



December 15, 2023

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Submitted via email: <https://www.fs.usda.gov/project/?project=61827>

Re: Draft Environmental Assessment for the Eastern Sierra Climate and Communities Resilience Project (#61827)

Friends of the Inyo, on behalf of our over 1,300 members, submit these comments in response to the publication of the Draft Environmental Assessment for the Eastern Sierra Climate and Communities Resilience Project (Project), prepared by the Whitebark Institute for the Inyo National Forest. Friends of the Inyo is a grassroots non-profit organization based in Bishop, California. Our mission is to protect and care for the land and water of the Eastern Sierra. Since our founding in 1986, we have actively engaged with land and water management agencies in the Eastern Sierra, including the United States Forest Service (USFS) and the Bureau of Land Management (BLM), to protect and improve Eastern Sierra ecosystems.

Friends of the Inyo appreciates the opportunity to comment on the draft Environmental Assessment (DEA) for this ambitious Project and acknowledges the essential need to prevent catastrophic wildfire in the Eastern Sierra and in population centers such as the Town of Mammoth Lakes (TOML), for both the larger ecosystem and the human communities within. The Project proposes to implement significant fuels reduction, targeted regeneration, and ecosystem restoration over the 15 year life of the project to gradually correct the impacts of past fire exclusion practices and to foster future forest health.

The proposed Project must consistently implement best practices to protect the environmental well-being of the Mammoth Lakes area and its surroundings. The Project outcome needs to reduce the wildfire risk without harming these lands' ecological and natural values. Finally, the rich cultural and tribal resources within the Project area must be preserved and protected.

Comments

We have reviewed the Draft Environmental Assessment (DEA) and offer the following comments and recommendations for the preparation of the final Environmental Assessment (EA). In addition to the following comments, we also agree with the comments submitted by the Environmental Protection Agency (EPA) on December 14th, 2023 on the need for completed historical and cultural resource surveys, air quality analysis, environmental justice analysis, and minimization of impacts in the design features.

General Comments

The ability to avoid, minimize, and mitigate potential adverse impacts to natural and cultural resources is dependent upon accurate survey data to inform planning, design criteria, and project implementation. We request the EA provide more details on survey protocols, including the results of consultation with resource agencies (e.g., US Fish and Wildlife Service, US Army Corps of Engineers, and California Department of Fish and Wildlife). The design criteria section of the DEA needs more detailed information on timing, protocols, and monitoring for compliance to provide reasonable assurance the criteria will effectively reduce or avoid adverse effects from project implementation.

For effective public involvement over its 15 year lifespan, we recommend that stakeholder input be sought early enough before each stage to provide enough time to incorporate the input into design criteria and revise treatment plans as necessary. We appreciate the proposed creation of a story map to notify the public of each treatment planned. We suggest an email subscription system and project website for the public and stakeholders who want to be notified as each treatment is posted on the website. We request that each potential treatment be noticed at least one month in advance rather than the currently proposed two weeks to best allow public engagement.

Tribal stakeholder consultation should be sought as early as possible with due respect for tribal sovereignty and to allow sufficient time for tribal partners to participate. We believe that tribal stakeholder consultation should make robust efforts to engage with

tribal leadership, in person, including agendaized requests to present at tribal leadership meetings. We request *Form D: Stakeholder and Public Engagement* include sections to document the date and method of outreach at each step to provide transparency throughout the 15 year Project.

Additionally, we request a commitment from the USFS to ensure that implementation activities in each phase of the Project are within the scope of the NEPA analysis and Decision Notice after each survey rather than an “opportunity”¹ to do so. To allow the most responsible use of a single EA for a 15 year period, specialists and decision makers should evaluate if there is new information or changed circumstances that could have an impact on the Proposed Action’s effects that would require supplemental environmental analysis on an ongoing basis, rather than opting to do so or not.

Biological Resources

General Comments

Consideration of the protection of wildlife and their habitats should not occur as almost an afterthought under “relevant resource Design Criteria,” as shown at the bottom of the decision tree in *Figure 2-2 Example Emphasis Area Overlap*. The process must be revised to elevate consideration of biological resources early in the planning process to effectively enable avoidance and minimization of impacts.

Bi-State sage-grouse

Section 3.5 of the DEA needs the most current information for Bi-State sage-grouse (BSSG) protection. In 2022, the federal court ordered the U.S. Fish and Wildlife Service to reinstate the 2013 proposal to list the BSSG distinct population as threatened and to issue a new final listing decision.² Per the DEA, 7,882 acres in the Project area are within proposed critical habitat for BSSG and mowing is proposed on approximately 226 acres within the project area. BSSG are struggling in nearly all of the Population Management Units, including at the Laurel Pond lek which is within the Project area. The DEA states that lek has consistently low male counts compared to other leks in Long Valley. To prevent further degradation at this lek, we request the limited operating

¹ USDA Forest Service and Whitebark Institute. 2023. Eastern Sierra Climate and Communities Resilience Project Draft Environmental Assessment. Inyo National Forest, Pacific Southwest Region. Pg. 1-5

² <https://www.federalregister.gov/documents/2023/04/27/2023-08848/angered-and-threatened-wildlife-and-plants-threatened-status-for-the-bi-state-distinct-population>

periods be required during the typical lekking time restriction (Design Criteria WLF-08) be reflected in the special treatment areas section for sagebrush ecosystems in *Table 2-5 Summary of Emphasis Area Treatments*.

Yosemite Toad

The discussion of direct and indirect effects of the Project on Yosemite Toad on page 3.5-3 states the Project effect would be both “minimal” and “...the Project may affect, and is likely to adversely affect, the Yosemite toad.” We request the EA provide more detail on avoidance and minimization measures to protect the habitat/health of the Yosemite Toad and that *Design Criteria AQU-02* be revised to include on site monitoring by a qualified biologist during project implementation activities with 0.78 mile of high value or occupied habitat as it is stated that the presence of semi-aquatic species within the large Project area is difficult to detect.

Invasive Species and Revegetation

Given the alarming spread of invasive species across the Great Basin, which can further increase future fire risk, we request *Design Criteria BOT-05* include analysis be done to determine if successful revegetation of the site can occur with native species *before* mowing or other destructive treatments are applied, lest a large percentage of areas mowed later be deemed by specialists to be unsuitable for natural revegetation and/or replanting/reseeding efforts.

Cultural Resources

Identification of Area of Potential Effect

The Area of Potential Effect (APE) must include the scope of where direct and indirect effects could occur without a clear definition of direct and indirect areas of potential effects. In 2019, the D.C. circuit court ruled in *National Parks Conservation Association v. Semonite* that direct effects, as described in Section 110(f) of the National Historic Preservation Act (NHPA), are not limited to physical effects but rather are the product of causality rather than physicality: "this means that if the effect comes from the undertaking at the same time and place with no intervening cause it is considered 'direct' regardless of its specific type (e.g., whether it is visual, physical, auditory, etc.)."³

³ [NPCA v Semonite.pdf \(achp.gov\)](#)

In response to *National Parks Conservation Association v. Semonite*, the Office of Government Counsel (OGC) redefined indirect effects as those "caused by the undertaking that are later in time or farther removed in distance but are still reasonably foreseeable."⁴ The delineation of the APE must consider direction from the courts, the Office of Government Counsel, and the Advisory Council on Historic Preservation in defining areas of direct and indirect effects. Tribal consultation must also be undertaken to further define areas of direct and indirect effects.

Tribal Consultation

Tribal consultation for the cultural resources survey and analysis for the Project needs to continue by directly engaging with the tribes to identify individuals possessing "knowledge of cultural resources within or adjacent to the proposed area." Friends of the Inyo strongly encourages ongoing consultation in all areas, including natural resources, recognizing local tribes as the first stewards of these lands, whether federally recognized or not. Tribal consultation must be undertaken across the board regarding areas of potential effects, effective buffering around archaeological and tribal cultural resources, and the potential for the Project to adversely affect archaeological and tribal cultural resources. Tribal consultation must be ongoing to identify projects for tribal stewardship. Child/elder care costs must be provided for tribal members traveling to meetings or engaging in fieldwork or monitoring activities.

Consideration of Cultural Resource Stewardship must not occur as almost an afterthought as the second to last step in the decision tree in *Figure 2-2 Example Emphasis Area Overlap*. The process must be revised to elevate consideration of tribal and cultural resources early in the planning process to effectively enable avoidance and minimization of impacts.

Restoration of Roads and Staging Areas

The Project proposes the construction of 15 miles of temporary roads along with staging areas that will, naturally, be attractive to recreational OHV users and dispersed campers who are not governed by the Project's wildlife/cultural guidelines. These uses can be reasonably foreseen to cause short and long-term harm to biological and cultural resources. Even temporary roads and staging areas are difficult to close to further public access.

⁴ [OGC memo to ACHP staff re meaning of direct 6-7-19.pdf \(nv.gov\)](#)

Given the challenge of restoration, the EA should address the potential for increased recreational use of the proposed Project area and adjoining lands due to improved access routes. Protocols for preventing recreational use should be established in the design criteria. Per Design Criteria WTR-15, temporary roads will be decommissioned "... at project closeout." Project closeout is not defined and can be interpreted to mean at the end of the 15 year project. Project closeout needs to be defined. Temporary roads, landings, and skid trails must be promptly decommissioned to avoid the socialization of these disturbed areas for recreation use and to improve habitat restoration outcomes.

We appreciate that existing landings and disturbed areas would be used wherever available to minimize new disturbance and request the Project provide detailed plans/analysis for the restoration of additional landings created for the project and the prevention of these landings becoming permanent dispersed camping sites such as we have seen explode locally since 2020.

Cumulative Impacts

We appreciate the work done to consider other projects that may occur throughout the Project's 15 year time period. Since this project's implementation time is substantially long, we acknowledge the inability of involved partners to account for unknown projects and proposals that might arise. Still, we also remind the USFS to account for the effects this project's significant time and scale will have on the land as other proposals arise.

We request a cumulative project map be added to the Figures included in the EA so members of the public may better understand how other proposed or current projects will interact with the Project. This cumulative map needs to include other fuel reduction treatment programs and the Main Lodge Redevelopment Plan (MLRP).

The proposed Main Lodge Redevelopment Project (MLRP) overlaps with the Project within the San Joaquin Inventoried Roadless Area. The MLRP is a substantially large project whose cumulative effects to wildlife, cultural and tribal resources, water quality, and air quality, even if potentially temporary, must be addressed by the cumulative impacts analysis for this Project. The DEA claims that while the MLRP has the potential to alter the roadless characteristics in the portion of the IRA that it occupies, the combined effects of the Project "would not combine with other action to result in a cumulatively considerable effect" due to the nature of the Project's beneficial effects "outweighing" the adverse effects which might combine with the altering caused by the

MLRP. We are hesitant to agree with this conclusion given the challenges of reclaiming habitat after disturbance.

Conclusion

Thank you for the opportunity to provide comments on the DEA for this long-needed project. We look forward to continued engagement in this proceeding and the ongoing development of community informed treatment plans.

Sincerely,

A handwritten signature in black ink, appearing to read 'Allison Weber', with a stylized, cursive script.

Allison Weber
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