

APPENDIX 32D

Section 4(f) – No Constructive Use Determination

Memo

Date: Friday, May 20, 2022

Project: Little Cottonwood Canyon EIS

To: UDOT

From: HDR

Subject: Section 4(f) – No Constructive Use Determination

This memo documents the consideration of constructive use of Section 4(f) park and recreation resources and historic properties for the Utah Department of Transportation’s (UDOT) Little Cottonwood Canyon Environmental Impact Statement (EIS). Constructive use was assessed for specific Section 4(f) park and recreation resources as described in this memo for four reasons: (1) it is unknown whether land below the gondola cables would be permanently incorporated into a transportation facility; (2) the Salt Lake City Department of Public Utilities (SLCDPU) commented on the draft resource chapters of the EIS that constructive use should be evaluated for specific Section 4(f) recreation resources; (3) the Town of Alta commented on the Draft EIS that constructive use should be evaluated for the Alta Town Park; and (4) a member of the public commented on the Revised Draft Chapter 26, *Section 4(f) and Section 6(f) Evaluation*, that the gondola alternatives would have significant impacts on the planned Bonneville Shoreline Trail segment located on Cottonwood Heights City’s property due to its proximity.

Constructive use was also assessed for one Section 4(f) historic property (site 42SL968) based on public comments that climbing resources in Little Cottonwood Canyon are historic and that proximity impacts would result in a constructive use.

This memo was written during development of the Draft EIS; updated during development of the Revised Draft Chapter 26, *Section 4(f) and Section 6(f) Evaluation*, that was released for public comment in December 2021; and updated again during development of the Final EIS.

Definition of Section 4(f) Properties

Section 4(f) applies to significant publicly owned parks, recreation areas, and wildlife and waterfowl refuges, and to significant publicly or privately owned historic properties. This constructive-use evaluation considers potential constructive uses of a park, three recreation resources, and one historic resource.

Section 4(f) Park and Recreation Resources

Section 4(f) applies to significant publicly owned parks and recreation areas that are open to the public. The land must be officially designated as a park or recreation area, and the officials with jurisdiction of the land must determine that its primary purpose is as a park or recreation area. The term *significant* means that, in comparing the availability and function of the property with the recreation objectives of the agency, community, or authority, the property in question plays

an important role in meeting those objectives. On public lands managed for multiple uses, including National Forest System lands, Section 4(f) applies only to those portions of such lands that function for, or are designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl refuge purposes.

Section 4(f) Historic Properties

Section 4(f) applies to historic sites that are listed in or eligible for listing in the National Register of Historic Places (NRHP), unless UDOT determines that an exception under 23 CFR Section 774.13 applies. An exception would apply if UDOT concludes that a site eligible for inclusion in the NRHP “is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place” [23 CFR Section 774.13(b)(1)].

Use Definitions

There are three types of use in the context of Section 4(f) as defined in 23 Code of Federal Regulations (CFR) Section 774.17. The differentiator among these types of use is whether land from the Section 4(f) property would be permanently impacted, temporarily impacted, or not impacted by the transportation project.

The first type of use is when land from a Section 4(f) property is permanently incorporated into a transportation facility through purchase or easement. This type of use is sometimes referred to as a **direct use** and could have either *de minimis* impacts or greater-than-*de minimis* impacts.

The second type of use is commonly referred to as a **temporary occupancy**. This occurs when land from a Section 4(f) property is temporarily occupied in connection with a transportation facility through a temporary construction easement. The regulation at 23 CFR Section 774.13(d) provides the conditions under which “temporary occupancies of land ... are so minimal as to not constitute a use within the meaning of Section 4(f).”

The third type of use is called **constructive use**. A constructive use involves either (1) no actual physical use of the Section 4(f) property through permanent incorporation of land into a transportation facility (2) or a temporary occupancy of land that does not meet the exception criteria in 23 CFR Section 774.13(d). A constructive use occurs when the proximity impacts of a project are so severe that they result in a substantial impairment to the property’s activities, features, or attributes that qualify the property for protection under Section 4(f).

Constructive Use Definition

UDOT must comply with 23 CFR Section 774.15¹ to determine whether there would be a constructive use of a Section 4(f) property by the Little Cottonwood Canyon EIS alternatives. Constructive use occurs when the proximity impacts of a project on an adjacent or nearby Section 4(f) property, after incorporation of impact mitigation, are so severe that the activities,

¹ 23 CFR Section 774.15, *Constructive Use Determinations*, is attached. UDOT also follows FHWA’s *Section 4(f) Policy Paper* (FHWA 2012), including its provisions regarding constructive use.

features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired. As a general matter, this means that the value of the resource, in terms of its Section 4(f) purpose and significance, would be meaningfully reduced or lost. The degree of impact and impairment must be determined in consultation with the officials with jurisdiction in accordance with 23 CFR Section 774.15(d)(3). In those situations in which a potential constructive use can be reduced below a substantial impairment by the inclusion of mitigation measures, there would be no constructive use.

UDOT has assumed most of the Federal Highway Administration's (FHWA) responsibilities for environmental review, consultation, and other actions under Section 4(f). However, per the Memorandum of Understanding between FHWA and UDOT regarding National Environmental Policy Act (NEPA) assignment (FHWA 2017), UDOT cannot make a determination that an action constitutes a constructive use without first consulting with FHWA and obtaining FHWA's views on such a determination. If FHWA raises an objection, then UDOT agrees not to proceed with a determination of a constructive use. A determination of constructive use by FHWA or a state DOT that has assumed FHWA's Section 4(f) responsibilities is rare.

Possible Constructive Use. The Section 4(f) regulations identify specific project situations in which a constructive use would and would not occur. Specific situations in which a constructive use would occur are listed in 23 CFR Section 774.15(e) below:

1. The projected noise level would substantially interfere with the use and enjoyment of a noise-sensitive facility, such as
 - i. Hearing the performances at an outdoor amphitheater,
 - ii. Sleeping in the sleeping area of a campground,
 - iii. Enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site's significance,
 - iv. Enjoyment of an urban park where serenity and quiet are significant attributes, or
 - v. Viewing wildlife in an area of a wildlife and waterfowl refuge intended for such viewing;
2. The proximity of the proposed project substantially impairs aesthetic features or attributes of a property protected by Section 4(f), where such features or attributes are considered important contributing elements to the value of the property. Examples of substantial impairment to visual or aesthetic qualities would be the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a Section 4(f) property which derives its value in substantial part due to its setting;
3. The project results in a restriction of access which substantially diminishes the utility of a significant publicly owned park, recreation area, or historic site;

4. The vibration impact from construction or operation of the project substantially impairs the use of a Section 4(f) property, such as projected vibration levels that are great enough to physically damage a historic building or substantially diminish the utility of the building, unless the damage is repaired and fully restored consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, that is, the integrity of the contributing features must be returned to a condition which is substantially similar to that which existed prior to the project; or
5. The ecological intrusion of the project substantially diminishes the value of wildlife habitat in a wildlife and waterfowl refuge adjacent to the project, substantially interferes with the access to a wildlife and waterfowl refuge when such access is necessary for established wildlife migration or critical life cycle processes, or substantially reduces the wildlife use of a wildlife and waterfowl refuge.

No Constructive Use. Specific project situations in which a constructive use would not occur are listed in 23 CFR Section 774.15(f):

1. Compliance with the requirements of 36 CFR Section 800.5 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register, results in an agreement of “no historic properties affected” or “no adverse effect”;
2. For projected noise levels:
 - i. The impact of projected traffic noise levels of the proposed highway project on a noise-sensitive activity do not exceed the FHWA noise-abatement criteria as contained in Table 1 in 23 CFR Part 772, or
 - ii. The projected operational noise levels of the proposed transit or railroad project do not exceed the noise impact criteria for a Section 4(f) activity in the FTA guidelines for transit noise and vibration impact assessment or the moderate impact criteria in the FRA guidelines for high-speed transportation noise and vibration impact assessment;
3. The projected noise levels exceed the relevant threshold in paragraph (f)(2) of this section because of high existing noise, but the increase in the projected noise levels if the proposed project is constructed, when compared with the projected noise levels if the project is not built, is barely perceptible (3 A-weighted decibels [dBA] or less);
4. There are proximity impacts to a Section 4(f) property, but a governmental agency’s right-of-way acquisition or adoption of project location, or the Administration’s approval of a final environmental document, established the location for the proposed transportation project before the designation, establishment, or change in the significance of the property. However, if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site for the purposes of this section;

5. Overall (combined) proximity impacts caused by a proposed project do not substantially impair the activities, features, or attributes that qualify a property for protection under Section 4(f);
6. Proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur if the project were not built, as determined after consultation with the official(s) with jurisdiction;
7. Change in accessibility will not substantially diminish the utilization of the Section 4(f) property; or
8. Vibration levels from project construction activities are mitigated, through advance planning and monitoring of the activities, to levels that do not cause a substantial impairment of protected activities, features, or attributes of the Section 4(f) property.

Although the regulation specifically addresses these situations in which a constructive use is deemed to occur or not occur, it is not comprehensive. The question, in each case, is whether a project's proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) would be substantially impaired.

Right-of-way Considerations for the Little Cottonwood Canyon EIS Alternatives

Enhanced Bus Service, Enhanced Bus Service in Peak-period Shoulder Lane, and Cog Rail Alternatives

The first step in determining use is identifying how the land of a Section 4(f) property would be impacted. This is straightforward for the enhanced bus service and cog rail alternatives. Land within the proposed rights of way would be permanently incorporated into the transportation facility, while land within the proposed temporary construction easements would be temporarily occupied in connection with the transportation facility.

Based on preliminary design, small, temporary construction easements would be needed from several Section 4(f) recreation resources. It is a conservative assumption for the EIS to assume that these temporary construction easements would be necessary. However, during the final design of the Selected Alternative, UDOT might determine that these temporary construction easements are not needed. Without a temporary construction easement, or with a construction easement that met the exception criteria of 23 CFR Section 774.13(d), a constructive use could be possible.

Gondola Alternatives

Right-of-way acquisition or an easement would be required for the gondola stations, towers, and alignment. Where the gondola alignment crosses privately owned land, property would be acquired for the towers and stations, and a perpetual easement would be obtained for land under the gondola cables.

UDOT does not currently know what type of right-of-way instrument (for example, appropriation, easement, or special-use permit) would be used where the gondola alignment crosses U.S. Department of Agriculture (USDA) Forest Service land. Regardless of the right-of-way instrument used, land occupied by the gondola towers and stations would be permanently incorporated into a transportation facility. In other words, gondola towers and stations located on a Section 4(f) property would result in a direct use. It is not currently known whether the right-of-way instrument for the gondola alignment between the towers and stations would include property rights for the land beneath the cables or would be for aerial rights only. The latter case would not be considered permanent incorporation, the former case could be. Therefore, it is not known whether land associated with a Section 4(f) property under the cables would be permanently incorporated into a transportation facility, thereby resulting in a direct use. However, for the EIS, UDOT assumed that the right-of-way instrument issued for the gondola would include land rights for the area under the gondola cables, resulting in a direct Section 4(f) use.

The assumption that the gondola right-of-way would result in a direct use of land under the cables is a conservative assumption. If the right-of-way instrument ultimately used for the gondola system would not result in a direct use of the land under the cables (that is, aerial rights only), a constructive-use evaluation would be appropriate to determine whether proximity impacts from the gondola cabins passing overhead would result in a constructive use. As described below, a preliminary evaluation of constructive use has been conducted to account for the possibility of no direct use.

Noise and Visual Impact Considerations for the Little Cottonwood Canyon EIS Alternatives

For the recreation properties on National Forest System (NFS) lands that were determined to be subject to Section 4(f) protection and therefore were analyzed in this memorandum, UDOT, in consultation with the USDA Forest Service, determined that setting, visual qualities, noise qualities, and aesthetic features are not what qualify the properties for protection. The activities that qualify these properties for protection include, but are not limited to, camping, climbing, biking, hiking, and skiing. Protected features support these activities. The identified recreation properties do not derive their value in substantial part due to setting, visual qualities, noise qualities, or aesthetic features. These are secondary or tangential qualities of the area but are not the primary features that qualify the areas for protection under Section 4(f). Impacts to setting and visual qualities are evaluated separately from Section 4(f) impacts in Chapter 17, *Visual Resources*, of the Final EIS. Noise impacts are evaluated separately from Section 4(f) impacts in Chapter 11, *Noise*, of the Final EIS.

Based on these reasons, and as discussed in more detail below on a property-by-property basis, UDOT determined that the noise, visual, and setting impacts from the project alternatives would not result in the substantial impairment of the activities, features or attributes that qualify the park and recreation properties for protection under Section 4(f).

Evaluation of Constructive Use of Section 4(f) Park and Recreation Properties

Section 4(f) Properties to Evaluate Constructive Use

Constructive use is evaluated at four Section 4(f) park and recreation properties: Tanners Flat Campground, the Temple Quarry Nature Trail Trailhead, the Alta Town Park, and a planned section of the Bonneville Shoreline Trail.

Due to the unknowns with a potential gondola right-of-way described above, this memo considers and evaluates whether the gondola alternatives would result in a constructive use of the Section 4(f) properties they pass over if no gondola towers or stations would be located on the property (for example, at Tanners Flat Campground). Constructive use would be possible only if the ultimate right-of-way instrument does not permanently incorporate the land beneath the gondola cables into a transportation facility, thereby resulting in a direct use.

The Salt Lake City Department of Public Utilities (SLCDPU) provided comments regarding constructive use during its review of the preliminary draft resource chapters for the EIS. SLCDPU's position was that the gondola and cog rail alternatives could result in both an "actual use" (that is, a direct use) and a constructive use of two of the Section 4(f) properties listed in Table 1. It is not possible to have both a physical (direct) use and a constructive use for the same Section 4(f) property. Section 4(f) regulations and guidance are clear that constructive use is possible only when there is no actual physical use of the Section 4(f) property via either (1) permanent incorporation of land or (2) a temporary occupancy of land that fails to meet the exception criteria in 23 CFR Section 774.13(d). For this reason, a constructive-use evaluation would not be appropriate when there would be either a direct use of a property or a temporary occupancy of the property that did not meet the exception criteria in 23 CFR Section 774.13(d).

Based on preliminary design, small, temporary construction easements would be needed from Tanners Flat Campground and the Temple Quarry Nature Trail to construct the Cog Rail Alternative. UDOT might determine during the final design that these temporary construction easements are not needed. Without a direct use or a temporary construction easement of the type that would constitute a use, a constructive use could be possible. This memo evaluates the constructive use of Tanners Flat Campground and the Temple Quarry Nature Trail assuming that temporary construction easements are not needed, or, if they are needed, they satisfy the exception criteria in 23 CFR Section 774.13(d).

The Town of Alta submitted comments on the Draft EIS requesting that UDOT formally acknowledge the Alta Town Park and analyze whether the impacts of nearby gondola elements would constitute impacts to a recreation resource under Section 4(f) of the Department of Transportation Act. This memo includes an evaluation of whether the gondola alternatives would result in a constructive use of the Alta Town Park due to proximity.

A member of the public submitted comments on the Revised Draft Chapter 26, *Section 4(f) and Section 6(f) Evaluation*, that the gondola alternatives would result in significant impacts to the

Bonneville Shoreline Trail on Cottonwood Heights City’s conservation property due to proximity. This memo evaluates whether the gondola alternatives would result in a constructive use of this planned segment of the Bonneville Shoreline Trail.

Table 1. Potential for Constructive Use of Section 4(f) Park and Recreation Properties

Section 4(f) Property	Gondola Alternatives Use in Draft EIS	Cog Rail Alternative Use in Draft EIS	Stakeholder Comment(s)	Evaluate for Constructive Use?
Tanners Flat Campground	Gondola passes over campground; no towers or stations within campground. Assumes easement beneath cables results in direct use with <i>de minimis</i> impact.	Temporary construction easement of 0.03 acre. Temporary occupancy with no use.	<u>SLCDPU Comments</u> Gondola alternatives: Actual and constructive use. Cog Rail Alternative: UDOT should re-evaluate to determine whether constructive use would occur.	Yes , for gondola and cog rail alternatives. Constructive use could be possible for the gondola alternatives if aerial easement only. Constructive use could be possible for the Cog Rail Alternative if a temporary construction easement is either avoided or meets the exception criteria in 23 CFR Section 774.13(d).
Temple Quarry Nature Trail Trailhead	No use.	Temporary construction easement of 0.12 acre. Temporary occupancy with no use.	<u>SLCDPU Comment</u> Gondola alternatives: No comment. Cog Rail Alternative: In addition to actual use, UDOT should re-evaluate to determine whether constructive use would occur.	Yes , for Cog Rail Alternative only. Constructive use could be possible for Cog Rail Alternative if a temporary construction easement is either avoided or meets the exception criteria in 23 CFR Section 774.13(d).
Alta Town Park	No use.	No use.	<u>Town of Alta Comment</u> Gondola alternatives: UDOT should analyze whether the impacts of nearby gondola elements would constitute impacts under Section 4(f).	Yes , for gondola alternatives only.
Planned Section of Bonneville Shoreline Trail	No use.	Use with de minimis impact.	<u>Member of the Public Comment</u> Gondola Alternative B: Impacts would be significant; gondola base station and tower are within 50 meters (164 feet) of planned trail.	Yes , for Gondola Alternative B only.

Constructive use of the Grit Mill Trailhead was initially evaluated for the gondola alternatives in an earlier version of this memorandum because the gondola cables would pass directly over the trailhead without a direct use (there would be no stations or towers located in the trailhead). The Grit Mill Trailhead was initially evaluated as a Section 4(f) resource in the Draft EIS released in June 2021. Based on public comments and revised data provided by stakeholders, UDOT and

the USDA Forest Service determined that it would be appropriate to combine two recreation resources that had been evaluated separately (the Grit Mill Trailhead and Alpenbock Loop Trail) into a single Section 4(f) recreation resource and revise the evaluation. The initial analysis is available in an archived version of this memo. It concluded that there would be no constructive use of the Grit Mill Trailhead. The combined recreation resource is referred to as Alpenbock Loop and Grit Mill Climbing Opportunities. There would be a direct use of this area by the gondola alternatives because a station and one tower would be constructed in the area. For this reason, a constructive-use evaluation is not applicable for the Alpenbock Loop and Grit Mill Climbing Opportunities property.

Table 1 above describes the potential for constructive use at three Section 4(f) recreation properties and a park property. The table includes the use as described in the Draft EIS (June 2021) or the revised Section 4(f) Evaluation (December 2021) for the gondola and cog rail alternatives, the comments submitted by SLCDPU and the Town of Alta, and a determination by UDOT regarding whether constructive use should be evaluated in this memo.

Types of Impacts to Consider for Constructive Use

As noted above (see *Constructive Use Definition*) and listed in 23 CFR Section 774.15(e), a constructive use can occur due to impacts from noise, visual and/or aesthetic changes, access restriction, and vibration. Constructive use from an ecological intrusion does not apply for the State Route (S.R.) 210 Project because there are no Section 4(f) wildlife and waterfowl refuges in the project area.

Tanners Flat Campground

Tanners Flat Campground is a USDA Forest Service campground that borders S.R. 210 about 4 miles up Little Cottonwood Canyon. There are 31 single sites, 3 double sites, 4 group sites, bathroom facilities, a volleyball court, and an amphitheater. The campground is open from late May through late September and is closed during the winter. Based on UDOT's consultation with the USDA Forest Service, the activities, features, or attributes that qualify the property for protection under Section 4(f) include the campground facilities described above and related activities (for example, volleyball and/or programs at the amphitheater) set within the forest and adjacent to Little Cottonwood Creek on the south and S.R. 201 on the west and north. UDOT, in consultation with the USDA Forest Service, determined that setting, visual qualities, noise qualities, and aesthetic features are not what qualify Tanners Flat Campground for Section 4(f) protection.

With the gondola alternatives, no gondola stations or towers would be located in the campground; there would be no physical impacts to the campground or its features. An approximately 4.27-acre right-of-way instrument would be required where the gondola cables pass over the campground. This memo evaluates constructive use of Tanners Flat Campground for the gondola alternatives assuming an aerial easement only; that is, the right-of-way issued for the gondola alignment would not include land rights that would result in a direct use.

As identified in Chapter 26, *Section 4(f) and Section 6(f) Evaluation*, of the Final EIS, UDOT, with the concurrence of the USDA Forest Service, determined that, if there was a direct use of the Tanners Flat Campground due to a gondola easement that included the land surface, the impacts of the gondola facility would be *de minimis*; that is, with mitigation, there would not be an adverse effect on the features, attributes, or activities that qualify the campground property for protection under Section 4(f). The *de minimis* analysis included the same noise and visual impacts from the gondola that would be considered as proximity impacts for purpose of a potential constructive use. When a *de minimis* finding has been made for the impacts of a transportation facility on a Section 4(f) property, including noise and visual impacts, it necessarily means that there could not be a finding of a constructive use of that property based on those same noise and visual impacts, given the “substantial impairment” standard applicable to a constructive use versus the “no adverse effect” standard that applies for a *de minimis* impact. Nonetheless, in this memorandum, UDOT has assessed noise and visual impacts from the gondola as a potential constructive use.

With the Cog Rail Alternative, a temporary construction easement of about 0.03 acre would be required adjacent to S.R. 210. There would be no impacts to campground features such as the campsites, bathroom facilities, volleyball court, or amphitheater. This memo evaluates constructive use of Tanners Flat Campground for the Cog Rail Alternative assuming that the temporary construction easement could be avoided, or, if a temporary construction easement is needed, it would meet the exception criteria in 23 CFR Section 774.13(d).

Noise

For the constructive-use analysis, the question is whether the noise impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. Although a low-noise setting is not included in the activities, features, or attributes that qualify Tanners Flat Campground for protection under Section 4(f), some campground users might feel that the noise level is an important attribute.

The gondola cables would span the Tanners Flat Campground, with two towers located just outside the campground area, one on the down-canyon side and one on the up-canyon side. To better estimate gondola noise levels, UDOT conducted noise monitoring at the Peak 2 Peak 3S (tri-cable) gondola at Whistler Blackcomb Ski Resort; the noise from this gondola is expected to be similar to noise from the Little Cottonwood Canyon gondola alternatives due to the similarity of the two facility types. The noise level of a gondola is greatest at the towers and stations due to the movement of the cable and hangars through the shiv wheels, with virtually no noise produced by the cable and cars as they move in the area between the towers or stations. The monitoring showed that the noise level below the tower was about 55.4 dBA at 65.6 feet (HDR 2021).

UDOT expects that the noise levels from a Little Cottonwood Canyon gondola system at 175 feet from the tower, at the edge of the campground area where it would be loudest, would be about 48.2 dBA, or less than noise generated by vehicles on S.R. 210 (projected at 59 dBA

at the campground entrance—noise levels within the campground would range from 47 dBA to 57dBA). If gondola operation noise is combined with the roadway noise, noise levels at Tanners Flat Campground would increase by less than 1 dBA, a difference which is not audible to human hearing. In addition, the gondola system would not operate during the campground’s quiet hours of 10 PM to 7 AM. Based on this analysis, UDOT has determined that noise from Gondola Alternative B would not substantially impair the activities, features, or attributes that qualify the campground for protection as a Section 4(f) resource.

UDOT also evaluated overall cog rail–related noise levels. UDOT assumes that campground users expect to experience transportation noise in areas close to S.R. 210 such as the campground entrance. Noise evaluation of the Cog Rail Alternative found combined noise levels with S.R. 210 traffic of about 68 dBA at 15 feet from the rail alignment. Noise levels would be 57.5 dBA at 50 feet from the alignment, 51.5 dBA at 100 feet, and 48 dBA at 150 feet. All of the campsites would be located more than 105 feet from the cog rail tracks, so noise levels are expected to be less than 51 dBA, or similar to background levels. It is also important to note that, during the summer, there would be only four trains per hour (two up canyon and two down canyon), so, after the train passes, noise levels would return to background levels. When the cog rail is not in operation, noise levels are projected to be the same as the noise levels with the No-Action Alternative. Furthermore, the cog rail would not operate during the campground’s quiet hours of 10 PM to 7 AM. Based on this analysis, UDOT has determined that noise from the Cog Rail Alternative would not substantially impair the activities, features, or attributes that qualify the campground for protection as a Section 4(f) resource.

A snow shed on S.R. 210 adjacent to the east side of the campground is proposed with every primary action alternative. To model the noise levels from the traffic passing through the snow sheds, UDOT used a 3.5-times increase in the actual traffic volume and resulting noise as a proxy for the increase in traffic noise that would result from (1) reflections of the noise from the walls, (2) reflection of the noise off the ceiling, and (3) another 50% reflection of noise off the downhill supports. Using this methodology, noise levels from traffic on S.R. 210 would increase by about 5 dBA from existing conditions. Although the increased level in traffic noise would be perceivable to campground users, the avalanche mitigation (snow shed) alternatives would result in projected traffic noise levels at the campground below UDOT’s approved FHWA noise-abatement criterion (NAC) (66 dBA), which, under 23 CFR Section 774.15(f)(2)(i) is not a constructive use.

None of the gondola or cog rail alternatives would result in projected noise levels that would substantially change the noise environment, and the noise level from traffic in the snow sheds would not exceed UDOT’s NAC for the campground (66 dBA). Therefore, there would be no noise-based constructive use.

Visual

For the constructive-use analysis, the question is whether the visual impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for

Section 4(f) protection. Although the visual setting is not included in the activities, features, or attributes that qualify Tanners Flat Campground for protection under Section 4(f), some campground users might feel that the visual setting is an important attribute.

UDOT held a meeting at the campground on June 12, 2020, with the USDA Forest Service to discuss visual impacts from the gondola alternatives to the entire campground. When the campground is open during the summer, the gondola could operate from about 8 AM to 8 PM (actual operating times would be determined once the gondola is in operation). There would be visual impacts as campground users see gondola cabins moving overhead, as well as privacy impacts related to being viewed by passengers in the cabins as they pass by. Gondola towers might be visible from some areas of the campground, and the red Federal Aviation Administration warning lights might be visible from the campground at night. The visual impacts would vary from one campsite to another; the towers and gondola cabins would be obscured by vegetation in some areas. Gondola cabins would be visible moving through openings in the trees from the amphitheater and volleyball court. However, the visual and privacy attributes of the campground are not features that qualify the campground for Section 4(f) protection.

Nonetheless, to minimize visual impacts, during the final design of a gondola alternative, a landscape architect would evaluate visual impacts at each campsite. For campsites where the gondola would be prominently visible, mitigation would include the following as applicable:

- Reconfiguring sites to visually shield tables and fire pits from the gondola cabins overhead
- Relocating the group area to a location with less visual impact
- Redesigning sites to accommodate different user groups
- Adding shade structures or pavilions to screen sites from visual impacts
- Planting trees to create a visual screen over time

In Little Cottonwood Canyon, UDOT will consider, on a case-by-case basis and in conjunction with the USDA Forest Service, mitigation measures for impacts to visual resources. Potential mitigation could include the following:

- Select materials and surface treatments for structures, cog rail, gondola, and roads that repeat and/or blend with the existing form, line, color, and texture of the surrounding landscape.
- Use nonreflective gondola cable infrastructure to reduce glare and reflectiveness.
- Minimize vegetation clearing to the extent practicable; feather the edges where vegetation clearing is necessary to reduce the creation of geometric clearings incongruent with the existing landscape character.

UDOT determined that visual impacts (including mitigation) would not substantially detract from the aesthetic features or setting of the campground.

Access

Access to Tanners Flat Campground would not change with any action alternative. All alternatives would be constructed during the summer when the campground is open. There could be temporary impacts to access during construction, but access to the campground would be maintained.

Vibration

The regulation at 23 CFR Section 774.15(e)(4) focuses on vibration impacts to historic buildings. Vibration is a concern when impact pile driving is used in construction. There are no historic structures in Tanners Flat Campground, and none of the action alternatives would require pile driving near the campground.

Conclusion for Tanners Flat Campground

The gondola alternatives would not result in a constructive use of Tanners Flat Campground. If the gondola right-of-way is an aerial easement only, there would be no use.

The Cog Rail Alternative would not result in a constructive use of Tanners Flat Campground. If the temporary construction easement is avoided, or if the temporary construction easement is needed but it meets the exception criteria in 23 CFR Section 774.13(d), there would be no use.

The snow sheds would not result in a constructive use of Tanners Flat Campground.

Temple Quarry Nature Trail Trailhead

The Temple Quarry Nature Trail is a 0.3-mile loop trail at the bottom of Little Cottonwood Canyon. The paved interpretive trail begins at the Temple Quarry Nature Trail Trailhead on the south side of S.R. 210 at the intersection with S.R. 209. The trail is wheelchair-accessible and has an amphitheater with seating for about 35 people. The trailhead also serves the Little Cottonwood Creek Trail. The activities, features, or attributes that qualify the property for protection under Section 4(f) include the trailhead, trail, and amphitheater, and the use of those facilities by the public.

Constructing the cog rail tracks would require a temporary construction easement of about 0.12 acre from the USDA Forest Service. The easement is for constructing a buried drainage pipe that would cross under the access road to the trailhead. There would be no impacts to the trail or to trailhead features such as parking or restroom facilities. This memo evaluates constructive use of the Temple Quarry Nature Trail Trailhead for the Cog Rail Alternative assuming that no temporary construction easement is needed, or if it is needed, the temporary construction easement meets the exception criteria in 23 CFR Section 774.13(d).

Noise

For the constructive-use analysis, the question is whether the noise impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. Although a low-noise setting is not included in the activities, features, or

attributes that qualify the Temple Quarry Nature Trail Trailhead for protection under Section 4(f), some trail users might feel that the noise level is an important attribute.

UDOT determined that segments of trails approaching and leaving trailhead areas are not considered noise-sensitive due to their proximity to the existing S.R. 210 and trailhead parking lots. Trail users are not stationary and do not have consistent exposure to noise. UDOT assumes that trail users expect to experience transportation noise in trail areas close to S.R. 210 and parking lots. The closest distance between the Temple Quarry Nature Trail Trailhead and the cog rail tracks would be about 175 feet, where noise levels would be less than 48 dBA, or less than existing noise levels of 51 dBA. When the cog rail is not in operation, noise levels are projected to be the same as background noise levels. Therefore, the cog rail is not projected to cause noise impacts, and so there would be no constructive use.

Visual

For the constructive-use analysis, the question is whether the visual impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. Although the visual setting is not included in the activities, features, or attributes that qualify the Temple Quarry Nature Trail Trailhead for protection under Section 4(f), some trail users might feel that the visual setting is an important attribute.

The Temple Quarry Nature Trail Trailhead is a trailhead with a paved parking lot, a restroom facility, a paved interpretive trail, and an amphitheater. The cog rail operations and maintenance facility would be located across S.R. 210 from the trailhead and would be visible from some areas of the parking lot and restroom facility. The view from the amphitheater and interpretive trail toward the operations and maintenance facility would be shielded by terrain and vegetation. Views from the parking lot, restroom facility, trail, and amphitheater are not qualifying attributes for Section 4(f) purposes. Visual impacts from the cog rails would not result in a constructive use of the Temple Quarry Nature Trail Trailhead.

Access

Access to the Temple Quarry Nature Trail Trailhead would not change with the Cog Rail Alternative. The cog rail system would be constructed during the summer when the trailhead is open. There could be temporary impacts to access during construction, but access to the trailhead would be maintained.

Vibration

The regulation at 23 CFR Section 774.15(e)(4) focuses on vibration impacts to historic buildings. Vibration is a concern when impact pile driving is used in construction. There are historic structures along the Temple Quarry Nature Trail; however, the Cog Rail Alternative would not require pile driving near the trail or trailhead.

Conclusion for the Temple Quarry Nature Trail Trailhead

The Cog Rail Alternative would not result in a constructive use of the Temple Quarry Nature Trail Trailhead. If the temporary construction easement is avoided, there would be no use.

Alta Town Park

The Alta Town Park is located near the west end of the Alta Ski Area Transfer Tow and is available for small group gatherings outside the ski season. The park is located on NFS land and is under the jurisdiction of the USDA Forest Service and managed by the Town of Alta under a special-use permit. The special-use permit—issued by the USDA Forest Service to the Town of Alta—authorizes “operating and maintaining a park, playground and volleyball court.” The park features a volleyball court and bench seating, barbecue grills, covered picnic tables, and a playground with swing sets and a slide. There is no vehicle parking on site; access is by walking from the Wildcat parking lot or from residences or lodges. Based on the special-use permit and coordination with the USDA Forest Service, UDOT determined that the park is a Section 4(f) property and that the activities, features, or attributes that qualify the property for protection under Section 4(f) include a volleyball court with bench seating, a barbecue or picnic area, a playground area, and the activities associated with those features. In its comments on the Draft EIS, the Town of Alta stated that the park qualifies for Section 4(f) protection, and UDOT has since informed the Town by email that it agrees that the park qualifies for Section 4(f) protection and that UDOT intends to make a determination of no constructive use. The Town acknowledged receiving the email but otherwise did not respond (see Attachment A, *Correspondence*).

With the gondola alternatives, no gondola stations or towers would be located within the Alta Town Park; there would be no physical impacts to the volleyball court or bench seating, barbecue grills, or picnic area. The gondola system would require a right-of-way (for example, appropriation, easement or special-use authorization) from the USDA Forest Service where the gondola cables pass over NFS land. The easement would be about 80 feet wide, 40 feet on either side of centerline. At the closest point, the gondola easement would be about 10 feet from the park boundary as indicated on the special-use permit. The cables would be above and offset about 65 feet horizontally from the bench seating. This memo evaluates constructive use of the Alta Town Park by the gondola alternatives.

Noise

For the constructive-use analysis, the question is whether the noise impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. Although a low-noise setting is not included in the activities, features, or attributes that qualify the Alta Town Park for protection under Section 4(f), some park users might feel that the noise level is an important attribute.

The gondola cables would pass overhead just north of the Alta Town Park. The nearest tower would be about 130 feet tall and about 75 feet north of the north edge of the park. The gondola cabins would touch down at the destination station about 275 feet northeast of the park. The noise generated by traffic on S.R. 210 is about 53 dBA at the park. To better estimate gondola noise levels, UDOT conducted noise monitoring at the Peak 2 Peak 3S (tri-cable) gondola at Whistler Blackcomb Ski Resort, which is expected to be similar to noise from the Little

Cottonwood Canyon gondola alternatives due to the similarity of the two facility types. The noise level of a gondola is greatest at the towers and stations due to the movement of the cable and hangars through the shiv wheels, with virtually no noise produced by the cable and cars as they move in the area between the towers or stations. The monitoring showed that the noise level below the tower was about 55.4 dBA at 65.6 feet (HDR 2021).

For the Little Cottonwood Canyon gondola alternatives, the predicted noise level generated by a gondola cabin passing the tower is about 51.3 dBA at the park. Noise generated by the destination station would be negligible 275 feet away at the park. If operation noise from the gondola tower is combined with the roadway noise, projected noise levels would be about 55.2 dBA, or an increase of about 2.2 dBA from the existing conditions of 53 dBA. Noise increases of 3 dBA or less are typically not detectable to human hearing. Therefore, there would not be a substantial impairment of activities at the park.

Visual

For the constructive-use analysis, the question is whether the visual impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. Scenic viewing or aesthetic features are not included in the activities, features, or attributes that qualify the Alta Town Park for protection under Section 4(f). However, some park users might feel that the visual setting is an important attribute.

Even if the Alta Town Park derived its value in substantial part due to its setting, the gondola infrastructure would not substantially detract from the visual setting. The Alta Town Park is located within a ski resort setting adjacent to the Alta Ski Area Transfer Tow and in sight of other ski lifts and tows, lodges and other businesses, and other base facilities. Base-area facilities dominate the immediate foreground views. Therefore, the gondola alternatives would not result in a visual constructive use.

Access

Access to the Alta Town Park would not change with the gondola alternatives. There could be temporary impacts to access during construction, but access to the park would be maintained.

Vibration

The regulation at 23 CFR Section 774.15(e)(4) focuses on vibration impacts to historic buildings. Vibration is a concern when impact pile driving is used in construction. There are no historic structures at the Alta Town Park, and the gondola alternatives would not require pile driving near the park.

Conclusion for the Alta Town Park

Based on the above analysis, the gondola alternatives would not result in a constructive use of the Alta Town Park.

Planned Section of the Bonneville Shoreline Trail

The Bonneville Shoreline Trail is planned to ultimately run 280 miles from Nephi, Utah, to the Utah-Idaho border along the shoreline of ancient Lake Bonneville. According to Cottonwood Heights City's *Bonneville Shoreline Trail – Trailhead and Access Plan*, the planned trail would run generally parallel to North Little Cottonwood Road and about 700 to 1,000 feet east of the road owned by Cottonwood Heights City, but the location for the trailhead is yet to be determined (Cottonwood Heights City 2020). The trail would be located next to the existing power line alignment, S.R. 210, and residential areas. There is an unpaved aqueduct road adjacent to North Little Cottonwood Road. The *Bonneville Shoreline Trail Alignment Plan for Salt Lake County* shows a portion of this aqueduct road as the planned Bonneville Shoreline Trail Alignment (Salt Lake County 2005). There is a discrepancy between these two plans regarding the location of the planned Bonneville Shoreline Trail. In consultation with Cottonwood Heights City, UDOT determined that the trail would be a significant recreation resource and that the activities, features, or attributes that qualify the property for protection under Section 4(f) include the trail and its use for mountain biking, trail-running, and hiking.

With the gondola alternatives, there would be no physical impacts to the planned Bonneville Shoreline Trail regardless of its alignment. With Gondola Alternative B, the gondola base station at La Caille would be constructed at a proposed development across North Little Cottonwood Road (S.R. 210) from the trail. The base station would include a gondola loading station and a 2,500-space parking structure. Depending on the final location of the Bonneville Shoreline Trail, the gondola base station would be about 150 to 650 feet from the trail at its closest, and the closest gondola tower would be about 530 to 950 feet from the trail. This memo evaluates constructive use of the planned Bonneville Shoreline Trail for Gondola Alternative B.

Noise

For the constructive-use analysis, the question is whether the noise impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. Although a low-noise setting is not included in the activities, features, or attributes that qualify the trail for protection under Section 4(f), some trail users might feel that the noise level is an important attribute.

UDOT evaluated noise impacts at two locations. Receptor 4-241 and receptor 4-242 are both located near the aqueduct road (receptor locations are shown in Attachment D to the Noise Technical Report, which is Appendix 11A of the EIS). The predicted noise levels are 58 dBA for receptor 4-241 and 59 dBA for receptor 4-242 with Gondola Alternative B. Of note, these are the same predicted levels for background noise.

If the planned Bonneville Shoreline Trail follows the aqueduct road as shown in the *Bonneville Shoreline Trail Alignment Plan* for Salt Lake County, predicted noise levels would be 58 to 59 dBA when combined with S.R. 210 traffic, which is essentially the same as the background noise levels of 59 dBA (an increase of 3 dBA or less is not detectable to human hearing). If the

planned Bonneville Shoreline Trail is located farther up the slope and away from the road as shown in the *Cottonwood Heights Bonneville Shoreline Trail – Trailhead and Access Plan*, the predicted noise level would be even lower. Therefore, there would be no noise-based constructive use of this property.

Visual

For the constructive-use analysis, the question is whether the visual impact of a transportation facility would be so severe as to substantially impair the features or attributes of the property protected by Section 4(f), where such features or attributes are what qualify the property for Section 4(f) protection. The primary activities that qualify the Bonneville Shoreline Trail for protection under Section 4(f) include mountain biking, trail running, and hiking. Scenic viewing or aesthetic features are not included in the activities, features, or attributes that qualify the trail for protection under Section 4(f). However, some trail users might feel that the visual setting is an important attribute.

Even if the Bonneville Shoreline Trail on Cottonwood Heights City property were to derive its value in substantial part due to its setting, the gondola infrastructure would not substantially detract from the visual setting because the base station and towers would be constructed in a developed area where existing buildings, power lines, S.R. 210, and other built features would be visible from the trail and trailhead, and where development of the land that would be occupied by the base station is planned regardless of whether a gondola system is constructed.

Access

UDOT coordinated with Cottonwood Heights City regarding the noise and visual constructive use determination (see Attachment A, *Correspondence*). The City's main concern regarded access to a future Bonneville Shoreline Trail trailhead parking area across from the Gondola Alternative B base station. The proposed base station would not result in any direct use of the area proposed for the trailhead parking or the Bonneville Shoreline Trail.

Cottonwood Heights City felt that winter peak-period traffic congestion caused by the base station would affect the access to the trailhead and thus the quality of the trail experience as well as the ability to safely access the Bonneville Shoreline Trail by vehicle, bicycle, or walking. Cottonwood Heights City also said that they preferred the Enhanced Bus Service Alternative over Gondola Alternative B and that additional safety enhancements should be considered with the gondola alternative including a pedestrian and cyclist crossing of S.R. 210, traffic management, and access to both sites (gondola and trailhead).

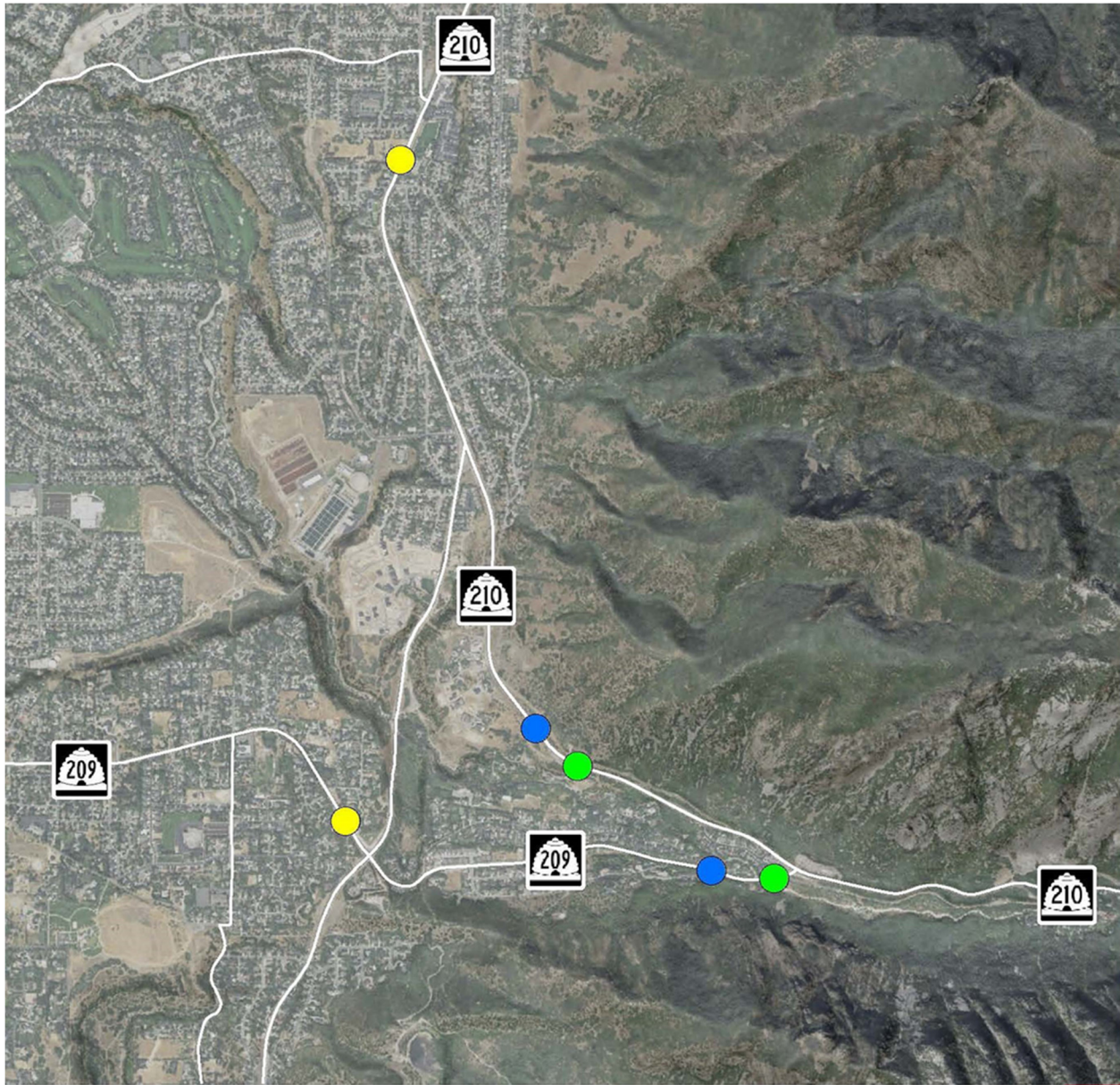
None of the primary features or attributes of the trail—mountain biking, trail running, and hiking—would be substantially impaired. However, UDOT did consider trail access during the development of the Gondola Alternative B base station that addresses the concerns of

Cottonwood Heights City (see Chapter 7, *Traffic and Transportation*, and Chapter 9, *Considerations Related to Pedestrians and Bicyclists*, of the Final EIS):

- If Gondola Alternative B or the Cog Rail Alternative is selected, UDOT will work with Cottonwood Heights City and Salt Lake County on the design of the bicycle and pedestrian path around the gondola or cog rail base station at La Caille to minimize safety conflicts and maintain the quality of this cyclist and pedestrian experience. This would include providing a multi-use trail from Wasatch Boulevard on the east side of North Little Cottonwood Road up to the land designated as open space (new trailhead) by Cottonwood Heights City. The multi-use trail would provide access for Cottonwood Heights residents to the proposed trailhead. Constructing a trail and trailhead on the open space would be the responsibility of Cottonwood Heights City. UDOT would build the trail within its existing right of way on the south and east sides of the property connecting the trail to the Little Cottonwood Canyon park-and-ride lot at the intersection of S.R. 209 and S.R. 210.
- Traffic management improvements would include the following:
 - A new access road constructed by UDOT for traffic coming from southern Salt Lake and Utah Counties. This road would access the base station from Wasatch Boulevard, not North Little Cottonwood Road, near the trailhead access, thus reducing traffic near the trailhead access by 40%.
 - Two southbound lanes on North Little Cottonwood Road to the gondola base station.
 - An underground exit from the gondola base station parking garage under North Little Cottonwood Road for northbound traffic. This access would be north of the trailhead, so it would not conflict with trailhead parking.
 - A traffic signal at new intersection for the parking garage, which would allow crossing S.R. 210 from the multi-use path to the gondola base station.

With these improvements on S.R. 210, traffic backups on busy ski days during the peak period would decrease from 13,000 feet, or past the intersection of Wasatch Boulevard and North Little Cottonwood Road (and the trailhead access), with the No-Action Alternative to 3,050 feet with Gondola Alternative B. The traffic studies showed that the backups would not interfere with the vehicles entering the gondola base station (Fehr & Peers 2020, 2022). Thus, with Gondola Alternative B, traffic congestion would improve over the No-Action Alternative. In addition, at 3,050 feet, the traffic backup with Gondola Alternative B would not impede access to the proposed trailhead (the proposed trailhead is about 4,100 feet from the S.R. 210/S.R. 209 intersection). With the Enhanced Bus Service Alternative, the traffic backup on busy ski days would be 4,300 feet, which would impede access to the proposed future trailhead during the peak period (see the figure below).

Figure 1. Vehicle Backup Lengths by Alternative



Vehicle Backup Length

- Enhanced Bus Service in Peak-period Shoulder Lane, Gondola Alternatives A and B, and Cog Rail Alternative
- Enhanced Bus Service
- No Action

0 Feet 3,000



Finally, ski traffic would access the gondola base station only during the winter from December to March on busy ski days. During the remaining 8 months of the year and on non-busy ski days, there would be light traffic to the base station.

In summary, with the multi-use path and traffic management improvements that would be implemented with Gondola Alternative B, access to the future trailhead for the Bonneville Shoreline Trail on the property owned by Cottonwood Heights City would not be substantially impaired, and pedestrian and cyclist access would be improved. Gondola Alternative B would provide better trailhead access than the No-Action Alternative or the Enhanced Bus Service Alternative. When the trailhead is planned to be constructed, UDOT will coordinate with Cottonwood Heights to ensure safe access to the trailhead for all users.

Vibration

The regulation at 23 CFR Section 774.15(e)(4) focuses on vibration impacts to historic buildings. It is not an issue of concern for the planned Bonneville Shoreline Trail.

Conclusion for the Planned Section of the Bonneville Shoreline Trail

Based on the above analysis, Gondola Alternative B would not result in a constructive use of the planned section of the Bonneville Shoreline Trail located on Cottonwood Heights City's property.

Evaluation of Constructive Use of Section 4(f) Historic Properties

After the Draft EIS was released, comments were made that climbing routes in Little Cottonwood Canyon are historic resources. In response, UDOT conducted an evaluation of the climbing resources in consultation with the USDA Forest Service and Utah State Historic Preservation Office (SHPO). The findings of the evaluation can be found in the *Third Addendum for the Class III Archaeological Inventory for Little Cottonwood Canyon Environmental Impact Statement, Salt Lake County, Utah* (Mark and others 2022).

Based on this evaluation, UDOT identified 25 climbing areas and 79 routes associated with a significant period of development spanning from 1960 to 1974. The climbing areas and routes have been documented as contributing resources to a newly defined historic district, the Little Cottonwood Canyon Climbing Area Historic District (site 42SL968). UDOT determined that the Enhanced Bus Service Alternative would have no effect and that the Enhanced Bus Service in Peak-period Shoulder Lane Alternative, the gondola alternatives, and the Cog Rail Alternative would have no adverse effect on the historic district. The SHPO concurred with those findings on May 13, 2022.

FHWA has determined that a constructive use does not occur when compliance with the requirements of 36 CFR Section 800.5 for the proximity impacts of the proposed action, on a site listed on or eligible for the National Register, result in an agreement of "no historic properties affected" or "no adverse effect" [see 23 CFR Section 774.15(f)(1)].

References

Cottonwood Heights City

2020 Bonneville Shoreline Trail – Trailhead and Access Plan. September.

Fehr & Peers

2020 Gondola Base Station Traffic Analysis – La Caille Site. August 10.

2022 Gondola Base Station Traffic Analysis – La Caille Access Road. February 3.

[FHWA] Federal Highway Administration

2012 Section 4(f) Policy Paper. <https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.aspx>. July 20.

2017 Memorandum of Understanding Between the Federal Highway Administration and the Utah Department of Transportation Concerning State of Utah's Participation in the Surface Transportation Project Delivery Program Pursuant to 23 U.S.C. 327. January 27.

HDR, Inc.

2021 Whistler Ski Resort 3S Gondola Noise Monitoring Memorandum. December 23.

Mark, T., A. Oliver, and L. Krussow

2022 Third Addendum for the Class III Archaeological Inventory for the Little Cottonwood Canyon Environmental Impact Statement, Salt Lake County, Utah. Prepared for UDOT and HDR, Inc. Submitted to UDOT Region Two, Salt Lake City.

Salt Lake County

2005 Bonneville Shoreline Trail Alignment Plan for Salt Lake County.
<https://www.bonnevilleshorelinetrail.org/wp-content/uploads/resources/BST-Alignment-Plan.pdf>. January.

Attachment A – Correspondence

From: [Chris Cawley](#)
To: [Josh Van Jura](#)
Cc: [Izzo, Vincent](#); [10101304_UDOTLittleCottonwoodCanyonEIS](#)
Subject: RE: TOA Park
Date: Wednesday, November 24, 2021 2:07:33 PM

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Thanks Josh.

From: Josh Van Jura <jvanjura@utah.gov>
Sent: Wednesday, November 24, 2021 11:51 AM
To: Chris Cawley <ccawley@townofalta.com>
Cc: Vince Izzo <Vincent.Izzo@hdrinc.com>; EIS archive <10101304_UDOTLittleCottonwoodCanyonEIS@hdrinc.com>
Subject: TOA Park

Chris,

Thank you for the comments on Draft EIS. In our update meeting with the Town of Alta on September 23, 2021, UDOT discussed the Town's comments on the Draft EIS and is making appropriate revisions to the Final EIS to address the concerns raised. The Town of Alta noted in their comments that "*UDOT should formally acknowledge the Town of Alta Park in DEIS Table 4.3-1 and must analyze whether the impacts of nearby gondola elements would constitute impacts to a recreation resource under Section 4(f) of the Department of Transportation Act.*" UDOT will include the town park in Table 4.3-1 of the Final EIS and as a Section 4(f) property in the Section 4(f) Evaluation.

There are three types of use in the context of Section 4(f). The first type of use is when land from a Section 4(f) property is permanently incorporated into a transportation facility through purchase or easement. This type of use is sometimes referred to as a direct use. As the gondola towers, destination station, and easement for the cables would not be within the boundary of the town park, there would be no direct use.

The second type of use is a *temporary occupancy*. This results when a Section 4(f) property, in whole or in part, is required for activities related to project construction. With temporary occupancy, the Section 4(f) property is not permanently incorporated into a transportation facility, but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f) law and is therefore considered a Section 4(f) use. The Alta Town Park would not be used during construction; therefore, there would be no temporary occupancy.

The third type of use is *constructive use*. A constructive use involves no actual physical use of the Section 4(f) property via permanent incorporation of land or a temporary occupancy of land into a transportation facility. A constructive use occurs when the proximity impacts of a project result in a substantial impairment to the property's activities, features, or attributes that qualify the property for protection under Section 4(f). A constructive use determination is rare. It is unusual for proximity impacts to be so great that the purpose of the property that qualifies the resource for protection would be substantially diminished.

UDOT evaluated constructive use and determined the gondola alternatives would not result in a constructive use of Alta Town Park. This determination is based on the following factors:

- The predicted noise level for receptors near the gondola destination station would not exceed noise abatement criteria for the Alta Town Park (66 dBA).
- The primary activities, features, and attributes of Alta Town Park include a volleyball court with bench seating, barbecue grills, and covered picnic tables that can be used in summer months. The gondola would not affect how these features are used. The towers and cable would not disrupt the ability for users to play volleyball or use the pavilion.
- The gondola would not substantially detract from the setting because Alta Town Park is located within a ski resort setting adjacent to the Alta Ski Area Transfer Tow. Base-area facilities dominate the immediate foreground views.
- Access to the Town of Alta Park would not be impacted.

If you have any questions regarding the 4(f) use please contact me.

Best Regards,
Josh Van Jura
801-231-8452
Jvanjura@utah.gov

From: [Kovel, Lance -FS](#)
To: [Izzo, Vincent](#)
Cc: [10101304_UDOTLittleCottonwoodCanyonEIS; Josh Van Jura](#)
Subject: RE: [External Email]LCC EIS - Alta Town Park Constructive Use
Date: Wednesday, May 4, 2022 7:53:42 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

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Vince,

Based on review and discussion with the Forest Supervisor and District Ranger, the Forest Service concurs with the analysis, below.

Please do not hesitate to contact me with any additional questions.



Lance Kovel, P.E.
Special Projects Coordinator
UDOT Liaison
Forest Service
Uinta-Wasatch-Cache National Forest



857 West South Jordan Parkway
South Jordan, UT 84095
www.fs.fed.us



Caring for the land and serving people

From: Izzo, Vincent
Sent: Thursday, April 28, 2022 10:36 AM
To: Kovel, Lance -FS
Cc: 10101304_UDOTLittleCottonwoodCanyonEIS
; Josh Van J

Subject: [External Email]LCC EIS - Alta Town Park Constructive Use

[External Email]
If this message comes from an **unexpected sender** or references a **vague/unexpected topic**,
Use caution before clicking links or opening attachments.

Lance,

Please review the below and let me know if the FS concurs with the analysis.

Alta Town Park

The Alta Town Park is located near the west end of the Alta Ski Area Transfer Tow and is available for small group gatherings outside the ski season. The park is located on NFS land and is under the jurisdiction of the USDA Forest Service and managed by the Town of Alta under a special-use permit. The special-use permit—issued by the USDA Forest Service to the Town of Alta—authorizes “operating and maintaining a park, playground and volleyball court.” The park features a volleyball court and bench seating, barbecue grills, and covered picnic tables. There is no vehicle parking on site; access is by walking from the Wildcat parking lot or from residences or lodges. Based the special-use permit and coordination with the USDA Forest Service and the Town of Alta, UDOT determined that the activities, features, or attributes that qualify the property for protection under Section 4(f) include a volleyball court with bench seating, a barbeque or picnic area, and a playground area.

With the gondola alternatives, no gondola stations or towers would be located within the Alta Town Park; there would be no physical impacts to the volleyball court or bench seating, barbecue grills, or picnic area. The gondola system would require a right-of-way (for example, appropriation, easement or special-use authorization) from the USDA Forest Service where the gondola cables pass over forest land. The easement would be about 80 feet wide, 40 feet on either side of centerline. At the closest point, the gondola easement would be about 10 feet from the park boundary as indicated on the special-use permit. The cables would be above and offset about 65 feet horizontally from the bench seating. This memo evaluates constructive use of the Alta Town Park by the gondola alternatives.

Noise

The gondola cables would pass overhead just north of the Alta Town Park. The nearest tower would be about 130 feet tall and about 75 feet north of the north edge of the park. The gondola cabins would touch down at the destination station about 275 feet northeast of the park. The noise generated by traffic on S.R. 210 is about 53 dBA at the park. To better estimate gondola noise levels, UDOT conducted noise monitoring at the Peak 2 Peak 3S (tri-cable) gondola at Whistler Blackcomb Ski Resort, which is expected to be similar to noise from the Little Cottonwood Canyon gondola alternatives due to the similarity of the two facility types. The noise level of a gondola is greatest at the towers and stations due to the movement of the cable and hangars through the shiv wheels, with virtually no noise produced by the cable and cars as they move in the area between the towers or stations. The monitoring showed that the noise level below the tower was about 55.4 dBA at 65.6 feet (HDR 2021).

For the Little Cottonwood Canyon gondola alternatives, the predicted noise level generated by a gondola cabin passing the tower is about 51.3 dBA at the park. Noise generated by the destination station would be negligible 275 feet away at the park. If gondola tower operation noise is combined with the roadway noise, projected noise levels would be about 55.2 dBA or an increase of about 2.2 dBA from existing conditions of 53 dBA. Noise increases of 3 dBA or less are typically not detectable to human hearing. Therefore, there would be no constructive use per 23 CFR Section 774.15(f)(2).

Visual

UDOT conducted a visual impact analysis for all action alternatives. No KOP was included at the Alta Town Park in the analysis.

For the constructive use analysis, the question is whether the visual impact of a transportation facility would substantially impair the aesthetic features or attributes of a property protected by Section 4(f), where such features or attributes are considered important contributing elements to the value of the property. Scenic viewing or aesthetic features are not included in the activities, features, or attributes that qualify the Alta Town Park for protection under Section 4(f). However, some park users might feel that the visual setting is an important attribute.

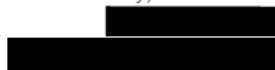
Even if the Alta Town Park derived its value in substantial part due to its setting, the gondola infrastructure would not substantially detract from the visual setting. The Alta Town Park is located within a ski resort setting adjacent to the Alta Ski Area Transfer Tow and in sight of other ski lifts and tows, lodges and other businesses, and other base facilities. Base-area facilities dominate the immediate foreground views.

Vince Izzo

Senior Environmental Planner

HDR

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Salt Lake City, UT 84121-7077



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From: [Mike Johnson](#)
To: [Josh Van Jura](#)
Cc: [Izzo, Vincent](#); [10101304_UDOTLittleCottonwoodCanyonEIS](#); [Tim Tingey](#)
Subject: RE: [EXT:]CH Review of Bonneville Shoreline Trail
Date: Tuesday, May 17, 2022 5:03:46 PM

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Hi Josh:

After review and internal discussion. While we do generally agree with your findings regarding noise impact of both alternatives to the future BST alignment, we find that the potential impact in all regards to the trail at that location (i.e., the southeast corner of Cottonwood Heights) is much greater with the Gondola B alternative than it is with the enhanced bus service alternative.

A gondola hub and large parking structure at that location may not substantially impact noise at the location but would appear to have significant impact on access to the trailhead at that location. The city's BST Access Master Plan identifies a future trailhead at that location on the east side of the corridor. This public access is envisioned on the 26-acre property recently purchased by the city in partnership with Utah Open Lands. Adding a parking hub with over 1,000 parking spaces at that location adds congestion at peak hours to that area of the city, which affects the quality of the trail experience, as well as the ability to safely access the BST trailhead master-planned for that site. As you are aware safety for all users of the corridor (bicycle, pedestrian, vehicles, etc.) is a tenet of the Wasatch Boulevard Master Plan.

This adds to the reason why Cottonwood Heights strongly prefers the enhanced bus alternative over the gondola alternative (detailed in previous formal letters to UDOT). At a very minimum, the city requests that UDOT propose additional safety enhancements with the gondola alternative. This should include corridor crossing, traffic management, and access to both sites (gondola and trailhead) being designed and prioritized in an equal manner.

Sincerely,

Mike Johnson
Community & Economic Development Director
Cottonwood Heights

From: Josh Van Jura
Sent: Wednesday, May 11, 2022 7:17 AM
To: Mike Johnson
Cc: Vince Izzo ; EIS archive
<10101304_UDOTLittleCottonwoodCanyonEIS@hdrinc.com>
Subject: [EXT:]CH Review of Bonneville Shoreline Trail

Mike,

As part of the Little Cottonwood EIS, UDOT is evaluating applicable segments of the planned Bonneville Shoreline Trail as a 4(f) resource. Although the trail does not currently exist on the property owned by Cottonwood Heights, it is shown as a future trail in both Cottonwood Heights plans and Salt Lake County plans. Based on review of these planning documents the activities, features, or attributes that qualify the property for protection under Section 4(f) include use of the trail for biking, trail-running, and hiking.

None of the alternatives would directly impact the planned trail. Depending on the final location of the Bonneville Shoreline Trail, the Gondola Alternative B (base station at La Caille) and Cog Rail Alternative would be approximately 150 to 650 feet from the trail at its closest (the trail is located on the east side of S.R. 210 and the base stations are on the west side).

If the planned Bonneville Shoreline Trail follows the aqueduct road as shown in the Bonneville Shoreline Trail Alignment Plan for Salt Lake County, predicted noise levels would be 58 to 59 dBA when combined with S.R. 210 traffic, which is essentially the same as background noise levels generated by S.R. 210 of 59 dBA (an increase of 3 dBA or less is not detectable to human hearing). If the planned Bonneville Shoreline Trail is located farther up the slope and away from the road as shown in the Cottonwood Heights Bonneville Shoreline Trail – Trailhead and Access Plan, the predicted noise level would be even lower. Therefore, UDOT believes with the gondola or cog rail alternatives there would be no noise-based substantial impairment of the trail activities or features.

Some trail users might feel the visual setting is an important attribute. The setting at the trail looking west (towards the base stations) is more urban with buildings and infrastructure (for example, roads, overhead utility line, homes, and the developed Salt Lake Valley). The setting is more natural looking east towards the Wasatch Mountains (away from the base stations). Even if the Bonneville Shoreline Trail derives its value in substantial part due to its setting, the gondola or cog rail infrastructure would not substantially detract from the visual setting because the base station and towers would be constructed in a developed viewshed where more development is planned regardless of whether a gondola system or cog rail is constructed.

Please review the above and let UDOT know if Cottonwood Heights agrees with the analysis or believes the base stations would substantially impair the activities, features, or attributes that qualify the planned Bonneville Shoreline Trail for protection under Section 4(f) on the land owned by Cottonwood Heights.

If you have any questions please do not hesitate to reach out.

Best Regards,
Josh Van Jura

Utah Dept. of Transportation
Project Manager - [Little Cottonwood EIS](#)