



## WILDERNESS WATCH

*Keeping Wilderness Wild*

August 31, 2020

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### Minneapolis, MN Office

2833 43rd Avenue South  
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### Moscow, ID Office

P.O. Box 9765  
Moscow, ID 83843

Superintendent Sarah Creachbaum  
Olympic National Park  
600 East Park Avenue  
Port Angeles, WA 98362

Sent via:

<https://parkplanning.nps.gov/commentForm.cfm?documentID=94757>

Dear Superintendent Creachbaum,

The following are comments from Wilderness Watch on the Environmental Assessment (EA) for the disposition of the Enchanted Valley Chalet (chalet) in the Daniel J. Evans Wilderness of Olympic National Park. Wilderness Watch is a national wilderness conservation organization focused on the protection of the National Wilderness Preservation System, the system that includes the Olympic Wilderness.

Wilderness Watch submitted comments on the EA for the chalet in June of 2014, and again in August 2016, at which time we suggested that the National Park Service “allow the Olympic Wilderness to reclaim the site ‘by the natural processes of weathering and vegetative recovery’ and thereby improve the wilderness character of this Wilderness.” Had the Park Service followed this option, rather than relocate the structure within the river drainage, the agency would have saved a quarter-million dollars and we wouldn’t be back now repeating the process.

Nonetheless, Wilderness Watch is pleased to see the National Park Service supporting the alternative of dismantling and burning the Enchanted Valley Chalet. We support a decision that does not involve maintaining the chalet within the Wilderness. But we strongly oppose the extensive use of helicopters proposed in the Park Service’s preferred alternative.

We support removal of the Chalet via non-motorized / mechanized means for the reasons stated below.

### **1. We support removal of the chalet from the Wilderness.**

The Wilderness Act specifically prohibits structures and motorized uses

within wilderness unless “specifically provided for” by the Act or unless “necessary to meet minimum requirements for the administration of the area for the purpose of [the Wilderness Act].” 16 U.S.C. § 1133(c). The Enchanted Valley Chalet is not “specifically provided for” in the Wilderness Act or the designating legislation for the Olympic Wilderness, so if the National Park Service wants to retain this structure, it can only do so if the structure is “necessary to meet minimum requirements for the administration of the area for the purpose of [the Wilderness Act].”

The Enchanted Valley Chalet is not necessary to meet the Park Service’s minimum requirements for administering the Olympic Wilderness and should not be actively maintained or relocated within the Wilderness.<sup>1</sup>

The EA acknowledges that removing the structure from the Wilderness, Alternative B, would improve wilderness character.<sup>2</sup> EA at 35, 37. Whereas Alternative C (relocating the chalet to another location on the terrace) would place the building in a new location; require a new foundation, ground leveling, and the removal of approximately 12 trees of up to 72” in diameter; utilize hydraulic lifts, up to 60 helicopter “turns”; and it would require ongoing maintenance into the future. EA at 15; 36. And it is likely that the chalet would still succumb to the natural processes of the Wilderness. It would have increased exposure to avalanches and alluvial process, and it is likely the river channel will meander close to the building once again (since it is

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<sup>1</sup> Wilderness Watch agrees with the Park Service that moving the chalet to another Wilderness location outside of the Enchanted Valley, or to another location within the Enchanted Valley, would constitute a prohibited action under the Wilderness Act to which no exception applies. See EA at 17. Wilderness Watch, however, disagrees that the Wilderness Act’s reference to “historic use” in the public purposes section of the Act allows the Park Service to maintain the Chalet at its current location within the Wilderness. See *Wilderness Watch v. Mainella*, 375 F.3d 1085, 1092 (11th Cir. 2004) (finding the Act’s reference to “historical use” clearly does not contemplate the perpetuation of buildings). In an unpublished opinion, the Ninth Circuit deferred to the Park Service’s interpretation that maintaining or reconstructing historic buildings within Wilderness advances the goals of the Wilderness Act. See *Wilderness Watch v. Creachbaum*, No. 17-35117 (9th Cir. July 19, 2018). However, this opinion is not precedent within the Circuit, it conflicts with the Eleventh Circuit’s holding on the same issue, and Wilderness Watch reserves the right to challenge an alternative authorizing the maintenance and/or relocation of the chalet within the Wilderness.

<sup>2</sup> While Wilderness Watch strongly agrees that removing buildings from the Wilderness improves wilderness character, Wilderness Watch does not promote the agency’s utilization of the *Keeping It Wild* protocol to assess impacts to wilderness character. Wilderness Watch and other Wilderness experts, including current and retired agency experts, published a critique of the *Keeping It Wild* protocol in 2015. See Attachment H. There is significant internal and external controversy surrounding the use of the *Keeping It Wild* protocol by wilderness administering agencies, particularly where the protocol has not been subjected to formal notice and comment rulemaking. The protocol often results in confused agency decision-making because it creates its own extra-statutory definition of wilderness character that is often interpreted as internally contradictory. The definition of wilderness character is divided in a reductionist manner into five qualities, each of which is monitored and evaluated independently. Oftentimes the decisionmaker will interpret the qualities as contradictory. For example, we have seen agency analyses, relying upon this monitoring protocol, that conclude an improvement in the “untrammled” quality of wilderness character will result in the degradation of the “natural” quality of wilderness character. To reconcile this contradiction, decisionmakers often resort to a point system to tally an overall loss or gain. If monitoring data show more qualities have improved than have degraded, the decisionmaker can say wilderness character has improved.

still in the flood plain) prompting the Park Service to repeat this process once again and remove the chalet. *See* EA at 36, 37. The impacts to wilderness character would be greatly exacerbated by Alternative C.

Further, the National Historic Preservation Act affords the Park Service discretion to dismantle and remove structures, including the chalet, so long as proper procedures are followed. It is well established that the NHPA is a procedural statute that does not mandate any substantive preservationist duties that would restrict the alternatives available to the Park Service. *See* 36 C.F.R. § 60.2(a).

Accordingly, Wilderness Watch strongly supports removal of the structure and requests that the Park Service proceed with this alternative, but with methods that do not utilize other prohibited activities (e.g. motorized and helicopter use). We suggest that the National Park Service consider burning as much of the wooden components as possible and packing out non-burnable materials.

## **2. We strongly oppose the extensive authorization of helicopters and power tools that the Park Service proposes.**

The Park Service proposes an astounding 99 helicopter flights to fly in hydraulic jacks and power tools, generators, scaffolding, tools, chainsaws, ladders and more to dismantle the structure, then even more helicopter flights to fly out the tools, the I-beams on which the chalet currently sits, non-burnable materials like the chimney and stove, and some “smaller portions” of burnable materials. *See* EA at 14-15. There is no discussion in the EA about why the building cannot be dismantled without the use of power tools and chainsaws. Presumably the structure was constructed without power tools, motorized equipment, and helicopters, so why can't it be deconstructed without them? Even in the unlikely event motorized and mechanized equipment is necessary, there is no discussion in the EA as to why power tools and chainsaws—and also other tools and ladders and supplies—cannot be carried in either by crews or volunteers on foot or on horseback. There is no discussion in the EA explaining why much of the building must be hauled out via helicopter. Alternative B indicates that some materials will be burned in small piles, but the rest will be removed by helicopter. The only indication in the EA as to why all of the burnable materials cannot be burned on site is concern over the fire spreading uncontrollably or portions of the chalet not burning completely. EA at 17. Why can't burning be done in low-fire season? Agencies regularly burn massive slash piles after logging, and these burns are often done in less-open areas. Why is this different? Burning the structure and then packing out or distributing what doesn't burn completely would require much less work. Or, why can't the building be burned in stages utilizing more small pile burns? And why can't non-burnable materials be dismantled and removed without the use of a helicopter? For example, the minimum requirements decision guide (MRDG) indicates that the woodstove would be disassembled and packed out in Alternative A, but it would be flown out in Alternative B. MRDG at 16. It is not clear why dimensional lumber cannot be burned or left to decay, nor is it clear why it must be removed by helicopter. *See id.* Why can't it be cut into smaller sections and packed out? Why can't non-burnable materials be disassembled or cut into smaller pieces (with hack saws or cutting torches) to be packed out? The EA contains no qualitative or quantitative discussion about why so much, if any, motorized use is necessary.<sup>3</sup> Without this

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<sup>3</sup> The MRDG likewise does not contain this information. However, the MRDG is not a NEPA document, and impacts should be disclosed and analyzed within the EA.

information, it is impossible to discern whether the Park Service is authorizing generally prohibited activities (helicopter and motorized tools) only to the extent necessary.

The agencies once had proud traditions of doing things the wilderness way, with traditional skills and tools, but the trend over the years has been toward convenience and authorizing mechanized and motorized intrusions almost as a matter of course. This is likely why the Park Service has not seriously considered the above questions—it simply assumes motorized uses will be authorized. As an example, it appears from the EA that the Park Service is even authorizing helicopter use for trail clearing in the Wilderness! But the law is clear—the Park Service can authorize prohibited uses in Wilderness *only to the extent necessary*, and the burden is on the Park Service to demonstrate it is meeting this stringent standard. *High Sierra Hikers Ass’n v. Blackwell*, 390 F.3d 630, 646 (9th Cir. 2004) (“The limitation on the Forest Service’s discretion to authorize prohibited activities only to the extent necessary flows directly out of the agency’s obligation under the Wilderness Act to protect and preserve wilderness areas.”). This is particularly true with helicopter authorization as “[h]elicopters carry ‘man and his works’ and so are antithetical to a wilderness experience. It would be a rare case where machinery as intrusive as a helicopter could pass the test of being ‘necessary to meet minimum requirements for the administration of the area.’” *Wolf Recovery Foundation v. U.S. Forest Serv.*, 692 F.Supp.2d 1264, 1268 (Dist. Id. 2010).

Many Wilderness projects and activities—from simple to incredibly complex—have been completed without the use of motorized equipment. Agencies and individuals have used packstock, non-motorized tools, and traditional skills to complete major dam repairs, bridge construction and repair, a 1.5 mile ditch project with 2,673 cubic yards of excavation, extensive trail clearing projects, and more. See Attachments A-G. Other Wilderness administrators have successfully removed—and are in the process of removing—structures from Wilderness via traditional skills and tools and have even offered to consult with the Park Service on how it might remove the chalet with similar methods. See Comment of Dylan McCoy. The Park Service cannot authorize the motorized and helicopter use proposed here when these alternatives are available, particularly without any explanation as to why a non-motorized (or a significantly less motorized) alternative is not viable. Every indication is that a non-motorized alternative is viable, it is just not preferred.

In addition to failing to demonstrate that the extent of helicopter and motorized use is necessary, the EA does not adequately disclose and discuss cumulative impacts of repeated aerial and motorized intrusions for the preservation of buildings in the Wilderness. See *Wolf Recovery Foundation*, 1270 (“[T]he next helicopter proposal in the [Wilderness] will face a daunting review because it will add to the disruption and intrusion of this [helicopter authorization]. The [agency] must proceed very cautiously here because the law is not on their side if they intend to proceed with future helicopter projects in the [Wilderness].” As noted above, the Park Service does not appear to view helicopter intrusions in Wilderness with the weight such intrusions deserve, and it does not appear to consider the repeated intrusions for historic preservation activities a cumulative impact worthy of serious consideration. While the EA notes the 2014 chalet relocation effort, EA at 21, it does not disclose other past historic preservation projects utilizing motorized tools and helicopters within the Wilderness or discuss the likelihood of future motorized maintenance activities to perpetuate these structures in such a harsh environment. For example, the Canyon Creek and Elk Lake structures have suffered multiple tree falls over the years requiring substantial repairs, the Park Service authorized major structure repairs (or, in at least one case, 90% replacement) of other structures utilizing power tools, chainsaws, and

helicopters. All of these motorized activities are antithetical to the preservation of Wilderness, which is why they are prohibited by the Wilderness Act, and they are being authorized to perpetuate buildings in an area where structures are also prohibited. The EA does not disclose these past impacts or the likelihood of ongoing similar projects in the future, even though they have been regular events within the Wilderness. The Park Service must take a thorough, comprehensive look at the cumulative impacts of its historic preservation activities within the Wilderness.

## **Conclusion**

Wilderness Watch supports the decision to finally dismantle the Enchanted Valley Chalet, but we do not support an alternative that authorizes helicopter and motorized use to do so as most, if not all, of the removal can be accomplished without motorized means and in a manner that is compatible with the Wilderness Act.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Proescholdt".

Kevin Proescholdt  
Conservation Director