



**National Trust for
Historic Preservation**
Save the past. Enrich the future.

Deirdre McLaughlin
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Williams Ranger District
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VIA Email to: comments-southwestern-kaibab@fs.fed.us

Re: Tusayan Roadway Easements

Dear Ms. McLaughlin,

Thank you for the opportunity to comment on the scoping packet prepared by the Kaibab National Forest regarding the special use permit application from the Town of Tusayan to approve roadway and utility easements on property managed by the United States Forest Service. The easements would facilitate the development of major new commercial and residential development within the boundaries of the Tusayan Ranger District of the Kaibab National Forest which would almost exclusively benefit a private company. These developments would have associated direct and indirect impacts on outstanding natural and cultural resources in the vicinity of Grand Canyon National Park, a designated World Heritage Site.

We are deeply concerned about the proposed impacts that granting of the Special Use Authorization would have on cultural resources in the affected area. Given the extraordinary nature of the development which these roads would enable, if approved, we believe that an Environmental Impact Statement should be prepared to analyze impacts beyond the immediate footprint of the rights-of-way, and to fully vet and consider alternatives, including no action.

Interests of the National Trust for Historic Preservation

The National Trust for Historic Preservation is a private, nonprofit organization chartered by Congress in 1949 to facilitate public participation in the preservation of our nation's heritage, and to further the historic preservation policy of the United States.⁵⁴ U.S.C. §§ 320101, 312102. With the strong support of its members across the nation, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government.

Special Use Permit Application and Proposed Development Plans

On April 23, 2015, the Town of Tusayan (Town) submitted a special use permit application to the Tusayan Ranger District of the Kaibab National Forest to conduct major improvements to segments of existing forest roads as well as to construct new road segments. The purpose of the project is to provide all weather access and utility service to two inholding properties within the Kaibab National Forest that are located within the incorporated limits of the Town. The Kaibab National Forest action concerning these roadways cannot be segmented from the development projects they would facilitate: the anticipated construction of more than 2,000 new homes and 120 acres of commercial

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development with no limits on building square footage (*See generally*, Town of Tusayan, Tusayan General Plan 2024(Apr. 16, 2014)¹).

The Pre-Annexation and Development Agreement (PADA) No. 2011-11-02 and the First Amendment to the PADA No. 2011-11-02 between the Town and Stilo Development Group USA, LP (Stilo) outline the specific approvals needed by the U.S. Forest Service to support the development of the anticipated construction. This includes a request to provide permanent, all weather roadway access for 28,213 linear feet on USFS lands. The roads would require an 80-foot-wide corridor to accommodate all prospective uses.

In addition, the applicant seeks to develop two new 25-foot wide sewer lines that would transfer wastewater through USFS properties to a wastewater treatment plant in the Town. Additional utilities include natural gas pipelines, electric, and telecommunications lines. Two 100' x 100' wastewater lift stations are also planned. In total, the applicant would disturb 52 acres of USFS land, 66% of which has not been previously disturbed.

An Environmental Impact Statement Must Be Prepared in Light of the Major Growth Inducing Impacts of the Easement Approval

The National Environmental Policy Act and the Council on Environmental Quality's regulations at 40 CFR Parts 1500-1508 require the preparation of an Environmental Impact Statement for all major Federal actions significantly affecting the quality of the human environment. 42 U.S.C. § 4332. Indirect effects must also be considered including those that are "later in time or farther removed in distance, but are still reasonably foreseeable." 40 C.F.R. 1508.8(b).

The extent of environmental analysis "must be appropriate to the action in question." *Metcalf v. Daley*, 214 F.3d 1135, 1151 (9th Cir. 2000); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). As stated in the scoping packet, the U.S. Forest Service has the authority under the Federal Roads and Trails Act to provide easements for road rights-of-way over lands and interest in land administered by the Forest Service. However, the easement must be consistent with existing land management plans (*see* National Forest Management Act 6(i), 16 U.S.C. § 1604(i)). Because the existing land management plan for the Kaibab National Forest does not envision hosting a major new resort complex within its boundaries, the application is inconsistent with existing land use policies.

The Project has the Potential to Adversely Impact Cultural Resources on Land Managed by the U.S. Forest Service, National Park Service and Tribes

The project application inappropriately suggests that the roads are needed to facilitate "reasonable use and enjoyment" of the inholding properties. However, the proposed development plan can hardly be considered reasonable use. As currently proposed, the development would result in a tenfold increase in the population of the Town of Tusayan. Moreover, despite the representation of the applicant that the project has a "public benefit," our view is that the benefit would be uniquely private given the nature of the land ownership in question.

¹ Available at http://tusayan-az.gov/v1wp812/wp-content/uploads/2014/06/Town-of-Tusayan-General-Plan-2024-F_-4-23-14.pdf

Because of the sheer size of the proposed impact, significantly impacts to cultural resources are likely to result as a direct consequence of the easements as well as from the development the easements would facilitate. Even more concerning, the applicant has thus far failed to identify a sustainable source of water to meet vastly increased demands of thousands of new residents, overnight guests, and commercial enterprises in the region. We are alarmed that the pressure that would result on this fragile resource has been almost entirely ignored in the application.

Notably, the applicant has refused to rule out expanded use of the Redwall-Muav aquifer, the current water source for the Town. This aquifer is an essential resource and is depended upon by the federal government and neighboring tribes. The scope of the EIS should anticipate the increased pressure of the proposed development on this limited resource. All foreseeable impacts to the seeps and springs dependent on the aquifer should be addressed in the EIS analysis.

Further, the anticipated pressure on the limited water supply must account for the impacts to cultural sites important to tribes in the region which have a unique connection to the land and water which would be affected. As stated in the Kaibab National Forest Management Plan

[t]ribes with aboriginal territories and traditional ties to the land now administered by the Kaibab National Forest include the Havasupai Tribe, Hopi Tribe, Hualapai Tribe, Kaibab Band of Paiute Indians, Navajo Nation, Yavapai-Prescott Indian Tribe, and Pueblo of Zuni. The Kaibab National Forest shares boundaries with the Havasupai and Navajo Reservations and is in close proximity to numerous tribal communities. Tribal members visit the Kaibab National Forest to gather medicinal plants and for other traditional and cultural purposes.²

The proposed development threatens the water supply to creeks, springs and seeps below the South Rim within Grand Canyon National Park and on the Havasupai Reservation. As stated in the Forest Plan, not only are these water sources essential to the ecological functioning of the Grand Canyon, they are “essential to maintaining the continuing cultural identity of associated communities.” (Forest Plan, p. 61)

U.S. Participation in the World Heritage Convention Commits the U.S. Forest Service to Protect Grand Canyon National Park in Perpetuity

Grand Canyon National Park was inscribed in the World Heritage List in 1979. As a signatory to the World Heritage Convention, the U.S. government is pledged “to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage.”³ The commitments made by the United States under the treaty are the responsibility of the entire Federal government and thus every Federal agency. Given that granting a Special Use Authorization would facilitate large-scale development that is likely to result in negative impacts to the “Outstanding Universal Value” (OUV) that

² Available at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3791580.pdf

³ UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage II.5.d.

makes Grand Canyon National Park significant at a global level, it is responsibility of the U.S. Forest Service to explicitly analyze impacts, including cumulative impacts, to the Park and its OUV.

Conclusion

Thank you for the opportunity to comment on the scoping packet and for taking our concerns about the pending application seriously. Please contact me at bturner@savingplaces or (415) 947-0692 if you have any questions or concerns.

A handwritten signature in black ink, appearing to read "Brian Turner", with a long horizontal flourish extending to the right.

Brian Turner
Senior Field Officer and Attorney
National Trust for Historic Preservation