



## WILDERNESS WATCH

*Keeping Wilderness Wild*

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### Minneapolis, MN Office

2833 43rd Avenue South

Minneapolis, MN 55406

(P) 612.201.9266

### Moscow, ID Office

P.O. Box 9623

Moscow, ID 83843

(P) 208.310.7003

July 09, 2018

Peter Forbes  
Darrington District Ranger  
1405 Emens Street  
Darrington, WA 98241

Sent via Email to: to: [comments-pacificnorthwest-mtbaker-snoqualmie-darrington@fs.fed.us](mailto:comments-pacificnorthwest-mtbaker-snoqualmie-darrington@fs.fed.us)

Dear Mr. Forbes:

Enclosed are comments on the USGS proposal to use helicopters in the Glacier Peak Wilderness to conduct seismic monitoring. Wilderness Watch is a national nonprofit wilderness conservation organization focused on protecting the National Wilderness Preservation System. We have serious concerns with these proposals, the level of analysis, and the charade of a public involvement process.

### **THE TIMING OF THE LETTER DOES NOT PROVIDE FOR PUBLIC COMMENT**

The scoping letter titled Proposed U.S. Geological Survey flights and sampling in Glacier Peak Wilderness 2018-2022 was dated June 11, yet the postmark was dated June 27. The Forest Supervisor is expected to make a decision on one of the two connected proposals by July 15. Twelve business days is hardly enough time for any legitimate consideration of public input or analysis.

### **THE PROPOSALS VIOLATE THE WILDERNESS ACT**

Both proposals--the proposal to fly in replacement batteries, mountaineering equipment, sampling supplies and tools (a total of 350 pounds) to a permanent structure within the Glacier Peak Wilderness, and the proposal to deploy several flights in order to drop off 200 pounds of equipment (including mountaineering gear and powered tools) over a four-year time frame--violate the Wilderness Act. 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. There is no indication that these flights, the existing structure, or the use of power tools are the minimum necessary for the preservation of the area as Wilderness.

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 do the prohibited actions preserve wilderness character? The scoping letter merely alleges that the helicopter-assisted maintenance will keep the USGS seismometer operational (why is it necessary in Wilderness?) and, in the case of the multi-year sample gathering proposal, that the “remote areas” cannot be safely traversed when transporting equipment. The Wilderness Act contains a narrow exception to allow otherwise-prohibited activities—such as helicopter, motorized equipment or placement/maintenance of installations—only where such activities are necessary to meet the minimum requirements for administration of an area for the purpose of the Wilderness Act. 16 U.S.C. § 1133(c). In other words, the exception applies only where the otherwise-prohibited activity will affirmatively advance the “‘preservation and protection’ of wilderness lands ... in their natural, untrammelled state.” *Wilderness Soc’y v. U.S. Fish & Wildlife Serv.*, 353 F.3d 1051, 1061 (9th Cir. 2003) (en banc) (quoting 16 U.S.C. § 1131(a)). The Wilderness Act charges “each agency administering any area designated as wilderness [with the responsibility of] preserving the wilderness character of the area.” 16 U.S.C. § 1133(b).

Unsupported statements like those in the scoping letter fall far short of what the Wilderness Act requires, which is to demonstrate that the project as proposed is necessary to preserve the wilderness character of the area. Unless the Forest Service can make and support this demonstration in its forthcoming analysis of the project, the project cannot proceed. *Wilderness Watch v. U.S. Fish & Wildlife Serv.*, 629 F.3d 1024, 1040 (9th Cir. 2010). This decision set aside the Agency’s authorization of new structures built by motorized means in wilderness where the Agency failed rationally to demonstrate that structures would advance wilderness preservation and a no less intrusive approach could achieve that goal.

## **THE PROPOSALS VIOLATE THE FOREST SERVICE MANUAL**

The current proposal also violates the Agency’s own policy on research in the Forest Service Manual at 2324.42 which states:

1. Encourage research in wilderness that *preserves the wilderness character of the area* (FSM 2320.3) (emphasis added).
2. Identify wilderness management or national issues that may require research in forest plans.
3. Review proposals to conduct research in wilderness to ensure that research areas outside wilderness could not provide similar research opportunities. Direct projects that would jeopardize wilderness values to areas outside wilderness.
4. Review research proposals to conduct research in wilderness to *ensure that research methods are compatible with wilderness values*. Do not allow the use of motorized equipment or mechanical transport unless the research is essential to meet minimum requirements for administration of the area as wilderness and cannot be done another way (sec. 4(c) the Wilderness Act). Include specific stipulations in the approval document (emphasis added).

None of the above applies here. Studying the eruptive history of the Glacier Peak volcano does not have a clear wilderness purpose.<sup>1</sup> Instead, inferences about eruptive history may be drawn from non-wilderness volcanoes in the Cascades or from satellite imagery. Additionally, the scoping letter alleges that crew members will hike to the location(s) for both missions. The crew could likely divide and carry 200 pounds of gear amongst themselves while hiking. Thus, the Agency's allegation that the areas are too dangerous to traverse is flimsy at best.

### **THE SEGMENTATION OF THE PROPOSALS IS CONTRARY TO NEPA**

There have been other proposals in the past few years to violate the Glacier Peak Wilderness, including requests from USGS. We have attached earlier comments on some of these proposals. How does this proposal fit into those others? At the very least, there seem to be cumulative impacts and/or connected actions associated with these proposals. Indeed, there are two separate proposals contained in the scoping letter, both of which would be approved with categorical exclusions (CEs). They are all USGS seismic study of Glacier Peak. As such, they are connected and would have cumulative impacts. Indeed, the scoping letter admits as much. The second proposal is a continuation of the use of helicopter landings and motorized equipment for future years, 2019 to 2022. The letter states it is "ongoing research" that was approved from 2016 through 2018. The segmentation of these projects is a violation of NEPA. *Alpine Lakes Protection Society v. Schlapfer*, [518 F.2d 1089, 1090](#) (9th Cir. 1975) (segmentation merits "close scrutiny to prevent the policies of NEPA from being nibbled away").

### **THE PROPOSALS REQUIRE A FULL EIS UNDER NEPA INSTEAD OF TWO CE ANALYSES**

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. Categorical exclusions (CEs) are inappropriate for a project that is a nonconforming use in Wilderness. The scope of these projects requires a full Environmental Impact Statement (EIS) under the National Environmental Policy Act. Ninth Circuit case law and the Forest Service's own management directions are clear – the Forest Service cannot use a CE 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 or other alternatives that would help the public further evaluate this proposal. If the Forest Service continues to consider these proposals, the Agency must conduct an EIS and consider and analyze a range of alternatives.

### **CONCLUSION**

Section 4(c) of the Wilderness Act prohibits the use of motorized equipment, landing of aircraft, and permanent structures or installations within wilderness areas. Additionally, Forest Service regulations prohibit the dropping of supplies, equipment, and personnel from aircraft in wilderness (see 36 CFR 293.6). Wilderness Watch maintains that the Glacier Peak West monitoring station is itself a violation of the Wilderness Act; that said, the Agency's current proposals to use helicopters to drop equipment into wilderness in two separate locations certainly require a meaningful EIS analysis. While using helicopters to drop off equipment would be

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<sup>1</sup> Even if it did, the USGS study keeps expanding in size, scope and in its harm to Wilderness.

convenient for crew members, the Forest Service Manual is clear that convenience is not a factor that the Forest Service may consider in authorizing a nonconforming activity. Accordingly, the use of helicopters as envisioned in these proposals would violate the Wilderness Act and Forest Service regulations, and the Forest Service should use stock animals or people to transport the required equipment, if it determines that the projects are necessary after EIS analysis.

Please keep Wilderness Watch on your contact list for this project. Please also send us a copy of the MRDG and any NEPA or decision documents as soon as they are completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Macfarlane". The signature is fluid and cursive, with the first name "Gary" being more prominent than the last name "Macfarlane".

Gary Macfarlane  
President