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June 19, 2015

Phyllis Reed  
Darrington Ranger District  
1405 Emens Street  
Darrington, WA 98241

Sent via Email

Dear Ms. Reed:

Enclosed are comments on the scoping letter from the Darrington Ranger District on two projects that would negatively affect Wilderness. They are the Glacier Peak Seismic Stations and the Three Fingers Lookout Maintenance. Wilderness Watch is a national nonprofit wilderness conservation organization focused on protecting the National Wilderness Preservation System. We utilize public education, citizen engagement, legislative lobbying, and litigation to protect Wildernesses such as the Glacier Peak and Boulder River Wildernesses.

### Seismic Stations

The proposal to construct four seismic stations in the Glacier Peak Wilderness violates the Wilderness Act and cannot be allowed to advance as proposed. Section 4(c) of the 1964 Wilderness Act states: "there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area." (1964 Wilderness Act, 16 U.S.C. 1131-1136.)

### This proposal notes:

Proposed Action: As part of its mandate to mitigate volcanic hazards, the USGS Cascades Volcano Observatory proposes to install four seismic monitoring stations around Glacier Peak, within the Glacier Peak Wilderness (final site location may shift slightly with field review). The USFS would issue a special use permit to USGS to construct, operate and maintain the equipment on NFS lands. The equipment would consist of four co-located seismic and GPS stations. Each station would include a seismometer and 10 sealed batteries inside a small fiberglass enclosure, solar panels mounted on the enclosure, a GPS antenna and mast mounted in bedrock, and data telemetry antenna mounted on the enclosure wall. A helicopter would be needed to deliver external sling loads of heavy equipment, tools and materials, and installation crews, to and from each site during construction. The USGS anticipates needing up to 5 helicopter trips to install each seismic monitoring station: 2 trips to deliver sling loads of material, 1 trip to back haul tools, supplies and garbage, and 2 trips to transport and retrieve 2-4 crews of three persons each. Crews would camp overnight at the sites. Installation is expected to take 3 days per site over a 2-3 week period, depending on inclement weather. For long-term maintenance of the sites, personnel would hike in to perform routine preventative maintenance. A helicopter may be required once every few years when transport of bulky, heavy gear over difficult terrain by foot is impractical (i.e., replacement of batteries or failing equipment) or not safe. Construction is tentatively scheduled in late August to early September of 2016.

The scoping letter does not make the case that any of the prohibited actions in section 4(c) meet the narrow qualifications for exception. How does this preserve wilderness character? Even if the agency could dishonestly shoehorn this proposal into the narrow exceptions, there must be an analysis that all four seismic stations are needed and that all the proposed helicopter flights, structures and other developments are needed. For example, why isn't the existing seismic station in the Wilderness the minimum necessary (NOTE: Did that station go through the normal NEPA analysis)? What about no motorized use or a fewer number of seismic stations? More "robust" monitoring is not a determination of the minimum necessary for administration of the area as Wilderness. In essence, the agency needs to answer this question: Why does the Forest Service believe that degrading the wilderness character of the Mt. Hood Wilderness by the placement of illegal monitoring stations, and all of the accompanying prohibited activities proposed to facilitate this placement, is the minimum required for protecting the area's wilderness character as required by the Wilderness Act?

In addressing the question of necessity, other factors should be considered. Are there alternatives for placement of the new monitoring stations in the nonwilderness areas? What are the differences in the quality of monitoring data between the current monitoring station and the new monitoring stations proposed in this proposal? In other words, why can't the current station or additional stations placed in non-wilderness areas provide adequate data? If this is indeed, necessary, why haven't these installations already been made? Alternatively, the agency should hold off on any installations until indications that they are needed. For example, the Senate Committee report for the Mt. Baker Wilderness (Report 98-461) suggested it was acceptable to allow helicopter use to temporarily put up seismic stations, but only "If the mountain shows signs of volcanic activity in the future . . . ."<sup>1</sup> We would further point out that there is no statutory or committee language allowing these devices in the Glacier Peak Wilderness.

The scoping letter quoted above indicates up to 5 helicopter trips for installation and construction of each seismic station, up to 20 trips total (depending if the stations are remote or not), plus additional helicopter trips in the future for maintenance activities. Even if these installations were found to be necessary, why couldn't they all be constructed with nonmotorized means? Why do crews have to be helicoptered into the sites? The so-called remote sites are not far from trails.

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<sup>1</sup> We do not concur this activity is acceptable in Wilderness, as the committee report alleges it is. Indeed, this report seems at odds with the statute itself, so we would expect that it would be given no deference under the laws of statutory construction. The point is, the committee suggests a showing of need and did not suggest carte blanche authorization for seismic devices in the Mt Baker Wilderness. Also, the committee requires compliance with rules and regulations. In any case, this is just the Senate committee report. No report was prepared by the House

The scoping letter does admit:

1. **USGS Glacier Peak Seismic Stations**– This project would issue a 20-year permit for USGS to install and maintain four seismic monitoring stations around Glacier Peak. While two stations could possibly be collocated with existing administrative structures (Miner’s Ridge Lookout and/or the Lost Creek Ridge radio repeater station), at least two sites would be stand-alone stations. These stations would include electronic monitoring equipment, antenna, batteries and solar panels mounted to the equipment enclosure or lookout. Access to the sites would use existing trails where possible, with helicopter use projected for remote sites to transport heavy equipment, supplies and personnel. All project sites are located in Glacier Peak Wilderness in T30N, R14E, Sections 24 and 29, and T30N, R12E, Section 5 and T31N, R15E, Section 5.

However, that part of the scoping letter leads one to believe it is possible, though not likely, the USGS sites would be co-located with Forest Service administrative structures. The scoping map bears this out and shows the Miners Ridge proposed site to be one mile from the lookout. It is unclear if the Lost Creek Ridge site would be co-located with the repeater.

As stated above, the Wilderness Act prohibits the landing of aircraft inside designated Wilderness. Additionally, Forest Service regulations prohibit the dropping of supplies, equipment, and personnel from aircraft in wilderness (see 36 CFR 293.6). The Forest Service Manual is clear in stating that convenience is not a factor that the Forest Service may consider in authorizing a non-conforming activity. Accordingly, the use of helicopters as envisioned would constitute another violation of the Wilderness Act, even if access via nonmotorized and non-mechanized means would be difficult.

Even if the installations themselves would be legal, the Forest Service should work with USGS to find locations and designs that could be delivered and serviced using non-mechanized means of access. Just because the proposal may generate some interesting or potentially useful monitoring data does NOT give the Forest Service the green light to violate federal law. The standard imposed by the Wilderness Act for approving non-conforming activities of the type proposed is specific: The Forest Service must demonstrate that each nonconforming activity, structure, or installation, is necessary to meet the minimum requirements for administration of the area as wilderness. This proposal clearly violates the Wilderness Act, plain and simple, and must not be allowed to advance.

The scope of this project requires a full EIS under the National Environmental Policy Act. If the Forest Service continues to consider this proposal in spite of its clear violation of federal law, the agency must conduct a full environmental impact statement (EIS) and consider a range of alternatives and carefully analyze each one. It is incredulous the Forest Service would consider doing a categorical exclusion to approve such a massive violation of the Wilderness. Ninth Circuit case law and the Forest Service’s own management direction is clear – the Forest Service cannot use a categorical exclusion for actions within designated wilderness. *High Sierra Hikers v. Blackwell*, 390 F.3d 630, 641 (9<sup>th</sup> Cir. 2004)(noting that “the Forest Service’s own regulations do not permit the categorical exclusion of activities in wilderness areas.”). Additionally, the scoping letter contains no detailed analysis nor other alternatives that would help the public further evaluate this proposal. It only notes other locations may be chosen by the USGS. This is

done in context of suggested co-location with Forest Service administrative sites, which lead the reader to conclude such co-location is not very likely.

An EIS could also address the need to conduct this project now. What do the experts predict is the likelihood of Glacier Peak erupting in the next 10 years, or even the next 100 years? If an eruption is not imminent, why not wait until other technology is available that could eliminate the need to intrude on and degrade the Glacier Peak Wilderness? Current satellite technology now is able to detect the amount of groundwater depletion underneath the surface of the earth; surely a full EIS is the only way to identify and analyze options, alternatives, and questions like these, and it appears that the Forest Service has not done any such analysis at this point. This proposal also appears to be a long-range project that would continue for a lengthy period of time. This is all the more reason to conduct a full EIS.

### Thee Fingers Lookout

The proposal to maintain what is apparently an unused fire lookout (at least for fire control purposes) in the Boulder River Wilderness violates the Wilderness Act and cannot be allowed to advance as proposed. Section 4(c) of the 1964 Wilderness Act states: “there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.” (1964 Wilderness Act, 16 U.S.C. 1131-1136.)

This proposal would inflict two harms on the Wilderness. The first is the maintenance of a structure that apparently no longer serves a legitimate wilderness administrative purpose (if that is not the case, the agency needs to clearly so state in the scoping letter). The second is the use of motorized equipment in Wilderness (a helicopter).

The apparent rationale that the helicopter would not land ignores the law and lacks rational validity. A hovering helicopter in a Wilderness has serious negative consequences. This includes impacts to wildlife, such as mountain goats, as well as harm to the Wilderness itself. In any case, federal regulations prohibit, “Landing of aircraft, or dropping or picking up of any material, supplies, or person by means of aircraft, including a helicopter.” 36 CFR 261.16(c).

Further, 36 CFR 293.6 clearly notes:

[t]here shall be in National Forest Wilderness no commercial enterprises; no temporary or permanent roads; no aircraft landing strips; no heliports or helispots, no use of motor vehicles, motorized equipment, motorboats, or other forms of mechanical transport; no landing of aircraft; no dropping of materials, supplies, or persons from aircraft; no structures or installations; and no cutting of trees for nonwilderness purposes.

Even if this project could be considered legal<sup>2</sup> in Wilderness as per the committee report, the

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<sup>2</sup> We do not concur this activity is acceptable in Wilderness, as the committee report alleges it is. Indeed, this report seems at odds with the statute itself, so we would expect that it would be given no deference under the laws of statutory construction. The point is, the committee requires compliance with rules and regulations. In any case, this is just the Senate committee report. No report was prepared by the House.

committee report still requires the maintenance be “subject to all applicable rules and regulations.” Those regulations require this kind of work to be conducted without use of motorized or mechanized equipment.

As stated above, Forest Service regulations prohibit the dropping of supplies, equipment, and personnel from aircraft in wilderness (see 36 CFR 293.6). The Forest Service Manual is clear in stating that convenience is not a factor that the Forest Service may consider in authorizing a non-conforming activity. Accordingly, the use of helicopters as envisioned would constitute another violation of the Wilderness Act, even if access via nonmotorized and non-mechanized means would be difficult.

The Forest Service must demonstrate that each nonconforming activity, structure, or installation, is necessary to meet the minimum requirements for administration of the area as wilderness. This proposal clearly violates the Wilderness Act, plain and simple, and must not be allowed to advance.

The scope of this project requires a full EIS under the National Environmental Policy Act. If the Forest Service continues to consider this proposal in spite of its clear violation of federal law, the agency must conduct a full environmental impact statement (EIS) and consider a range of alternatives and carefully analyze each one. It is incredulous the Forest Service would consider doing a categorical exclusion to approve motorized use in Wilderness. Ninth Circuit case law and the Forest Service’s own management direction is clear – the Forest Service cannot use a categorical exclusion for actions within designated wilderness. *High Sierra Hikers v. Blackwell*, 390 F.3d 630, 641 (9<sup>th</sup> Cir. 2004)(noting that “the Forest Service’s own regulations do not permit the categorical exclusion of activities in wilderness areas.”). Additionally, the scoping letter contains no detailed analysis nor other alternatives that would help the public further evaluate this proposal such as alternatives like maintaining the structure with on-site material or allowing it to gradually fade into the Wilderness.

#### Summary

Both proposals violate federal law and should not proceed. If the Forest Service decides to continue its consideration of these proposals, a full EIS must be completed. Glacier Peak is unlikely to blow in the next couple of years and the Three Fingers lookout doesn’t need to be maintained immediately. The Forest Service needs to take its time and seek out alternatives on both proposals that don’t impair the areas’ wilderness character nor violate federal law.

Please keep Wilderness Watch on your contact list for this project. Please also send us a copy of the MRDG for each project as soon as they are completed.

Sincerely,



Gary Macfarlane