin Management Direction - Community Center Forest Plan Amendment and Special Use Permit (#68965). This proposal represents a substantial departure from existing management direction and a significant expansion of commercial use within a constrained, historic recreation basin.

The objections set forth below are based on the Forest Service's failure to comply with NEPA, NFMA, 36 CFR Part 251, applicable Forest Service Manual direction, and the APA. The proposal is unsupported by the record because it omits essential data, fails to analyze known constraints, rewards documented non-compliance, and departs from prior agency representations without a reasoned explanation.

## II. NEPA VIOLATIONS - FAILURE TO TAKE A LEGALLY SUFFICIENT HARD LOOK

NEPA requires agencies to take a rigorous, good-faith 'hard look' at environmental consequences, supported by accurate data, full disclosure, and reasoned analysis. This EA

fails that standard in multiple independent and compounding ways.

First, the EA omits baseline data necessary to understand impacts. Without occupancy rates, sales data, and seasonal demand patterns, the agency cannot determine whether additional commercial services are needed or whether existing operations already meet or exceed capacity. This omission renders all downstream conclusions speculative.

Second, the EA fails to analyze known infrastructure constraints. The Pinecrest Basin wastewater system is widely documented as operating at or near capacity. Prior expansions have been denied based on this limitation. The EA does not identify available capacity, does not model increased loading, and does not reconcile prior capacity-based denials. This omission is dispositive because it prevents any meaningful evaluation of environmental or public health impacts.

Third, the EA fails to analyze cumulative impacts. The proposal expands commercial use both on-site and across the Basin, thereby increasing visitation and demand. These effects must be evaluated collectively, particularly in a constrained environment. The EA instead evaluates impacts in isolation, which is legally insufficient.

Fourth, the EA fails to evaluate indirect economic and social impacts. The proposal redistributes demand within a finite tourism economy, affecting jobs, wages, and tax revenue. These impacts are reasonably foreseeable and must be analyzed under NEPA. Finally, the EA fails to consider public safety impacts, including the presence of a school, expanded alcohol availability, and limited law enforcement resources. These omissions further demonstrate a failure to take the required hard look.

*Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989).

*Sierra Club v. Marsh*, 976 F.2d 763 (1st Cir. 1992).

*Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233 (9th Cir. 2005).

*Great Basin Resource Watch v. Bureau of Land Mgmt.*, 844 F.3d 1095 (9th Cir. 2016).

A. Wastewater (Sewer) Capacity Constraints, NEPA Significance, and Public Health Risk

The Pinecrest Basin wastewater system is documented as operating at or near capacity.

This is a critical, known infrastructure constraint that must be fully evaluated before any additional commercial use is authorized. Importantly, other proposed expansions within the Pinecrest Basin have been denied specifically because sufficient wastewater capacity was unavailable. That history matters. It establishes clear, consistent recognition by managing agencies that wastewater limitations are a controlling factor in determining allowable use.

Despite that context, the current proposal introduces additional commercial intensity without identifying available wastewater capacity, without demonstrating that the existing system can absorb additional demand, without evaluating effects on existing users and permitted facilities, and without reconciling the proposal with prior capacity-based denials. The omission is especially serious because the impacts of wastewater are not abstract. If capacity is exceeded, foreseeable consequences include system failures or overflows, environmental contamination, disruption of services to existing permitted operators, and basin-wide degradation of visitor experience.

This is precisely the kind of known infrastructure limitation NEPA requires the agency to confront directly. The EA fails to adequately analyze the direct impacts of increased wastewater generation, the indirect impacts of strain on existing users and facilities, the cumulative impacts of additional commercial use within a basin already at capacity, and the consistency of this decision with prior denials grounded in the same constraint. Given documented capacity limitations, prior denials based on those limitations, the absence of any demonstrated increase in system capacity, and the lack of meaningful analysis in the EA, the conclusion that this action results in "No Significant Impact" is not supported by the record.

A FONSI under these circumstances is inappropriate. At a minimum, this issue warrants more rigorous environmental review, full disclosure of infrastructure limitations, and consideration of alternatives that do not exceed system capacity.

*Sierra Club v. Marsh*, 976 F.2d 763 (1st Cir. 1992).

#### B. Traffic, Parking, Circulation, Concession, and Outfitter/Guide Expansion Deficiencies Under NEPA

The Environmental Assessment ("EA") fails to take the required "hard look" at the direct, indirect, and cumulative traffic, parking, circulation, concession-related, and outfitter/guide-related impacts associated with the proposed Pinecrest Basin Management Direction - Community Center project and Forest Plan Amendment. The analysis appears to rely upon outdated assumptions tied to the historic use of the property located at 2 Pinecrest School Road, while failing to adequately evaluate the operational realities and foreseeable impacts associated with expanded commercial visitor-serving activity within the already constrained Pinecrest Basin.

Historically, the subject property served as a civic or institutional facility, generating relatively intermittent, low-intensity traffic associated with community meetings, educational activities, and limited public assembly. The proposal now contemplates a materially different operational framework involving expanded visitor-serving commercial activity, concession-related uses, organized recreation services, and potential outfitter and guide ("O/G") operations. These uses inherently generate substantially different traffic and circulation impacts, including increased vehicle trip generation, expanded operating hours, employee traffic, delivery and service traffic, event-related surges, trailer and equipment movement, loading and unloading activity, and increased parking demand throughout both daytime and evening periods.

The EA does not appear to meaningfully analyze these reasonably foreseeable operational impacts. Instead, the analysis appears to minimize or overlook the practical reality that commercial recreation-oriented uses generate substantially greater traffic intensity than the site's historic community-oriented use. This omission is particularly significant because the Pinecrest Basin already experiences severe seasonal congestion, constrained roadway conditions, limited parking capacity, concentrated pedestrian activity, and infrastructure limitations during peak visitation periods.

The proposal also appears broad enough to facilitate expanded outfitter and guide operations associated with the site or the surrounding Basin area. Such operations inherently generate additional demand for client parking, shuttle activity, group assembly, equipment transport, trailer traffic, and concentrated staging. The Pinecrest Basin was not designed to operate as a centralized commercial recreation staging hub, yet the EA fails to adequately evaluate how expanded O/G activity could compound existing congestion and circulation conflicts within an already capacity-constrained recreation corridor.

Equally concerning is the apparent reliance upon unsupported or outdated planning assumptions. To the extent the Agency relies upon prior Pinecrest traffic or circulation studies, those analyses would necessarily have been based upon the land uses and operational intensity existing at the time they were prepared. A material transition from a relatively low-intensity civic/community facility into a substantially expanded commercial visitor-serving operation may invalidate those assumptions entirely. The EA does not appear to disclose whether prior circulation analyses contemplated expanded concession activity, event hosting, recreation-service staging, outfitter and guide operations, increased visitor turnover, or concentrated commercial recreation use at this location. NEPA prohibits agencies from relying upon stale or inaccurate baseline assumptions when evaluating environmental impacts.

The EA further appears to rely upon an unsupported assumption that expanding commercial visitor-serving uses, concession opportunities, and outfitter/guide activity

within the Pinecrest Basin will somehow "disperse" recreation use throughout the Stanislaus National Forest. The record does not appear to contain substantial evidence supporting this conclusion. In reality, the proposal is far more likely to further concentrate recreational activity within one of the Forest's most heavily used recreation hubs. Pinecrest already contains a concentrated collection of recreational attractions and visitor infrastructure, including Pinecrest Lake, campgrounds, marina operations, day-use facilities, trail access, visitor lodging, restaurants, organized recreation opportunities, and event activity. Adding commercial services and recreation-oriented activities directly within this existing recreation center predictably attracts more users to the same already congested area rather than dispersing visitors outward across broader portions of the Forest.

The EA appears to conflate "increased recreational opportunity" with "dispersed recreation." Those concepts are not synonymous. True recreational dispersion involves directing visitors to geographically dispersed or underutilized areas to reduce concentrated impacts, reduce infrastructure strain, improve visitor distribution, and protect already impacted recreation corridors. This proposal instead intensifies services, amenities, and commercial activity within one of the Forest's most constrained and heavily visited recreation areas.

Similarly, expanded outfitter and guide activity operating from the Pinecrest Basin would likely centralize parking, staging, transportation, client assembly, and commercial recreation activity within the Basin core itself. Outfitters and guides naturally gravitate toward areas with the greatest visibility, easiest visitor access, and strongest concentration of amenities. The proposal, therefore, creates incentives for further concentration of recreational use rather than meaningful geographic dispersion.

The EA does not appear to provide meaningful visitor-use modeling, traffic redistribution analysis, transportation demand analysis, parking redistribution analysis, or empirical evidence demonstrating that the proposal would actually reduce recreational concentration within Pinecrest. Absent such analysis, any conclusion that the proposal promotes dispersed recreation is speculative and unsupported.

The cumulative implications of these deficiencies are substantial. The Pinecrest Basin is already experiencing seasonal congestion, parking shortages, pedestrian conflicts, infrastructure strain, and concentrated recreational demand. Additional commercial visitor-serving intensity, expanded concession activity, and increased outfitter/guide operations may incrementally worsen these conditions, even if each individual impact is minor in isolation. NEPA requires the Agency to evaluate the cumulative effects of the proposal when combined with existing and reasonably foreseeable future recreational pressures throughout the Basin.

The EA also fails to meaningfully evaluate reasonable alternatives or mitigation measures that could reduce or avoid these impacts, including limiting the intensity of commercial operations, restricting concession-related uses, limiting or prohibiting outfitter/guide staging at the site, maintaining the historic community-service-oriented use classification, directing recreation-service expansion toward less constrained areas of the Forest, or implementing enforceable transportation and parking mitigation measures. Instead, the proposal appears structured to accommodate expanded commercial operational flexibility rather than to objectively evaluate whether the Pinecrest Basin can reasonably absorb additional concentrated commercial recreation activity.

NEPA requires federal agencies to take a "hard look" at environmental consequences prior to making decisions. By failing to adequately evaluate increased trip generation, parking demand, pedestrian conflicts, concession-related impacts, outfitter and guide operational impacts, cumulative congestion, unsupported dispersion assumptions, and basin-wide circulation constraints, the EA deprives both decision-makers and the public of informed

environmental review.

Because the EA fails to adequately evaluate the reasonably foreseeable traffic, parking, circulation, concession, and outfitter/guide impacts associated with intensification of commercial visitor-serving uses at 2 Pinecrest School Road within an already capacity-constrained recreation basin-and further relies upon unsupported assumptions that the proposal will somehow disperse recreation use despite its obvious tendency to further concentrate visitors, traffic, parking demand, and commercial activity within the Pinecrest Basin-the environmental analysis is incomplete, arbitrary, unsupported by substantial evidence, and legally deficient under NEPA.

#### C. Failure to Analyze Emergency Operations, Evacuation Constraints, and Existing Alternative Infrastructure

The Environmental Assessment also fails to adequately evaluate emergency operations, wildfire evacuation constraints, and the availability of existing alternative infrastructure already capable of supporting incident coordination and emergency staging within the Upper Highway 108 corridor.

The Pinecrest Basin is a geographically constrained recreation area characterized by limited circulation routes, concentrated visitor density, constrained parking, narrow evacuation corridors, and heavily forested conditions. During peak recreation periods, these limitations already create congestion and operational strain. Additional concentration of communal lodging, gathering areas, commercial activity, or base-camp-style operational uses within the Basin may further complicate evacuation and emergency response during wildfire events or other large-scale incidents.

Despite these realities, the EA does not meaningfully assess whether the project increases management complexity or emergency-response burdens in an already constrained environment. Nor does it adequately analyze whether the objectives cited in support of the proposal - including resiliency, emergency coordination, operational support, or incident staging - are already substantially served by existing developed infrastructure elsewhere in the corridor.

Most notably, the nearby Dodge Ridge Mountain Resort area already contains many of the characteristics commonly associated with emergency coordination and operational staging functions, including substantial developed parking capacity, established ingress and egress routes, large open operational areas, multiple potential helicopter landing zones, and significantly greater defensible space. Unlike the Pinecrest Basin, these facilities are located in a setting better suited to large-scale staging, evacuation support, and emergency management functions. This facility has been used numerous times for this very purpose. NEPA requires agencies to take a legally sufficient "hard look" at reasonable alternatives, existing conditions, cumulative impacts, and foreseeable operational consequences before approving significant land management changes. However, the EA does not adequately evaluate whether concentrating additional operational intensity within the constrained Pinecrest Basin is the safest, least impactful, or most reasonable approach, given that substantial existing infrastructure with greater evacuation capacity, defensible space, and operational suitability already exists nearby.

The existence of existing emergency support and operational infrastructure elsewhere along the Highway 108 corridor further undermines the necessity of permanently expanding commercial, communal lodging, or base-camp-style operations within the Pinecrest Basin itself. Because the proposal establishes a long-term framework for expanded use in an infrastructure-constrained, wildfire-prone environment, the EA's failure to meaningfully analyze these issues renders the NEPA review incomplete and legally deficient.

#### D. Failure to Include Occupancy Data, Sales Data, and Seasonal Demand Patterns

The EA omits critical occupancy data and sales data for year-round operations in the

Pinecrest Basin. That omission is central to the legal sufficiency of the analysis. Without occupancy rates, the Forest Service cannot determine whether lodging demand exceeds supply. Without sales data and seasonal demand patterns, it cannot determine whether existing retail and food service offerings are meeting visitor demand, operating near sustainable levels, or merely duplicating existing services.

The absence of this data means the agency lacks a reliable baseline to evaluate need, capacity, displacement, or visitor behavior. Instead of grounding the analysis in evidence, the EA assumes additional services are necessary and beneficial. That approach is speculative. The omitted data may demonstrate the opposite: that existing operators already provide sufficient goods and services, that demand is seasonal and finite, and that additional overlapping services would fragment demand rather than enhance public access or convenience.

Because NEPA requires decisions to be supported by evidence rather than assumptions, the absence of occupancy, sales, and seasonal demand data renders the EA incomplete and unreliable. These omissions also infect the infrastructure, economic, and cumulative effects analysis, because those analyses all depend on a sound baseline understanding of actual use.

*Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233 (9th Cir. 2005).

E. Failure to Analyze Economic Impacts to Jobs, Existing Businesses, and Tax Revenue  
Tourism in Tuolumne County represents a major economic engine, generating substantial visitor spending, supporting local jobs, and producing important tax revenue. The Pinecrest Basin is a meaningful contributor to that economy. Against that backdrop, the proposal does not create new demand. It redistributes existing demand within a finite, seasonal, and infrastructure-constrained recreation economy.

That redistribution is likely to reduce revenue for existing permitted operators, with direct consequences for employee hours, wages, seasonal employment stability, and the viability of year-round services already being offered. These impacts extend beyond individual operators. Reduced revenue affects residents who rely on employment in the Basin, weakens the economic stability of existing permitted operations, and may reduce tax revenue associated with visitor-serving commerce.

The EA does not quantify these impacts or explain why destabilizing existing permitted services should be viewed as a neutral or beneficial outcome. In a constrained market, even modest shifts in demand can have outsized consequences. NEPA requires the Forest Service to confront that reality, not minimize it through generalized statements about economic diversification.

*Mid States Coalition for Progress v. Surface Transp. Bd.*, 345 F.3d 520 (8th Cir. 2003).

*Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437 (4th Cir. 1996).

F. Public Safety, School Presence, Liquor License, and Limited Law Enforcement

The EA also fails to evaluate public safety issues associated with the proposed expansion of commercial activity. These omissions are material. The facility includes an existing school. The facility also has a liquor license, and more available alcohol can create meaningful public safety concerns in a remote, family-oriented recreation setting where law enforcement and emergency response are already sparse.

The presence of a school changes the analysis. The interaction of school functions, alcohol-related commerce, transient visitor activity, parking stress, and limited law enforcement cannot be dismissed as peripheral. These are foreseeable consequences of the proposed authorization and should have been analyzed as part of NEPA's public health and safety review.

The EA's failure to engage with these issues is particularly problematic because the

proposal is framed as an improvement to visitor services and convenience. If the result is greater conflict, increased congestion, higher safety risks, or more alcohol-related issues in a constrained area, the public-interest case for the proposal weakens rather than strengthens.

#### G. Failure to Analyze Cumulative Impacts, Basin-Wide Precedent Effects, and Attractive Nuisance Risk

The proposal is not limited to a single isolated action. It expands commercial flexibility at the site and, as described in the record, broadens the potential for commercial permitting and overlapping services within the Basin. That means the proper frame of analysis is cumulative and basin-wide, not parcel-specific and artificially narrow.

The proposed amendment effectively decouples the site's approved use from the current applicant's identity and specific proposal. While the permit holder may change over time, the underlying land use authorization and zoning designation will remain in place. As a result, any approval granted through this amendment is not limited to the current proposal, but instead establishes a long-term framework that future operators could exercise in ways that differ materially from what is presently described. This creates a level of uncertainty that the analysis does not adequately address.

This lack of specificity is directly at odds with the requirements of the National Environmental Policy Act. NEPA requires agencies to evaluate not only the immediate impacts of a proposal, but also reasonably foreseeable future actions and the full scope of impacts enabled by the decision. By authorizing a broader, more flexible range of uses without clearly defined limits, the amendment effectively permits future expansion, modification, or intensification of use without additional site-specific analysis. Where an agency action establishes a framework for future development, NEPA requires that the environmental consequences of that broader framework be evaluated at the time of approval. Here, the absence of enforceable boundaries prevents meaningful analysis of the full range of potential uses and their cumulative impacts. As a result, the environmental review is incomplete, and the proposal is overly broad, providing latitude that extends well beyond what has been disclosed or analyzed in the current record.

Increased commercialization within a historic, infrastructure-limited basin can attract additional use beyond what roads, parking, wastewater, and public safety resources can reasonably accommodate. This is the essence of the attractive nuisance problem raised here: the proposal may increase draw, expectation, and pressure without ensuring that the Basin can safely absorb those changes.

The EA does not adequately analyze how this proposal, together with existing congestion, parking limitations, sewer constraints, and future copycat proposals, may permanently alter the Pinecrest Basin's character and management burdens. That omission is especially important given the record's concern that the zoning change will not affect only the current permit holder; it will affect future owners and future efforts to expand use at this site. Accordingly, the proposal constitutes an impermissibly broad framework action under NEPA that fails to evaluate reasonably foreseeable impacts and is therefore legally deficient.

Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt., 387 F.3d 989 (9th Cir. 2004).

#### H. Improper FONSI and Need for Deeper Review

The permanent land use reclassification, increased commercial intensity, unresolved wastewater constraints, public safety implications, and long-term management consequences make the FONSI particularly vulnerable. These are not minor effects. They involve structural changes to land use, foreseeable infrastructure stress, precedent-setting

consequences, and cumulative pressures within an already constrained basin.

Where significance is present or cannot be responsibly ruled out because the agency has not performed the necessary analysis, a FONSI is inappropriate. At a minimum, a deeper environmental review is warranted.

### III. NFMA VIOLATIONS - INCONSISTENCY WITH FOREST PLAN DIRECTION AND IMPROPER USE OF PLAN AMENDMENT AUTHORITY

The proposal seeks to amend the Stanislaus National Forest Plan to reclassify the Pinecrest Community Center site into a commercial management designation. That is not a minor clarification or administrative refinement; it is a substantial departure from established land management direction for the Pinecrest Basin. Under the National Forest Management Act ("NFMA"), project-level decisions must remain consistent with the governing Forest Plan and associated management direction. While Forest Plan amendments are legally permissible, they are intended to address broader resource management objectives, changing environmental conditions, or landscape-level planning needs-not to accommodate a single applicant's non-conforming commercial use or to retroactively legitimize activities inconsistent with existing direction.

This proposal appears to invert the planning framework established under NFMA. Rather than requiring the proposed use to conform to the existing Forest Plan, the agency proposes altering the Forest Plan itself to accommodate the desired use. That approach undermines the integrity and predictability of the forest planning process and transforms amendment authority into a mechanism for curing inconsistency after the fact. If allowed to stand, the proposal establishes a dangerous precedent whereby any inconsistent commercial use may seek site-specific plan amendments rather than complying with the long-term management framework developed through public planning processes.

Forest Plans are intended to provide durable, long-range guidance governing public land management for the foreseeable future. They are developed through extensive scientific review, interagency coordination, and public participation to balance recreation, infrastructure, environmental protection, public safety, and economic considerations across the broader landscape. The direction of the U.S. Forest Service is to implement these existing plans as the governing framework for decision-making-not to selectively weaken or reinterpret them whenever a particular proposal conflicts with existing management direction. Amending a Forest Plan solely to facilitate a single commercial operation erodes public trust, diminishes planning certainty, and converts landscape-level management into an ad hoc process driven by private interests rather than consistent public stewardship.

The problem is compounded by the absence of any demonstrated basin-wide planning need for the amendment. The administrative record does not identify a deficiency in the existing Forest Plan, a changed environmental condition, or a broader recreation management need that would require commercial reclassification of this site. Instead, the record points to a narrowly tailored effort to legalize and expand a use that is currently inconsistent with governing management direction. The EA similarly fails to evaluate whether existing private commercial services within the Upper Highway 108 corridor already meet visitor demand, fails to analyze displacement effects on existing businesses operating on private lands, and fails to explain why expansion of commercial intensity within the Basin is necessary despite known infrastructure and capacity constraints.

Further, the proposal conflicts with longstanding agency representations and prior enforcement history regarding allowable use at the site. Multiple parties who reportedly inquired about acquisition or redevelopment opportunities for the property were informed that the site's use restrictions could not be materially changed. The agency's current willingness to amend the Forest Plan and expand allowable commercial uses for a specific applicant raises serious fairness, consistency, and APA concerns. Federal land management decisions must be

administered in a manner that is rational, transparent, and even-handed. A process in which similarly situated parties were previously denied or discouraged based upon existing management direction, only for the agency to later alter that direction for another applicant, reflects arbitrary and capricious decision-making inconsistent with the APA and the integrity of the NFMA planning framework.

NFMA was designed to ensure that Forest Plans meaningfully govern project-level actions-not that plans themselves become fluid documents repeatedly modified to accommodate incompatible proposals. The Forest Service cannot avoid plan inconsistency by simply rewriting the governing standard whenever a proposal conflicts with existing management direction. See *Friends of Southeast's Future v. Morrison*, 153 F.3d 1059 (9th Cir. 1998).

#### IV. REGULATORY AND COMPLIANCE FAILURES

##### A. Documented Non-Compliance and Failure to Enforce Permit Terms

The record reflects concerns regarding documented non-compliance with existing permit terms and approved operating plans. The current permit holder has reportedly received warnings and direction from the Forest Service and has failed to fully correct or comply with those requirements. If that is the case, the appropriate response is enforcement, not expansion.

Rather than enforcing compliance, the agency is proposing to amend the Forest Plan and expand authorization. That approach rewards non-compliance, weakens the credibility and enforceability of Special Use Permit conditions, and signals that adherence to permit terms is optional. It creates a serious management problem: non-compliance becomes a pathway to broader use rather than a basis for corrective action.

##### B. Failure to Meet Special Use Permit Requirements Under 36 CFR 251.54 and 251.56

Under 36 CFR 251.54 and 36 CFR 251.56, the Forest Service must evaluate whether an applicant possesses the financial capability to undertake and sustain the proposed use, the technical capability to operate in compliance with permit requirements, and consistency with applicable land management plans.

The current proposal fails to satisfy those requirements on the face of the record. No financial capability determination has been provided. Technical capability is brought into question by the record of non-compliance. And the use is not consistent with the current Forest Plan, necessitating the proposed amendment. Proceeding under these conditions does not meet the regulatory threshold required for permit issuance.

##### C. Lack of Financial Analysis and Financial Capability Determination

The proposal references commercial visitor services, but it does not adequately define their scope, scale, or operational intensity. More importantly, it does not include a required financial capability determination. That determination matters because it is meant to confirm that the operator can maintain facilities, provide consistent services, satisfy compliance obligations, and sustain long-term operations.

Without that analysis-and in light of concerns about non-compliance-approval introduces a greater risk of deferred maintenance, inconsistent operations, further violations, and degraded visitor services. This is not a technical omission. It is a fundamental gap in the decision-making process.

##### D. Conflict with Forest Service Manual Direction (FSM 2723.62)

Forest Service Manual direction for community service facilities, including FSM 2723.62 as referenced in the record provided by the user, treats these uses as noncommercial in character. Converting that classification into a commercial use directly conflicts with internal agency policy and undermines the consistency of Forest Service land management administration.

If the agency wishes to depart from that internal direction, it must provide a reasoned explanation. The current record does not supply that explanation.

#### V. EXISTING SERVICES, LACK OF DEMONSTRATED NEED, AND OVERLAPPING

## COMMERCIAL SERVICES

The proposal authorizes additional commercial services without demonstrating unmet demand. That omission is significant because the Pinecrest Basin already offers a robust, overlapping network of visitor services through existing operators, including Pinecrest Lake Resort, Pinecrest Chalet, Camp Blue/Gold/ Oski, Camp Chinquapin, Camp Sylvester, Dodge Ridge Mountain Resort, and other nearby providers on private land.

These facilities collectively offer lodging, group accommodations, food service, and recreational amenities that are available to the public and, in many cases, are not operating at full capacity. Pinecrest Chalet is currently listed for sale, reflecting the instability and economic uncertainty of the local market. Camp Oski is nearing completion of a major capital investment with the construction of a new lodge intended to support year-round use, even though this permit is a club-type permit. Camp Oski is open and widely advertised to the public as a lodging option. Additionally, any guest of these camps has access to their facilities and infrastructure. Dodge Ridge continues to provide seasonal food service and recreation opportunities, further contributing to the existing service network.

Within the Basin, Pinecrest Lake Resort already provides a comprehensive suite of services, including a year-round restaurant and bar, coffee service, retail and recreation goods, general store, pay-to-use public showers, lodging accommodations, and operational infrastructure that supports visitor safety and access. Seasonal offerings further expand these services to include marina operations, rentals, and additional recreational amenities. Visitors also have access to grocery, retail, and support services both within the Basin and along surrounding access corridors.

Despite this well-established service environment, the proposal does not demonstrate that existing services are at capacity, that there is unmet demand, or that duplication is necessary. Instead, it introduces overlapping commercial use within a constrained setting. In a finite and highly seasonal market, this type of duplication does not expand opportunity-it fragments demand. By dividing a limited customer base among additional operators, the proposal risks weakening existing businesses and reducing the reliability of year-round services rather than strengthening them.

The proposal also fails to account for the full range of existing food and beverage services available within and immediately surrounding the Pinecrest Basin. This includes established operations such as The Outpost, but omits any meaningful discussion of the offerings at The Outpost or Strawberry Inn. Mia's Restaurant in Cold Springs, a year-round establishment, is completely omitted. These businesses actively serve the same visitor base and represent readily available alternatives within proximity to Pinecrest. The failure to identify and evaluate these existing services further underscores the analysis's incompleteness. By omitting a comprehensive inventory of available food and beverage options, the proposal understates existing capacity and overstates the need for additional commercial services. This results in a distorted assessment of demand and increases the likelihood that the proposed offerings would duplicate existing services rather than meaningfully expand public benefit.

Accordingly, the failure to evaluate these existing services and their role in meeting visitor demand renders the NEPA analysis incomplete and undermines the agency's ability to accurately assess need, alternatives, and cumulative impacts.

## VI. ECONOMIC SUSTAINABILITY AND MARKET REALITY IN TUOLUMNE COUNTY

The proposal fails to evaluate economic sustainability under real-world market conditions in Tuolumne County. Evidence from nearby communities demonstrates that demand for commercial services is limited, highly seasonal, and already constrained. In areas such as Twain Harte, commercial spaces remain vacant or intermittently occupied, and businesses struggle to maintain consistent, year-round operations. Similar patterns are reflected in the

reduction of summer services at Dodge Ridge due to insufficient demand and cost inefficiencies. These conditions directly contradict any assumption that additional commercial services within the Pinecrest Basin are necessary or sustainable.

At the same time, consumer behavior has shifted significantly. Modern visitors increasingly arrive well-prepared, relying on online purchasing and pre-trip planning, reducing the need for on-site retail and service offerings. Existing businesses must already compete with external supply chains, further limiting demand for additional physical infrastructure. The EA does not account for these trends and instead overestimates the need for expanded services.

Existing resources already meet visitor needs. Visitors have access to goods and services in surrounding communities and through established operators within the Basin. Because these services are already functioning and available, the proposal does not expand access; instead, it duplicates existing capacity.

In a finite, seasonal market, adding additional operators does not create new demand-it divides existing demand. This leads to oversaturation, reduced revenue per operator, and decreased economic stability across the Basin. For existing businesses, this results in reduced margins, increased risk, and difficulty maintaining year-round operations. For the Basin as a whole, it results in less reliable service availability and a shift toward short-term, seasonal operations rather than stable, long-term businesses.

NEPA requires analysis of these economic impacts, including the displacement of existing businesses and long-term sustainability. The EA does not evaluate whether new services can be sustained, whether existing operators will be harmed, or whether oversaturation will degrade service reliability. Instead, it assumes that additional commercial activity is inherently beneficial-an assumption unsupported by evidence or economic principles.

When combined with expanded outfitter and guide permits and targeted user group services, the cumulative effect is a system-wide shift toward fragmented and unstable economic conditions. This undermines the stated goal of improving visitor services and supporting rural economies, and instead poses a risk to the long-term viability of the Basin's recreation system.

The proposal also fails to consider the impacts on employment within the Pinecrest Basin and surrounding communities. Existing businesses operate in a constrained, highly seasonal economic environment and must carefully balance staffing levels to remain viable. By introducing duplicative services and fragmenting a limited customer base, the proposal risks reducing overall business volume at established operations. This, in turn, can lead to reduced hours, fewer seasonal hires, and potential job losses across existing employers. Rather than creating new employment opportunities, this type of expansion is more likely to redistribute-and ultimately diminish-the available employment base by weakening the businesses that currently provide stable and recurring jobs in the region. The EA does not evaluate these reasonably foreseeable employment impacts, further underscoring the incomplete nature of the economic analysis.

The proposal risks undermining existing permitted operations, many of which provide stable, year-round services and have made substantial investments in reliance on federal authorization. Introducing duplicative services without a demonstrated need fragments demand, reduces financial stability, and places additional strain on businesses already operating in a challenging, highly seasonal economic environment.

Even under the proposal's stated goal of improving visitor services and supporting rural economies, this outcome is difficult to justify. A framework that weakens existing operators, reduces their resilience, and promotes overlapping, low-efficiency service patterns does not enhance the recreation economy. It risks diluting it.

## VII. MISREPRESENTATION OF MONOPOLY

#### A. PINECREST LAKE RESORT PROVIDES ESSENTIAL, AUTHORIZED PUBLIC SERVICES

Pinecrest Lake Resort operates under a valid Term Special Use Permit issued by the United States Forest Service within the Stanislaus National Forest. Under this authorization, the Resort delivers critical, on-the-ground services that directly enable public access to and enjoyment of the Pinecrest Basin. It is not the only operator within the Basin; other permitted entities-including Pinecrest Chalet, Camp Oski, Camp Sylvester, and Camp Chinquapin-also provide lodging and visitor services.

These services include lodging, marina operations, food and beverage service, retail and general store offerings, and daily operational oversight that supports visitor safety and organization. Collectively, these functions constitute core recreational infrastructure necessary to sustain public use.

#### B. SUBSTANTIAL PRIVATE INVESTMENT SUPPORTS PUBLIC USE OF FEDERAL LAND

The facilities and services provided within Pinecrest reflect significant, long-term private investment made in reliance on federal authorization. These investments include lodging infrastructure, marina systems, restaurant and retail buildout, and the staffing and operational capacity required to serve high seasonal visitation.

All such investments occur on federally owned land, are subject to federal oversight and approval, and involve no private ownership of the underlying property. This structure reflects a public-private partnership model in which private capital supports public access and recreation services.

#### C. THE FOREST SERVICE PERMIT SYSTEM IS NOT A COMPETITIVE MARKETPLACE

The United States Forest Service determines allowable uses, limits operators based on environmental and infrastructure constraints, and issues permits accordingly. Pinecrest is a federally managed recreation area, not an open commercial marketplace.

The presence of limited or singular operators for certain services reflects land management policy and capacity limitations, not competitive exclusion.

#### D. NO LEGAL BASIS EXISTS FOR A "MONOPOLY" CHARACTERIZATION

Under the Sherman Antitrust Act, a monopoly requires both control of a market and exclusionary conduct used to maintain that control. Neither condition is present here. Pinecrest Lake Resort does not control market entry, issue permits, or exclude competitors. All authority regarding use, expansion, and permitting rests exclusively with the United States Forest Service.

Any limitations on additional operators arise from environmental constraints, infrastructure capacity, and land-use designations-not private conduct.

#### E. EXISTING OPERATIONS ARE HIGHLY REGULATED AND LIMITED IN SCOPE

Operations within the Pinecrest Basin are subject to extensive federal oversight, including compliance with the National Environmental Policy Act, Forest Plan direction, and annual operating plan approvals.

This regulatory framework constrains expansion, limits the scope of services, and ensures that operations remain aligned with the public interest and resource protection.

#### F. FOREST PLAN AMENDMENT SHOULD NOT UNDERMINE ESTABLISHED, COMPLIANT OPERATIONS

Any proposed amendment must account for existing, compliant operations that serve the public. Expanding uses beyond documented capacity constraints or in conflict with existing permits risks degrading infrastructure, compromising safety, and diminishing visitor experience.

Such actions do not enhance public benefit-they introduce instability into a system already operating within defined limits.

Pinecrest Lake Resort is a long-standing, authorized operator providing essential services through significant private investment under federal regulation. Characterizing it as a

monopoly is factually incorrect and legally unsupported.

The appropriate focus of this analysis should be on consistency with governing land management direction, recognition of infrastructure and capacity constraints, and the long-term sustainability of the Pinecrest Basin.

#### VIII. APA VIOLATIONS - ARBITRARY, CAPRICIOUS, AND DISCRIMINATORY DECISION-MAKING

Under the Administrative Procedure Act, agency action must be rational, consistent, and supported by the administrative record. This proposal fails all three requirements.

The decision is arbitrary because it relies on unsupported assumptions rather than data. Key conclusions regarding demand, impact, and necessity are made without supporting evidence, particularly in the absence of occupancy and sales data.

The decision is capricious because it ignores critical factors. The agency fails to consider wastewater capacity constraints, prior denials based on those constraints, public safety risks, and economic displacement. An agency may not ignore factors that are central to the decision.

The decision is inconsistent because it treats similarly situated parties differently. Multiple prior applicants were informed that use could not be changed and were not offered a pathway for a plan amendment. The current applicant has been granted that opportunity without explanation. This represents a clear departure from prior agency practice.

The agency also fails to provide a reasoned explanation for its change in position. Where an agency departs from prior interpretations or decisions, it must provide a rational basis for the departure. No such explanation is provided here.

*Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983).

*Westar Energy, Inc. v. Fed. Energy Regul. Comm'n*, 473 F.3d 1239 (D.C. Cir. 2007).

##### A. Lack of Rational Connection Between Facts and Decision

The agency advances the proposal without a defined commercial scope, a financial capability determination, demonstrated demand, or enforcement of existing permit terms.

Those omissions raise serious APA concerns because the decision lacks a rational connection between the facts found and the action proposed.

##### B. Failure to Consider Important Aspects of the Problem

The agency fails to address critical considerations, including wastewater capacity, prior denials due to infrastructure constraints, occupancy and sales data, economic displacement, public safety impacts, and the presence of a school and a liquor license at the site. Ignoring these issues is not a minor oversight. They are central aspects of the problem before the agency.

##### C. Discriminatory and Unequal Treatment of Similarly Situated Parties

Multiple entities previously inquired about the potential purchase and use of this site when it was available for sale and were repeatedly told that the use could not be changed. They were not offered a pathway to pursue a Forest Plan amendment. The current applicant, by contrast, is being afforded exactly that opportunity.

This differential treatment raises serious concerns regarding consistency, fairness, transparency, and reliance interests. The agency has not provided a reasoned explanation for this reversal, has not distinguished the current applicant from prior interested parties, and has not identified why previous applicants were effectively barred while the current applicant is being accommodated. That is the sort of unexplained inconsistency the APA forbids.

#### IX. MISAPPLICATION OF THE EXPLORE ACT AND IMPROPER EXPANSION OF STATUTORY AUTHORITY

The Environmental Assessment relies, either explicitly or implicitly, on the Expanding Public Lands Outdoor Recreation Experiences ("EXPLORE") Act as support for increased

commercial flexibility and land use change within the Pinecrest Basin. That reliance is misplaced, legally unsupported, and inconsistent with the statutory purpose of the Act. The EXPLORE Act is intended to improve public access to outdoor recreation, streamline appropriate recreation-related permitting, and support infrastructure associated with public recreation. It is not intended to authorize site-specific rezoning, override Forest Plan direction, retroactively legalize non-conforming uses, or expand commercial entitlements for a single operator.

The proposal attempts to use a broad, pro-recreation statute to justify a narrow, site-specific Forest Plan amendment and commercial expansion. No language in the Act delegates authority to reclassify land-use designations as proposed here, or permits the agency to bypass the plan-consistency framework imposed by NFMA.

Using the EXPLORE Act in this manner effectively reverses the statutory hierarchy by allowing a general recreation policy statute to displace the controlling land management framework. That is not a reasonable implementation of congressional intent. It is an effort to use the statute as a policy lever to reach a preferred outcome.

This is also arbitrary under the APA because the agency does not explain how the EXPLORE Act authorizes the specific action it proposes. It does not identify clear statutory text, does not reconcile the Act with the Forest Plan and NFMA, and does not explain why the Act should be read to support individualized commercial rezoning. That lack of explanation is especially problematic because the proposal would have significant precedent-setting effects on future land-use decisions in the Basin.

At a practical level, the proposal uses the language of recreation access to support a shift in commercial land use that may fragment existing services, intensify infrastructure stress, and destabilize year-round operators. That is not a faithful implementation of the statute. It is a manipulation of legislative purpose to support an otherwise unsupported land use change.

FDA v. Brown & Williamson Tobacco Corp., 529 U.S. 120 (2000).

City of Arlington v. FCC, 569 U.S. 290 (2013).

#### X. UNDEFINED AND OVERBROAD OUTFITTER AND GUIDE EXPANSION

The proposal contemplates expanding Outfitter and Guide (O&G) permits within the Pinecrest Basin but fails to define the scope, limitations, or geographic constraints of that expansion. This lack of specificity is not a minor omission-it is a fundamental flaw that creates regulatory uncertainty and renders meaningful environmental review impossible. By failing to establish clear parameters, the proposal effectively creates an open-ended authorization framework, establishes precedent for expanded commercial activity beyond the subject site, and undermines consistent standards for future permitting decisions.

Under NEPA, agencies must evaluate reasonably foreseeable impacts, including those arising from frameworks that enable future expansion. Here, the absence of defined limits prevents any meaningful analysis of the scale of potential outfitter and guide operations, the cumulative increase in commercial activity, or the resulting impacts on infrastructure, parking, and overall Basin capacity. As such, the analysis is incomplete and legally insufficient.

This undefined expansion is also fundamentally inconsistent with the governing management framework established by the Stanislaus National Forest Land Management Plan, applicable Recreation Opportunity Spectrum (ROS) classifications, and site-specific direction for the Pinecrest Basin. Pinecrest is managed as a highly developed, high-use recreation area designed to provide broad, non-exclusive public access with continuous visitor turnover. While limited areas allow overnight use, the Basin is predominantly managed for day-use recreation, with strict controls on access, parking, and duration. The applicable ROS classification reinforces this intent by prioritizing high-capacity recreation

settings while ensuring that no single use-particularly commercial use-dominates or displaces general public access. Within this framework, outfitting and guiding are not primary uses but limited, subordinate activities that must not interfere with broader recreation objectives.

By their nature, outfitting and guiding operations introduce organized, repeated-use patterns that functionally occupy space, stage equipment, and prioritize specific user groups. In a high-demand environment like Pinecrest, these activities reduce the availability of shoreline areas, access points, and developed facilities for the general public, effectively creating de facto exclusivity that conflicts with the Basin's intended use. This concern is compounded by existing, well-documented capacity constraints, including limited parking, heavy visitor congestion, and infrastructure limitations, such as sewer capacity constraints. Expanding commercial operations within this already constrained setting risks intensifying these pressures, diminishing visitor experience, and exceeding sustainable use levels. The broader Stanislaus National Forest contains extensive opportunities for dispersed, lower-density recreation where outfitting and guiding services could be more appropriately located, thereby dispersing use and reducing pressure on heavily impacted areas like Pinecrest.

The proposal further raises a significant, unaddressed risk of encroachment on recreational residences or other non-commercially zoned areas. Without explicit limitations, outfitter and guide operations could be staged from residential zones, introducing commercial activity into areas not designated for such use. This would blur the distinction between commercial and non-commercial land use, undermine established management classifications, and create substantial enforcement challenges. It would also alter the character of areas historically intended for quiet, low-intensity use. This foreseeable consequence is not analyzed in the EA, representing a critical omission.

Additionally, the proposal fails to demonstrate any unmet demand for additional outfitter and guide services and instead creates duplicative offerings that directly conflict with existing permitted operators. In a finite, seasonal, and capacity-constrained market, expanding similar services fragments an already limited customer base, reduces revenue stability, and undermines the long-term viability of established businesses. This is particularly problematic where existing operators have previously been denied expansion under the same constraints. The agency cannot selectively authorize expansion for some operators while denying it to others without a reasoned and consistent framework. This raises both NEPA concerns, due to the failure to analyze economic displacement and cumulative impacts, and APA concerns, due to inconsistent treatment of similarly situated parties.

Most significantly, the proposal must be evaluated for its cumulative effect on the Pinecrest Basin. The issue is not any single permit, but the incremental commercialization that results from repeated expansions of this type. Increasing outfitter and guide operations, combined with broader commercial flexibility, will intensify use, strain infrastructure, and introduce higher levels of organized commercial activity. Over time, this fundamentally alters the Pinecrest experience, shifting it toward a higher-density, more commercialized recreation model inconsistent with its historic character and management intent. NEPA requires analysis of these cumulative and qualitative impacts, including changes to visitor experience and community character, which the EA fails to address adequately.

Pinecrest's value is rooted in its historic recreation identity, its limited-scale, family-oriented environment, and its balance between access and preservation. The proposed expansion disrupts that balance by encouraging incremental commercialization beyond intended levels and undermining long-standing expectations regarding the scale and nature of permitted use. Once authorized, such uses are difficult to reverse, making it essential that their long-term implications be fully evaluated before approval.

At a minimum, any consideration of outfitter and guide expansion must be narrowly defined and constrained. This includes clear geographic limitations, an explicit prohibition on operations in recreation residences or non-commercial zones, demonstrated unmet demand supported by objective data, consideration of impacts on existing operators, and enforceable caps to prevent incremental expansion. Without these limitations, the proposal functions not as a controlled management action, but as an open-ended mechanism for continued commercialization.

#### XI. IMPROPER RELIANCE ON TARGETED USER GROUP SERVICES (E.G., PCT HIKERS)

The proposal attempts to justify expanded services; comments indicate that it intends to assert benefits to specific user groups, such as Pacific Crest Trail hikers. However, providing targeted services to a narrow, transient subset of users does not constitute an expansion of recreational opportunities for the general public. It does not increase access, meaningfully diversify use, or enhance overall public benefit. Instead, it reallocates limited infrastructure and capacity toward a specific group, which is inconsistent with NEPA's requirement to evaluate benefits to the broader public.

Moreover, services for PCT hikers and similar users are already widely available and functioning effectively on private lands and in nearby communities. These include lodging, food service, resupply, transportation, and retail support. The existence of these services demonstrates that there is no unmet need within the Basin itself and that the market has already responded through private enterprise. Authorizing additional federally permitted services under these conditions results in duplication rather than expansion. The proposal provides no data indicating that existing services are insufficient or inaccessible, making the justification for additional services unsupported.

The Forest Service must also avoid authorizing commercial activities on public lands that directly compete with and displace existing private businesses. Introducing or expanding services targeted at specific user groups risks creating an uneven playing field, shifting economic activity from private land to federally permitted operations, and undermining businesses that already provide these services. This is particularly concerning in a seasonal, capacity-constrained market where operators already face significant challenges maintaining year-round viability.

The EA further fails to analyze how prioritizing services for a specific user group affects overall resource allocation and visitor experience. It does not evaluate whether allocating infrastructure to PCT hikers reduces availability for general visitors, increases congestion during peak periods, or alters visitation patterns in ways that negatively affect broader public access. NEPA requires agencies to assess who benefits and who bears the impacts of a proposal. That analysis is absent here.

When considered cumulatively alongside expanded outfitter and guide permits and increased commercial flexibility, targeted services for specific user groups contribute to a broader pattern of incremental commercialization. While each action may appear limited, together they increase commercial intensity, fragment infrastructure capacity, and shift the Basin toward a more segmented and commercialized recreation model. This cumulative effect is precisely what NEPA requires the agency to evaluate and what the EA fails to address adequately.

#### XII. ECONOMIC SUSTAINABILITY AND MARKET REALITY IN TUOLUMNE COUNTY

The proposal fails to evaluate economic sustainability under real-world market conditions in Tuolumne County. Evidence from nearby communities demonstrates that demand for commercial services is limited, highly seasonal, and already constrained. In areas such as Twain Harte, commercial spaces remain vacant or intermittently occupied, and businesses struggle to maintain consistent, year-round operations. Similar patterns are reflected in the reduction of summer services at Dodge Ridge due to insufficient demand and cost

inefficiencies. These conditions directly contradict any assumption that additional commercial services within the Pinecrest Basin are necessary or sustainable.

At the same time, consumer behavior has shifted significantly. Modern visitors increasingly arrive well-prepared, relying on online purchasing and pre-trip planning, reducing the need for on-site retail and service offerings. Existing businesses must already compete with external supply chains, further limiting demand for additional physical infrastructure. The EA does not account for these trends and instead overestimates the need for expanded services.

Existing resources already meet visitor needs. Visitors have access to goods and services in surrounding communities and through established operators within the Basin. Because these services are already functioning and available, the proposal does not expand access; instead, it duplicates existing capacity.

In a finite, seasonal market, adding additional operators does not create new demand-it divides existing demand. This leads to oversaturation, reduced revenue per operator, and decreased economic stability across the Basin. For existing businesses, this results in reduced margins, increased risk, and difficulty maintaining year-round operations. For the Basin as a whole, it results in less reliable service availability and a shift toward short-term, seasonal operations rather than stable, long-term businesses.

NEPA requires analysis of these economic impacts, including the displacement of existing businesses and long-term sustainability. The EA does not evaluate whether new services can be sustained, whether existing operators will be harmed, or whether oversaturation will degrade service reliability. Instead, it assumes that additional commercial activity is inherently beneficial-an assumption unsupported by evidence or economic principles. When combined with expanded outfitter and guide permits and targeted user group services, the cumulative effect is a system-wide shift toward fragmented and unstable economic conditions. This undermines the stated goal of improving visitor services and supporting rural economies, and instead poses a risk to the long-term viability of the Basin's recreation system.

The proposal also fails to consider the impacts on employment within the Pinecrest Basin and surrounding communities. Existing businesses operate in a constrained, highly seasonal economic environment and must carefully balance staffing levels to remain viable. By introducing duplicative services and fragmenting a limited customer base, the proposal risks reducing overall business volume at established operations. This, in turn, can lead to reduced hours, fewer seasonal hires, and potential job losses across existing employers. Rather than creating new employment opportunities, this type of expansion is more likely to redistribute-and ultimately diminish-the available employment base by weakening the businesses that currently provide stable and recurring jobs in the region. The EA does not evaluate these reasonably foreseeable employment impacts, further underscoring the incomplete nature of the economic analysis.

### XIII. HISTORIC CHARACTER, HERITAGE, AND VISITOR EXPERIENCE

Pinecrest is attractive in part because of its historic character, heritage, and unique recreation identity. Those qualities are not incidental. They are part of what makes the area valuable to visitors, residents, and existing permit holders. The proposal does not adequately account for how increased commercialization, infrastructure pressure, congestion, and overlapping use may erode that character.

The Basin already experiences parking limitations, traffic congestion, and infrastructure strain. The proposal does not solve those conditions; it risks worsening them. The likely result is not improved visitor experience but degraded conditions, additional conflict, and greater management burdens.

### XIV. MISCHARACTERIZATION OF CONSULTATION RECORD

The list of individuals identified as "consulted" in the back of the document does not accurately reflect meaningful consultation as contemplated under the National Environmental Policy Act. These individuals were not solicited for input, data, analysis, or informed perspectives regarding the proposal. Rather, they appear to be individuals who may have made general inquiries to the United States Forest Service, asked questions, or were included as recipients of a form letter distributed to interested parties.

This distinction is significant. Listing individuals as "consulted" suggests that the agency engaged in substantive outreach and incorporated external information into the decision-making process. That did not occur here. There is no indication that these individuals were asked to provide information, that their input was formally requested, or that any data or analysis was obtained from them and incorporated into the record.

As a result, the consultation record is misleading and overstates the level of engagement conducted. NEPA requires agencies to ensure an accurate and transparent record of the information and input relied upon in environmental review. Characterizing general correspondence or passive receipt of information as "consultation" undermines the integrity of the process and calls into question the completeness of the administrative record.

Further, reliance on an overstated or inaccurate consultation record constitutes arbitrary and capricious decision-making under the Administrative Procedure Act, as it reflects a failure to accurately represent the evidentiary basis for the agency's conclusions.

Accordingly, the mischaracterization of consultation renders the administrative record unreliable and demonstrates that the NEPA analysis is procedurally deficient.

#### CONCLUSION

Pinecrest Lake Resort respectfully requests that the Forest Service:

1. Withdraw the proposed Forest Plan Amendment for the Pinecrest Community Lodge
2. Deny the proposed Special Use Permit as currently framed
3. Narrow the scope of intended Outfitter Guide and Concession expansion, to prevent this expansion in the recreation residence area and limit the use in the Day Use Area.
4. Evaluate and enforce existing permit conditions and documented non-compliance before considering any expanded authorization.
5. Apply 36 CFR 251.54 and 251.56 by conducting a financial capability and technical capability review before any permit issuance is considered.
6. Provide a reasoned explanation for any departure from prior agency representations concerning whether the use of the site could be changed.
7. Refrain from relying on the EXPLORE Act as authority for site-specific commercial rezoning absent clear statutory support.

When the full factual record and applicable legal standards are applied, the proposal is unsupported, inconsistent, and legally indefensible. The EA omits critical data, fails to analyze known infrastructure constraints, fails to justify the proposed land-use reclassification, rewards noncompliance, destabilizes existing permit operations, and departs from prior agency representations without explanation.

For all of these reasons, the FONSI is unsupported, the proposal is vulnerable to administrative reversal and judicial challenge, and the Forest Service should withdraw or deny the action unless and until it conducts a lawful, evidence-based review.

## APPENDIX A

The following comments submitted by the National Forest Recreation Association (NFRA) are hereby incorporated within the formal comments of Pinecrest Lake Resort.

NATIONAL FOREST RECREATION ASSOCIATION  
Responsible Recreational Use of America's Public Lands and Waters

May 17, 2026

Submitted online: <https://cara.fs2c.usda.gov/Public/CommentInput?project=68965>  
Stanislaus National Forest  
Attn: Pinecrest Basin Management  
19777 Greenley Road  
Sonora, CA 95370

Re: Pinecrest Basin Management Direction- Community Center Proposal

Dear Mr. Kuiken:

The National Forest Recreation Area (NFRA) hereby submits comments in response to the proposed Pinecrest Basin Management Direction- Community Center proposal, Environmental Assessment and preliminary FONSI. NFRA's members, which include Pinecrest Lake Resort, operate under USDA Forest Service permits on national forests across the country. As discussed further below, the Stanislaus National Forest's (STF) reasons for reclassifying the Pinecrest Community Center to allow for commercial use (i.e., coffee service, retail, restaurant, and lodging) demonstrate that the STF has failed to abide by Forest Service directives which require STF to first provide existing permittees "an opportunity to expand their operation to meet increasing public needs before offering new sites for development." Because existing permittees, including Pinecrest Lake Resort, have invested significant funds in their businesses over the years based on the understanding that the Forest Service policy is not to authorize new competing operations in close proximity to their operations, STF's decision and the precedent it sets is contrary to the goals of the EXPLORE Act. STF's decision will result in Forest Service permittees investing less in their operations, reduce the quality of the public's recreational experience, and harm rural recreational economies.

Notably, the STF has asserted that its decision to offer a new commercial opportunity was based on its determination that "the Pinecrest Basin continues to grow, creating higher demand for food, retail, and service amenities beyond what is currently available." Pinecrest

Basin Management Direction- Community Center; Forest Plan Amendment and Special Use

1

Permit (#68965) at 1 (hereinafter "EA"). However, if that assertion is accurate, the STF was

1

While the STF cited in the EA to a purported Needs Assessment set out in Appendix A to support its assertion, that Needs Assessment simply contains similar anecdotal assertions without any actual evidentiary support, stating:

Recreational use in the Basin has grown substantially since 2003 when the plan was written and parking has become a significant issue during peak season. Visitors increasingly seek basic amenities such as light food service, small scale

P.O. Box 488 ~ Woodlake, California 93286 ~ Phone (559) 769-8333

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Attn: Pinecrest Basin Management  
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required by Forest Service directives to offer the existing permittees an opportunity to expand their operations to provide such services to meet increasing public needs. Forest Service Manual 2343.03(2) states:

Issue prospectuses to solicit proposals for development of new concession sites when it is in the public interest or when competition exists or may be created. Give existing concessioners an opportunity to expand their operation to meet increasing public needs before offering new sites for development.

2

(Emphasis added.)

The STF, however, never provided the existing permittees which provide these same

3

services any such opportunity. Therefore, if the STF's assertions as to the need to meet an increased public demand are accurate, the STF's proposed decision violates a written agency

retail, and community gathering space within walking distance of campgrounds, day use sites, and recreation residences that does not necessitate additional driving.

[] There is a demonstrated need to provide pedestrian accessible services located away from Pinecrest Lake, within an existing building, but still within the main Pinecrest Basin area. The existing services, for one reason or another, are not reasonably available or satisfactory to meet the needs as described.

EA at 19.

2

It would be disingenuous and nonsensical for the STF to assert that Forest Service policy does not require the STF to provide existing concessioners with an opportunity to meet the alleged increased public demand for additional services because the community center's physical

structure was already in place or privately owned, particularly given that the STF is having to go to the extraordinary effort of amending its Forest Plan to allow for the operations.

3

The EA states that the boundary for its analysis included:

Connected resources such as nearby commercial operations (e.g., Pinecrest Lake Resort, Pinecrest Chalet), recreation facilities, water systems, and vegetation zones that could be influenced by the proposed commercial activities.

EA at 3. The EA further states that Pinecrest Lake Resort provides lodging, a general store, and dining facilities and Pinecrest Chalet provides cabins and meeting spaces. EA at 5. In addition, Pinecrest Lake Resort and the Pinecrest Chalets are within a very short walking distance of the Pinecrest Community Center, have a well-stocked store, coffee service, restaurant, public showers and have existing water and sewer capacity.

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directive which Forest Service employees are required but failed to follow. NFRA is further concerned that the STF deliberately failed to allow existing permittees to expand to address the increased public need. This concern is based on the STF's statement that it sought to harm the existing permittees' operations by introducing a direct competitor. EA at 1 ("Commercial services in the Basin are currently concentrated under a few permits [and r]eclassification of the community center supports opportunities for new operators, and fosters a more competitive, resilient local economy"). Rather than improve the local economy, the STF's decision will reduce the viability of all of the existing operations by increasing the supply of services without increasing the public demand.

Finally, the STF's decision effectively rewards an individual which the STF admits knowingly operated a commercial business on National Forest System lands without a valid authorization. EA at 1 (stating that the intended permittee "currently operates as a coffee shop, event space, and lodging [in an area of the STF] which does not explicitly allow commercial services"); id. at 2 (the authorization was "not appropriate for a private individual, regardless of whether commercial use is occurring"); id. at 3 (the STF's proposed action is to "[i]ssue a special use permit to the current owners/operators of the Pinecrest Community Center, allowing them to provide commercial visitor services").

The STF's decision also appears to be premature approval prior to the STF having completed the legally mandated screening of permit applications pursuant to 36 C.F.R. § 251.54(e). Given that the STF has acknowledged that the current operator of the Pinecrest Community Center has operated in violation of the applicable laws and terms of its existing authorization, the operator clearly "cannot demonstrate technical [] capability [] to fully comply with the terms and conditions of the authorization." 36 C.F.R. § 251.54(e)(5)(iv). Therefore, the operator cannot pass the second-level screening process set out in the agency's regulations.

4

While the STF cited in the body of the EA to a purported Needs Assessment set out in

Appendix A to support its assertion, that Needs Assessment simply contains the same anecdotal assertions in the body of the EA without any actual evidentiary support, stating:

Recreational use in the Basin has grown substantially since 2003 when the plan was written and parking has become a significant issue during peak season. Visitors increasingly seek basic amenities such as light food service, small scale retail, and community gathering space within walking distance of campgrounds, day use sites, and recreation residences that does not necessitate additional driving.

[] There is a demonstrated need to provide pedestrian accessible services located away from Pinecrest Lake, within an existing building, but still within the main Pinecrest Basin area. The existing services, for one reason or another, are not reasonably available or satisfactory to meet the needs as described.

EA at 19. Therefore, the assertions in the Needs Assessment have no support in the record.

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NFRA objects to the STF's proposed action for the reasons set forth above. NFRA's comments are timely and meet the information requirements pursuant to 36 C.F.R. Part 218. NFRA therefore is eligible to file an objection before the final decision should the STF not decide to withdraw its proposed action.

Respectfully submitted,

Marilyn Reese  
Marilyn Reese  
Executive Director  
National Forest Recreation Association

cc: Honorable Tom McClintock  
Member of Congress  
James Bacon  
Acting Director of Public Benefits  
USDA Forest Service  
Kevin Garden  
The Garden Law Firm, P.C.