

Food and Refuse Storage Forest Order Project Decision Notice and Finding of No Significant Impact

LAKE TAHOE BASIN MANAGEMENT UNIT

El Dorado and Placer Counties, California
Carson City, Douglas, and Washoe Counties, Nevada

Decision and Reasons for the Decision

The Forest Service prepared an Environmental Assessment (EA) for the Food and Refuse Storage Forest Order project in compliance with the National Environmental Policy Act (NEPA) and other relevant laws and regulations. The EA discloses the direct, indirect, and cumulative environmental impacts that would result from the alternatives. Additional documentation, including more detailed analyses of project-area resources, may be found in the project record located at the Lake Tahoe Basin Management Unit Office in South Lake Tahoe, CA.

The EA (pp. 1) explains the Purpose and Need for Action. The need arises to reduce human-bear conflicts and to protect wildlife from becoming dependent on human food sources in the Lake Tahoe Basin through the requirement that forest visitors properly store their food and refuse. Currently, a Forest Order requiring proper food and refuse storage is not in place, making it difficult for Forest Service law enforcement and special use permit holders to require visitors to employ proper food and refuse storage practices. As a result, human-bear conflicts are on the rise at developed recreation sites on the Lake Tahoe Basin Management Unit, posing safety risks to both humans and bears. Bears that obtain human food can become dependent on that food source and more aggressive in their attempts to obtain human food.

Based on similar requirements that have been in effect for decades on several other Sierra Nevada National Forest units as well as at popular national parks, the mandatory use of bear-resistant food and refuse containers has been demonstrated as an effective means of preventing bears and other wildlife from obtaining human food and refuse. It is Forest Service intent to compliment the proposed Forest Order with ongoing education and bear awareness efforts on the LTBMU. Interpretation and education will remain an integral part of the agency's strategy to reduce human-bear conflicts.

In order to meet the Purpose and Need, the Proposed Action includes the following:

1. To issue a Forest Order, pursuant to 16 USC 551 and 36 CFR 261.50(a) and (b), that would require visitors to properly store food and refuse in a container designed to prevent access by black bears and other wildlife.

The Proposed Action responds to the goals and objectives outlined in the Lake Tahoe Basin Management Unit Land and Resource Management Plan (Forest Plan).

This document contains a Decision Notice and Finding of No Significant Impact (FONSI). The Decision Notice identifies the decision and the rationale for selecting or modifying an alternative from the EA. The FONSI shows that the decision does not cause significant impacts on the human environment and explains why an environmental impact statement is not necessary.

Decision

Based upon my review of the Proposed Action, the analysis in the EA, and the information contained in the planning record and input from interested parties, I decided to implement the Proposed Action as described in the EA (pp.1).

My decision does not authorize any ground disturbing activities. This decision is entirely administrative in nature and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment.

Reasons for the Decision

I made my decision to implement the Proposed Action because:

1. It would decrease the likelihood of black bears and other wildlife gaining access to human food sources and potentially becoming habituated to those food sources.
2. It would contribute towards promoting wild foraging patterns by the existing and future bear and wildlife populations.
3. It would result in improved recreation experiences at developed recreation sites and on NFS lands by reducing the potential for human-bear incidents.

Public Involvement

The Forest Service first listed the Food and Refuse Storage Forest Order project in the April 1, 2014 through June 30, 2014 issue of the Lake Tahoe Basin Management Unit (LTBMU) Schedule of Proposed Actions (SOPA). The Forest distributes the SOPA to a mailing list of interested parties and it is available on the internet <http://www.fs.fed.us/sopa/forest-level.php?110519>.

On February 27, 2014, the LTBMU sent a scoping package to a focused group of individuals, organizations, and agencies interested in this project. The letter requested comments on the Proposed Action before March 14, 2014. Fourteen individuals provided comments; 11 of the 14 comments were supportive and 3 comments were neither supportive nor unsupportive. These latter three comments asked clarifying questions, asked for assistance in securing animal resistant dumpsters on private property, and made recommendations for size of trash bins.

On April 30, 2014, a legal notice was published in the Tahoe Daily News, the Newspaper of Record for the LTBMU notifying the public that the EA was available for review and comment for a 30-day comment period. Four comments were received; three via email and one via voicemail. All comments were supportive in nature and either requested the Proposed Action to be implemented and/or advised on possible refuse bin container designs. All comments received the following response: "Thank you for your comment on this project."

After considering public comments and the EA, I believe that the project record reflects a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

Finding of No Significant Impact

After considering the environmental effects described in the EA (pp. 6-9), I determined that these actions will not have a significant effect on the quality of the human environment, considering the context and intensity of impacts (40 CFR 1508.27); therefore, an environmental impact statement will not be prepared. I incorporate, by reference, the EA and project record, in making this determination. I base this finding on the following:

Context

This is a region-specific project that by itself does not have international, national, or statewide importance. The project area is limited to approximately 150,000 acres of NFS lands administered by the Lake Tahoe Basin Management Unit.

As a direct result of a Forest Order, bear-resistant facilities such as auto-locking refuse dumpsters and food lockers would be installed at LTBMU developed recreation sites to prevent wildlife access to food and refuse. The initial implementation locations of Fallen Leaf Campground and Meeks Bay Resort and Campground will be prioritized over others due to the high rates of human-bear conflicts occurring at those sites. Additional recreation sites and locations would be prioritized based on the frequency and nature of human-bear conflicts. Advanced public notification of the timing and duration of restrictions related to project implementation activities will be provided. Visitors will be required to properly store food and refuse in containers designed to prevent access by bears and other wildlife on National Forest System (NFS) lands identified in the Forest Order and may be subject to a violation notice if they fail to comply with the Forest Order.

Intensity

The following 10 elements of impact intensity address the potential significance of project effects.

1. Impacts that may be both beneficial and adverse.

The direct and indirect effects of the alternatives are addressed here. Cumulative effects are addressed below under intensity factor 7.

Aquatic Wildlife

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to Forest Service sensitive aquatic wildlife are expected due to the limited scope of the Proposed Action. Effects to species protected under the Endangered Species Act are discussed under Intensity Factor 9.

Cultural

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to cultural resources are expected due to the limited scope of the Proposed Action.

Scenic Resources

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Effects to scenic resources will be minimal as the Proposed Action would result in replacing existing refuse containers at developed recreation sites with upgraded facilities (auto-locking dumpsters) or the addition of above-ground food storage lockers at developed recreation sites where they currently do not exist (e.g., trailheads, parking areas, etc.). Consistent with the LTBMU's existing bear-resistant facility inventory, replacement refuse containers and new bear lockers would be painted Oxford brown to meet Forest Service built environment standards, ensuring minimal impact to visual quality objectives.

Management Indicator Species

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to management indicator species are expected due to the limited scope of the Proposed Action.

Migratory Birds

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to migratory birds are expected due to the limited scope of the Proposed Action.

Invasive Plants

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. It would not produce vectors or habitat alteration that would facilitate invasive plant introduction or spread. Therefore, there is no risk of introducing or spreading invasive plants of management concern on the LTBMU (2014 list included in project record) associated with the Proposed Action. This analysis meets the requirements set forth in the Sierra Nevada Forest Plan Amendment to conduct a noxious weed risk assessment (USDA Forest Service 2004).

Botanical Resources

Botanical resources include the following: federally threatened, endangered, proposed, and candidate and Forest Service Sensitive botanical species (plants, fungi, and lichen) (2014 list included); LTBMU Watch List botanical species (2014 list included in project record), and sensitive plant communities (e.g., fens, alpine pincushion communities). This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to TES individuals, TES suitable habitat, or other botanical resources that are expected to result from the Proposed Action due to its administrative nature. This analysis meets the requirements set forth in Forest Service Manual direction to conduct a Biological Evaluation of TES botanical species as well as the Forest Service’s design criteria to consider, and as needed address, botanical resources as set forth the 1988 LTBMU Land and Resource Management Plan as amended by the 2004 Sierra Nevada Forest Plan Amendment (USDA Forest Service 1988, 2004, 2005). No stand-alone Biological Evaluation or additional design criteria are included.

Terrestrial Wildlife

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to Forest Service sensitive terrestrial wildlife species are expected due to the limited scope of the Proposed Action. Effects to species protected under the Endangered Species Act are discussed under Intensity Factor 9.

The black bear (*Ursus americanus*) is not a Forest Service Sensitive Species or protected under the Endangered Species Act (ESA). The species is legally designated as a game mammal in California and Nevada. The black bear population in California and Nevada is increasing (CDFW 2011, Lackey et al. 2013). The Lake Tahoe Basin has the second highest density of black bears in north America and bear complaints have risen sharply in the last ten years (NDOW: http://www.ndow.org/Species/Furbearer/Black_Bear/).

A leading cause of bear-human conflict is habituation (food conditioning) of bears that results from improper storage of human food and refuse. Bears quickly learn to expect to find food at previously successful locations and have altered their behaviors in response to human sources of food. For example, bears feeding on human food sources can exhibit more nocturnal (as opposed to diurnal) feeding habits, possibly to reduce the potential for human harassment (Mathews et al. 2006). Bears habituated to human food will also forage preferentially on human food, even when wildland food is available (Merkle et al. 2013). Bears habituated to human food are extremely difficult to deter. Habituated bears often become “problem” bears that present threats to public safety. “Problem” bears can be moved or killed when no other options exist for deterrence.

Eliminating the source of habituation (human food and refuse) is expected to reduce the number of bears that become habituated to human food sources at Forest Service developed recreation sites, thereby reducing the potential to create “problem” bears. The frequency of black bear-human conflicts at Forest Service developed recreation sites is also anticipated to decline over the long term by issuing and enforcing a Forest Order that would require visitors to properly store food and refuse. Overall, enforcing the proper storage of food and refuse is expected to have a beneficial impact on the bear population in the Lake Tahoe Basin.

Those bears already habituated to food resources at Forest Service developed recreation sites could experience challenges. It is not known how many bears in the Lake Tahoe Basin are already considered “habituated” to Forest Service developed recreation sites. When bears become habituated to human sources of food, they can be tenacious in returning to the source site and can be extremely difficult to deter. Mazur (2008) found that just over half (17 of 29) of the food-conditioned bears subjected to aversive conditioning (using negative stimulus to deter unwanted behavior) in her study gave up these foraging patterns; six required continual treatments and the other six were killed or relocated. Therefore, bears that are already habituated to food sources at developed recreation sites may continue to return to these sites for some time before seeking alternative resources. Similarly, cubs reared by sows in food-conditioned environments, as opposed to wild environments, have been found to continue to exploit this anthropogenic resource later in life (Mazur and Seher 2008). Therefore, cubs that have been reared by sows in food-conditioned environments may continue to seek out human sources of food at the same locations. These bears that continue to seek anthropogenic sources of food could become “problem” bears if they are unable to shift resource use. These problem bears may need to be repeatedly subjected to aversive conditioning to try and deter these behaviors or potentially removed if they present a health and safety risk.

Ultimately, by securing food and refuse properly at the numerous developed recreation sites on the LTBMU, this action would contribute towards promoting wild foraging patterns by the existing and future bear population.

Recreation

This project is consistent with the 1988 LTBMU Forest Plan direction and responds to immediate public health and safety concerns brought about by human-bear conflicts. No closures or access restrictions would result at developed recreation sites or other National Forest System (NFS) lands on the Lake Tahoe Basin Management Unit due to implementation of the Proposed Action.

In order to educate the visiting public on proper food and refuse storage practices and accustom both visitors and special use permit holders to these practices, the Proposed Action (Forest Order) will be implemented in phases. Developed recreation sites on the LTBMU that currently demonstrate high occurrences of human-bear conflicts will be addressed by the Forest Order first. These priority sites include the Fallen Leaf Campground and Meeks Bay Resort and Campground (see Figures 1 and 2). After initial implementation, the LTBMU will amend the Forest Order to eventually include additional developed recreation sites and NFS lands based on management priorities and as funding and resources allow. By gradually implementing the Proposed Action, visitors will have ample time to adjust to the new restrictions; and the Forest Service and its special use permit holders will be able to upgrade existing infrastructure to bear-resistant standards that meet the need and intent of this project.

The Proposed Action will result in long-term improved recreation experiences at developed recreation sites and on NFS lands by reducing the potential for human-bear incidents. The likelihood of damage to private vehicles and other personal property resulting from bears attempting to gain access to improperly stored food and refuse will decrease. Visitors will experience wildlife sightings in a more natural setting rather than observing bears and other wild animals roaming through developed recreation sites in search of unsecured, improperly stored food and refuse.

The socioeconomic effects resulting from the Proposed Action will be minimal. Visitors may find themselves initially inconvenienced by a Forest Order that requires them to place food coolers and other

grocery items within a bear-resistant food locker rather than keeping it easily accessible on a picnic table or directly outside a tent or R.V. This sense of inconvenience, however, will gradually be replaced by acknowledgement of the benefits that food lockers provide, including safeguarding grocery items that might otherwise be consumed by wildlife. Although those visitors who elect not to comply with the Forest Order may be subject to a violation notice, the vast majority will experience fewer conflicts with bears.

2. The degree to which the proposed action affects public health or safety.

The Proposed Action will improve public health and safety by reducing the potential for human-bear conflicts.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The Proposed Action does not contain nor would it adversely affect any parklands, prime farmlands, wild and scenic rivers, ecologically critical areas, or wetlands.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The Proposed Action is consistent with all laws, regulations and policy including the Forest Plan as amended. In addition, no issues were raised during scoping that indicated that the degree to which this project may affect the human environment is likely to be highly controversial.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

No unique or unknown risks are anticipated. Effects related to this Proposed Action are well understood based on the existence of similar food and refuse storage requirements at other National Forest and National Park Service units. Ultimately, this project reduces risk associated with human-bear conflicts to the human environment.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The Proposed Action would not establish a precedent for any future actions with significant effects. This decision only applies to the project area and does not represent a decision in principle about a future consideration. Any future action not analyzed in this EA would be analyzed separately and on its own merits at the time it is proposed in the future.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

No other actions that would cumulatively impact the area have been identified.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

This project is entirely administrative in nature—specifically related to health and safety—and as such would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment. Therefore, no effects to districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places nor loss or destruction of significant scientific, cultural, or historical resources are expected due to the limited scope of the Proposed Action.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

On February 18, 2014, the USDI Fish and Wildlife Service (FWS) website (<http://sacramento.fws.gov>) was accessed to obtain a list of threatened and endangered species and species proposed for listing that may occur in or be affected by the Proposed Action on the LTBMU. The list can be found in the project record. This list fulfills the requirements to provide a current species list pursuant to the Endangered Species Act. Because this project is entirely administrative in nature—specifically related to health and safety—the proposed action would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment.

Determination:

Terrestrial Wildlife

The Proposed Action will not affect any federally threatened, endangered, proposed or Candidate or Forest Service sensitive terrestrial wildlife species.

Botanical Species

The Proposed Action will not affect any federally threatened, endangered, proposed or Candidate or Forest Service sensitive botanical species. This determination is based upon the administrative nature of the Proposed Action; it would not result in ground-disturbing activities, construction, or other actions that would physically alter the environment and potentially affect TES individuals or suitable habitat.

Aquatic Species and Proposed Critical Habitat

The Proposed Action will not affect any federally threatened, endangered, proposed or Candidate or Forest Service sensitive aquatic wildlife species.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Alternative 1 (Proposed Action) was developed in accordance with and does not threaten violation of any Federal, State, or local laws or requirements imposed for the protection of the environment (i.e., National Forest Management Act, Endangered Species Act, National Historic Preservation Act, Federal Clean Water Act, Executive Order 11988 for Floodplain Management, or the Clean Air Act).

Findings Required by Other Laws and Regulations

This decision to implement Proposed Action is consistent with the long term goals and objectives of the Lake Tahoe Basin Land and Resource Management Plan. The project conforms to the Forest Plan by incorporating appropriate standards, guidelines, and desired conditions (EA pp.2). This action is consistent with the National Historic Preservation Act and all other applicable laws and regulations (see Finding of No Significant Impact).

Implementation Date

Implementation of the decision may begin immediately following the publication date of the legal notice of this decision in the Tahoe Daily Tribune, the newspaper of record [36 CFR 215.9(c)].

Administrative Review or Objection Opportunities

This proposed decision is subject to objection pursuant to 36 CFR 218, Subparts A and B. Objections will only be accepted from those who submitted project-specific written comments during scoping or other designated comment period. Issues raised in objections must be based on previously submitted comments unless based on new information arising after the designated comment period(s).

Objections must be submitted within 45 days following the publication of a legal notice in the Tahoe Daily Tribune. The date of this legal notice is the exclusive means for calculating the time to file an objection. Those wishing to object should not rely upon dates or timeframes provided by any other source. It is the objector's responsibility to ensure evidence of timely receipt (36 CFR 218.9).

Objections must be submitted to the reviewing officer: Randy Moore, Regional Forester, USDA Forest Service; Attn: Food and Refuse Storage Forest Order project; 1323 Club Drive, Vallejo, CA 94592. Phone (707) 562-8737. Objections may be submitted via mail, FAX (707-562-9229), or delivered during business hours (M-F 8:00am to 4:00pm). Electronic objections, in common (.doc, .pdf, .rtf, .txt) formats, may be submitted to: objections-pacificsouthwest-regional-office@fs.fed.us with Subject: Food and Refuse Storage Forest Order project.

Objections must include (36 CFR 218.8(d)): 1) name, address, and telephone; 2) signature or other verification of authorship; 3) identify a single lead objector when applicable; 4) project name, Responsible Official name and title, and name of affected National Forest(s) and/or Ranger District(s); 5) reasons for, and suggested remedies to resolve, your objections; and, 6) description of the connection between your objections and your prior comments. Incorporate documents by reference only as provided for at 36 CFR 218.8(b).

Contact Person

For additional information concerning this decision contact: Megan Mallowney, Special Uses Permit Administrator, Lake Tahoe Basin Management Unit Supervisor's Office, 35 College Dr., South Lake Tahoe, CA 96150, (530) 543-2651 or mcmallowney@fs.fed.us.

Signature and Date

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