



SR-28 Shared Use Path, Parking, Safety, and Environmental Improvements Project



Draft Decision Notice / Finding of No Significant Impact

Lake Tahoe Basin Management Unit (LTBMU), USDA Forest Service
Washoe, Carson City, and Douglas Counties, Nevada

DECISION AND RATIONALE

There is a need to improve highway safety, infrastructure, summer recreation access, and scenic quality along the SR-28 highway corridor between Spooner Junction and Sand Harbor, as well as improve water and air quality in Lake Tahoe and increase non-motorized access to the corridor. Complete project background and supporting information can be found on the [project webpage](#).

Based on my review of the environmental analysis, stakeholder input, and public comments, I have decided to implement Alternative 2, the Proposed Action (PA), as summarized below and described in detail in the [Final Environmental Assessment](#) (EA, Chapter 2). In accordance with [Forest Plan](#) direction and desired conditions, the PA would provide: approximately 4.64 miles of shared-use pathway; connecting pedestrian trails in six locations; between 303 and 654 additional parking spaces at four sites; 11 to 16 emergency pull-outs and four to ten vista points along the highway; stormwater capture and infiltration; a new effluent pipeline and fiberoptic cable; and, an aquatic invasive species (AIS) inspection station. This alternative, including all design features (EA, Appendix A), will help to meet the desired future condition and goals as described in the Forest Plan for the project area. Most of the project area is classified as Roaded Natural on the Recreation Opportunity Spectrum. The area in and around the parking areas is classified as Rural. Improving recreation opportunities and infrastructure supports management objectives for these designations. Forest Plan direction for habitat quality emphasizes water quality and aquatic habitat connectivity, both of which would be improved by implementation of this alternative. Alternative 2 (PA) is aligned with Forest Plan strategies including using partnerships to attain desired conditions and providing a range of recreation opportunities, emphasizing shared use and sustainability. This alternative was developed, designed, and will be implemented in close coordination with the Project Development Team, including partners such as Nevada State Parks, Nevada Department of Transportation, Nevada Department of Wildlife, Tahoe Regional Planning Agency, Tahoe Resource Conservation District, and Tahoe Transportation District.

To meet the needs for the project, Alternative 2 (PA) will: improve highway safety; update and enhance infrastructure for recreation, utilities, and aquatic invasive species inspection; improve water quality; provide sustainable access for dispersed recreation activities; protect the natural resources in the project area; and, reduce risk of wildfire, invasive species spread, and traffic incidents.

Public scoping revealed interest in both summer and winter recreation access. Winter recreation is being analyzed under our [Winter Recreation and Over Snow Vehicle Use Management](#) (OSVUM) project. That analysis examines over snow vehicle access on LTBMU managed lands, as well as other recreation activities such as snow play areas, grooming, and parking areas. Several commenters expressed a desire for more public transit, winter backcountry recreation, more flush toilets, single-track trails, stoplights, snowplowing, and changes to the dates the gates on the parking lots are open.

Comments that led to modification or clarification of the proposed action included more parking to consider future growth, roadside protection measures, pedestrian crossing structures at Sand Harbor and Chimney Beach, signage, improved maps relating to the Historic District, and clarification of no-fee parking. Tribal consultation led to a project feature for Tribal access to a section of Washoe Tribal land in Skunk Harbor.

I also heard concerns with permits, boating and hiking, and AIS inspection station infrastructure. I responded to these concerns by adding to the analysis for recreation and hydrology resources. Additional analysis was included in the transportation and utilities section of the EA to help clarify the effects of the proposed action on those resources.

OTHER ALTERNATIVES CONSIDERED

In addition to the selected alternative, I also considered Alternative 1 – the no-action alternative (EA, Chapter 2). Under the no-action alternative, current conditions and management would continue. We would not implement any of the safety, recreation, scenic, or utility improvements proposed in the project. This alternative would result in several undesirable conditions in the area: insufficient parking, creating dangerous overflows; insufficient bicycle paths; continued use of an AIS inspection station that does not meet standards; and inadequate, unsightly, and potentially hazardous utilities.

PUBLIC INVOLVEMENT

The project was listed on our “Schedule of Proposed Actions” on or before January 1, 2018. We mailed and e-mailed a scoping letter to stakeholders and interested parties on November 22, 2017, and a copy of the scoping letter and proposed action was posted on our website the same day. We distributed a news release to local media outlets summarizing the PA and asking for public input. On December 5, 2017, both the Tahoe Daily Tribune and the Sierra Sun posted notice of the project for public comment on their website. We received 26 letters and 39 scoping comments electronically and via postal mail. We address commenters and issues raised in this scoping effort in the EA (Chapter 1). LTBMU staff coordinated directly with several private property owners and private businesses, and the project consultant involved several agencies in draft reviews of the proposal.

The Washoe Tribe of Nevada and California was notified of the project kick-off and intent by letter mailed December 19, 2018. Additionally, the project was discussed with Tribal representatives and project features were added to accommodate Tribal access. The Washoe Tribe is a member of the Project Development Team and will continue to be consulted as the project moves forward in design.

We prepared a draft EA and circulated it for public comment July 10 - August 12, 2019. A legal notice in the Tahoe Daily Tribune on July 12, 2019, started the 30-day comment period. The documents were also available on our website. We received 52 comment letters during the comment period. Commenters raised eight basic issues or concerns, in no particular order:

1. **Request for preparation of an Environmental Impact Statement (EIS):** I have taken a hard look at the recommendations of LTBMU specialists and our partner agencies and did not identify any significant impacts to resources; therefore, an EIS is not needed. Please see the Finding of No Significant Impact (FONSI) below.
2. **Request for consideration of additional alternatives to the PA:** In developing the PA, we considered several different alignments and alternatives. The Project Development Team conducted a [feasibility study](#) of different project elements, and it was determined the chosen alignment was the only one that could reasonably be constructed without requiring significant impacts to scenery, soil, water quality, and sensitive areas. Smaller project elements were changed as a result of scoping comments, such as allowing the use of E-bikes on the bike path, refinement of the parking lots to accommodate the existing average peak use, and clarification of the pedestrian crossing structures. Sections 2.4 and 2.5 of the EA highlight changes made to Alternative 2 (PA) and describe “Alternatives Considered, but Eliminated for Detailed Study”. Several comments from the public regarding other possible alternatives were considered and determined to be outside the scope of this project. It is also important to remember an EA analysis does not require multiple action alternatives (36 CFR 220.7).

3. **Parking will not be permitted along the highway, resulting in nowhere to park during winter when gates to parking areas are closed:** With the OSVUM project, we are taking a comprehensive look at winter recreation in the entire basin, including parking and access. That project would allow gates to remain open year-round and plowing of the parking lots during winter months.
4. **Long-term erosion and water and air quality impacts due to additional or different uses in the project area:** We considered the capacity of the beaches to accommodate new use. The location and amount of parking proposed would keep beaches within acceptable use levels (EA, Chapter 3, Recreation). Parking within the corridor is being designed to accommodate average peak use. We recognize use patterns in some areas may differ from existing. Removal of highway parking will significantly improve air and water quality. The implementation of the [North Demonstration Project](#) (the completed shared-use path from Incline Village to Sand Harbor) provided lessons learned that will be incorporated into the design for this next section. The IDT completed the effects analyses for these resources, including a discussion of both beneficial and negative air quality impacts (EA, Chapter 3).
5. **Safety concerns related to the PA, including: lack of bicycle lanes on the highway; inability to access fire hydrants when arriving with large trucks or in snow; ensuring the shared-use path does not cross parking ingress and egress; vehicle and nonmotorized user conflicts at turnouts and viewpoints; and, increased traffic and use:** The IDT and I reviewed each of these concerns and determined no changes to the PA or additional alternatives were needed. The PA does not increase use or traffic to the area, improves public safety by reducing pedestrian and vehicular conflicts, and addresses access to utilities. Access to the fire hydrants is the same as access for maintenance vehicles. The path design allows typical wildland fire vehicles access, and a larger truck could access fire hydrants from the highway. Because they were not identified as needs for this project, providing a separate bicycle lane or mountain bike trail are outside the scope of this project. That would also require significant changes to the highway alignment, slope, or width.
6. **Requiring monitoring as part of this decision:** We considered the need for additional monitoring and determined the project effects are well understood. The IDT and I are confident that the performance measures (EA, Chapter 2) and design features (EA, Appendix A) protect natural and cultural resources.
7. **Parking lots are insufficient, especially because they are replacing shoulder parking. No parking should be added because it would “build up” the east shore. Year-round parking access should be addressed:** The level of parking proposed was based on recommendations from the effects analyses, the Project Development Team, the feasibility study, and scoping input (EA, Section 2.4). The IDT and I reviewed the PA and determined no additions or changes were needed to Alternative 2. We address parking sufficiency in the EA (Chapter 3, Sections 3.3 and 3.4). Providing less parking would not improve access to Lake Tahoe and would most likely result in significant impacts to the areas outside the project area as users are pushed outwards. Providing more parking would increase the use of the area and would not meet the need to reduce traffic congestion, to improve safety in the corridor, and to protect water quality. The proposed parking additions are consistent with the Forest Plan and land use planning per the TRPA Regional Plan Update and TRPA Threshold Analysis. Opening of parking lots during the winter months would be addressed in the OSVUM project.
8. **Immediate replacement of the IVGID pipeline and assurance no additional failures will occur:** The Project Development Team determined placing the pipeline within the shared-use path alignment, and not placing it within the highway, would be mutually beneficial to the public and partner agencies. The PA improves the safety and function of both the pipeline and the highway corridor and results in cost savings. For more complete responses to these concerns, please see the Response to Comments on our project webpage and the EA (Sections 3.5, 3.10, and 3.12), which we reviewed and revised based on these comments.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

After considering the environmental effects described in the EA, I have 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). An EIS will not be prepared. I base my finding on the following:

Context

Each of the following ten intensity factors is considered in the context of the size of the project area compared to the size of the LTBMU. The 2,412-acre project area (including a ¼ mile buffer all around for noise and airborne pollutants) is approximately 0.016 percent of the LTBMU's total area. The effects on each resource are considered in their own contexts and disclosed (EA, Chapter 3).

Intensity

- 1. Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on the balance the effects will be beneficial.**

My finding of no significant environmental impact on any existing resource condition is not biased by the beneficial effects of the action (EA, Chapter 3). The project record includes performance measures, design features, and Best Management Practices. These further reduce or avoid any impacts that could result from implementation of this project to levels well below significance thresholds for all resources.

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

The PA improves public safety (EA, Chapters 2 and 3) by reducing the likelihood of traffic incidents and improves public health by reducing traffic congestion and improving access to recreation. There will be no significant negative effects on public health and safety. Design features (EA, Appendix A) protect the public during project implementation activities. Short-term impacts of construction are heavily outweighed by the long-term benefits of the infrastructure.

- 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.**

There are no specially designated geographic areas within the project area and no significant impacts to historic or cultural resources (EA, Chapter 3).

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

Public involvement with interested and affected individuals and agencies was conducted throughout the environmental analysis. No substantial scientific dispute exists as to the size, nature, or effects of the project on any environmental condition. Based on the comments received during scoping and the comment period, there were no substantive issues that led to the development of additional action alternatives. All comments were addressed through development of new or revised design features or clarification to the PA (EA, Public Involvement). Environmental consequences were revised to account for changes in the PA. Please see our Response to Comments document under Supporting Documents on our project webpage for more information.

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

Based on the comments, the degree of controversy is relatively low. Many commenters were very supportive of the Proposed Action and would like to see additional work throughout the SR28 Highway corridor in the future. The LTBMU has considerable experience and success with the types of activities to be implemented. The effects analysis in the environmental assessment shows that overall effects are not uncertain, and do not involve unique or unknown risks (EA, Chapter 3).

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 action will not establish a precedent for future actions with significant effects. No significant effects are identified (EA, Chapter 3), nor does this action influence a decision in principle about any future considerations. As described in number 5 above, the outcome of the actions proposed are well known because we and our partners have implemented similar actions many times over many years. The activities authorized under this decision are common throughout the Lake Tahoe Basin.

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

There are no known significant cumulative effects of this PA when considered with other ongoing or planned projects in or adjacent to the project area. The effects of other foreseeable future actions were included in each resource section (EA, Chapter 3).

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.

The majority of the project area has been previously inventoried for historic and cultural resources. In those previous inventories, resources were identified and recorded. Areas that have not been inventoried were surveyed by a contract firm, and those inventories did not identify any additional resources. No Native American related resources were identified within the project area. Most resources would be avoided by project activities. Small segments of contributing historic highway and roads would be crossed or overlain by shared-use pathway construction. These minor effects would be mitigated (EA, Chapter 3).

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.

A wildlife biologist analyzed effects in a Biological Assessment and Biological Evaluation (EA, Chapter 3). Formal or informal consultation with the United States Fish and Wildlife Service (USFWS) is not required for this project because there would be no effects to Threatened, Endangered, Proposed, or Candidate Species or their critical habitat as a result of implementing the PA.

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

As described in the EA, the project will not violate Federal, State, and local laws or requirements for the protection of the environment.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This project followed the full 36 CFR 800 Section 106 process and is consistent with the Programmatic Agreement between the Forest Service Region 5 and the Historic Preservation Officers of California and Nevada. Project design features and best management practices (EA, Appendix A) meet the Clean Water Act. This project meets Executive Order 12898 requirements. An Invasive Plant Risk Assessment was prepared, and the project's design features would minimize risk of new invasive plant introductions. A Migratory Bird Report was prepared. Documentation for these findings are in the project record.

Any ground-disturbing project activities (greater than three cubic yards of soil) that occur between October 15 and May 1 will require a grading exemption from the TRPA. An initial environmental checklist for determination of environmental impact was submitted and approved by TRPA (EA, Appendix B). Required permits would be obtained from TRPA prior to project implementation. Project documents have been shared and reviewed by TRPA. Appropriate permits will be obtained from the Army Corps of Engineers, if needed.

ADMINISTRATIVE REVIEW

This is a project-level decision, subject to administrative review (“objections”) outlined in [36 CFR Part 218](#). A written objection, including attachments, must be postmarked or received within 45 days after the date the legal notice of this draft decision is published in the Tahoe Daily Tribune. The publication date of that notice is the exclusive means for calculating the time to file an objection, and those wishing to object should not rely on dates or time frame information provided by any other source. To review project documents, please go to the [project webpage](#), then under “Project Documents”, under the “Analysis” tab, click on “Objections”. To submit an objection, find the “Get Connected” heading on the right-side of the webpage, then select the “Comment/Object on Project” link. Please see the regulations above, my letter dated January 22, 2020, and the legal notice on the project webpage for more info regarding objections. Please note you must have commented during pervious designated comment periods to submit an objection.

IMPLEMENTATION

If no objections are filed within the 45-day time period, implementation of the decision may occur on, but not before, the fifth business day following the close of the objection filing period. If an objection is filed, this decision cannot be signed or implemented until the reviewing officer has responded in writing to all pending objections.

CONTACT

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Draft Decision – No Signature

JEFF MARSOLAIS
Forest Supervisor

_____ Date

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