



WILDERNESS WATCH

Keeping Wilderness Wild

Board of Directors

Gary Macfarlane, ID
President

Franz Camenzind, WY
Vice-President

Jerome Walker, MT
Secretary/Treasurer

Marty Almquist, MT

Talasi Brooks, ID

Louise Lasley, NM

Cyndi Tuell, AZ

René Voss, CA

Executive Director

George Nickas

Advisory Council

Magalen Bryant

Dr. Derek Craighead

Dr. M. Rupert Cutler

Dr. Roderick Nash

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

August 20, 2018

Jamie Kingsbury
Forest Supervisor
c/o Todd Griffin
Mt. Baker-Snoqualmie National Forest
2930 Wetmore Avenue, Suit 3A
Everett, WA 98201

Sent via Email to: to: comments-pacificnorthwest-mtbaker-snoqualmie@fs.fed.us

Dear Supervisor Kingsbury:

Enclosed are comments on the USGS environmental assessment (EA) and minimum requirements analysis (MRA) proposal to use helicopters and construct structures and installations in the Glacier Peak Wilderness to conduct seismic and volcanic 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 as well as the confusing nature of the various proposed and connected actions over the years. Attached are earlier comments as well on this and/or connected actions and proposals. We have attached those comments, as it has been difficult to figure out precisely which proposals are identical.

THE PROPOSAL VIOLATES THE WILDERNESS ACT

The EA and MRA 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 or even protect visitors in the area? These questions are explored in more detail in the following paragraphs.

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 (singular) 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, untrammled 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).

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 EA claims, “This project meets one purpose of the Wilderness Act as a scientific research project; the results would inform what measures are required to protect the safety of the wilderness users.” Regarding the first clause in the sentence, the purpose of the Wilderness Act in section 4(c) is singular, not plural. The public purposes or uses of the Wilderness Act in section 4(b) are not its purpose, rather allowable uses so long as wilderness character is maintained. To misinterpret section 4(b) as allowing prohibited uses for the public purposes or uses, in spite of clear language to the contrary, would allow motorized recreation use to enhance visitor recreation use at hard to reach places.

Safety of visitors in Wilderness from the parenthetical phrase in Section 4(c) “(including measures required in emergencies involving the health and safety of persons within the area)” is premised upon an emergency, such as an injury requiring motorized rescue. Warning signs of an eruption, which are usually detectable outside of Wilderness, tend to be normal for Cascade Range volcanoes. Such warning signs generally precede any eruption by a significant length of time (see the MRA, page 5). In any case, the practicality of contacting visitors in Wilderness if there is an imminent threat of eruption--one that does not exhibit any early warning signs--is not addressed in the EA, regardless of whether the structures are installed or not (see also the section about alternatives).

The MRA admits there are no special provisions in the legislation establishing the Glacier Peak Wilderness that would allow this kind of activity. Instead, the EA tries to justify this proposal based upon section 4(d)(1) of the Wilderness Act. Volcanic activity is not the control of fire, insects or disease. Thus, the EA is seriously mistaken.¹

Even though the EA and MRA do clearly show negative impacts to wilderness character, they both grossly understate the impacts to Wilderness. One issue they fail to adequately address is that helicopter use is prohibited in Wilderness. People or stock hauling equipment, even if they encounter visitors on the trail, is not prohibited. Wilderness is damaged by motorized use (and structures and installations) even if visitors rarely go to that specific area. The EA and MRA also fail to recognize that preservation of wilderness character is much more than simply the five topics components in the MRA (see attached for a critique of the wilderness character monitoring protocol, and by protocol and, by extension, the MRA process).

¹ See *e.g. Sierra Club v. Lyng*, 663 F.Supp. 556, 560 (D.D.C. 1987) (noting that “[t]he Secretary’s burden under Section 4(d)(1) affirmatively to justify control actions taken for the benefit of adjacent land-owners is grounded on the need to ensure that wilderness values are not unnecessarily sacrificed to promote the interests of adjacent landowners which Congress authorized the Secretary to protect.”). The *Lyng* decision is not comparable to the issue at hand, so the agency has even a greater burden to justify this proposal in Wilderness.

THE PROPOSAL VIOLATES THE WILDERNESS ACT AND NEPA BY FAILING TO LOOK AT ALTERNATIVES TO DETERMINE WHAT IS THE MINIMUM NECESSARY

Even if the structures and installations were the minimum necessary (and the EA does not support that conclusion), the EA does not present the case that motorized use is the minimum necessary for their installation. Table 3 aggregates the weight of all items. For example, batteries are 70 pounds each, not 700 pounds of batteries. Structures can be assembled on site from component parts. The Forest Service has a long history of constructing by non-motorized means what it considered necessary structures and installations in the wilderness (bridges, for example) that are far larger than what is proposed here.²

Are there more accessible sites near Glacier Peak that would work, assuming the proposed sites can't be reached by foot or stock? In any case, agency personnel who walked to the specific sites presumably took the photos of the sites in the EA. Did these personnel walk to take the photos?

The EA claims, "To accurately locate the source of seismic activity, a minimum of 4 seismic stations are needed to triangulate the location." That is an odd statement and illogical. Triangulation refers to three, not four, locations. Why are four the minimum necessary and not three?

The EA does not address whether Glacier Peak is showing any signs of imminent eruption or any precursor to that activity. There are usually signs that occur long before dangerous activity like an eruption, and those signs are quite evident at a great distance (see MRA page 5). An alternative that would only approve temporary structures when such signs are observed should have been considered. Remote sensing, such as via satellite or LIDAR over flights, was not considered. It may be possible those methods could be used in lieu of motorized equipment and structures in the Wilderness.

The EA mischaracterizes the current conditions in the analysis of impacts to Wilderness. It states that the no action "alternative would result in a diminished ability for scientists at the USGS" to monitor volcanic activity. How will USGS be hampered or have "diminished ability" from doing what they already do now unless they have already established the facilities, without proper authorization, and this EA is merely a pro-forma exercise for an action that has already been (illegally) implemented? Further, what does USGS have to do with wilderness administration?³

THE PROPOSAL VIOLATES 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*

² Even though the MRA states the Upper Suiattle Trail is no longer accessible to stock due to a slide, the option of fixing the trail was not even discussed as an alternative in the EA. Further, the MRA states local contract packers won't pack batteries to the Miners Ridge Lookout. Even if the Forest Service locally lacks trained packers, the agency has them.

³ In any case, the statement about diminished the ability of USGS scientists under the no-action alternative, besides being factually wrong, is out of place in the wilderness section of the EA.

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 seems to apply here.

THE SEGMENTATION OF THE PROPOSAL 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, including a scoping letter sent earlier this year. 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. All are USGS seismic study of Glacier Peak. As such, they are connected and would have cumulative impacts. 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").

Further, it appears that segmentation and the failure to consider cumulative impacts will continue. The EA does not adequately consider future proposals to maintain the sites. The only mention is, "A helicopter may be required once every few years when transport of heavy gear over difficult terrain by foot is impractical or unsafe (i.e., replacement of batteries or failing equipment)." The analysis of impacts in the EA entirely misses this issue, though it is mentioned in a little more detail in the MRA.

THE PROPOSAL REQUIRES A FULL EIS UNDER NEPA INSTEAD OF AN EA

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. EAs are inappropriate for such a large 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.

THE PROPOSAL VIOLATES THE FOREST PLAN

The EA clearly notes that the Preservation visual category “Allows ecological changes only.” Apparently, one reason for this category is to protect Wilderness. The EA then tries to circumvent this requirement by saying few people would see the seismic stations. The conclusion is apparently that it is okay to damage the most remote and pristine parts of the National Wilderness Preservation System because nobody will see it. The statements in the EA turn the Wilderness Act on its head.

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. Even if the installations and structures were found to be the minimum necessary (and the EA does not support that hypothesis), Forest Service regulations prohibit the dropping of supplies, equipment, and personnel from aircraft in wilderness (see 36 CFR 293.6). While using helicopters to drop off equipment would be convenient for staff, 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 people or stock (the MRA asserts the Upper Suiattle Trail is no longer accessible to stock due to a slide) 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Macfarlane". The signature is fluid and cursive, with a large initial "G" and "M".

Gary Macfarlane
President