



WILDERNESS WATCH

Keeping Wilderness Wild

August 27, 2018

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

Objection Review Officer
Region 6 Regional Forester
Pacific Northwest Region
USDA Forest Service
1220 SW 3rd Avenue
Portland, OR 97204

Objection Submitted via the internet

RE: Objection on draft Record of Decision Mountain Goat Management Plan / Environmental Impact Statement (plan/EIS) for Olympic National Park USDA Forest Service Olympic, Mt. Baker-Snoqualmie, and Okanogan-Wenatchee National Forests Clallam, Jefferson, Mason, Grays Harbor, Whatcom, Skagit, Snohomish, King, Pierce, Chelan, and Kittitas Counties, Washington

Dear Objection Reviewing Officer,

Please accept the below objection regarding the Forest Service's *draft Record of Decision Mountain Goat Management Plan / Environmental Impact Statement (plan/EIS) for Olympic National Park USDA Forest Service Olympic, Mt. Baker-Snoqualmie, and Okanogan-Wenatchee National Forests Clallam, Jefferson, Mason, Grays Harbor, Whatcom, Skagit, Snohomish, King, Pierce, Chelan, and Kittitas Counties, Washington*. The responsible officials for this project are Reta LaFord, Olympic National Forest Supervisor, Jamie Kingsbury, Mt. Baker-Snoqualmie National Forest and Michael R. Williams, Forest Okanogan-Wenatchee National Forest Supervisor.

Wilderness Watch is a national wilderness advocacy organization, headquartered in Missoula, Montana, dedicated to the protection and proper administration of the National Wilderness Preservation System. Wilderness Watch members use and will continue to use the Glacier Peak, Alpine Lakes, Henry M. Jackson, Buckhorn, Colonel Bob, Mount

Skokomish, The Brothers, and Wonder Mountain Wildernesses for outdoor recreation and professional pursuits, including hiking, wildlife viewing, and wildlife study. As more fully described below, the Forest Service's proposed action would adversely affect Wilderness Watch's organizational interests, as well as its members' use and enjoyment of these wildernesses.

Wilderness Watch previously submitted comments on the draft EIS October 10, 2017. Thus, Wilderness Watch has the standing to submit objection on the draft record of decision (DROD) and FEIS. The referenced attachments were also submitted.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Macfarlane". The signature is written in a cursive style with a large, sweeping initial "G".

Gary Macfarlane
President

OBJECTION

In the city, in the country, almost everywhere he goes, the American is confronted with an environment dominated by his own technology. This is new, no others before us have experienced it on the scale we experience today. The end result is not certain. For man, with all his ability to adapt, for all his domination of the "lesser" species, still is a child of the sea, the mountains, the very wilderness he is rapidly obliterating. We are a nation bedazzled by technology, and addicted to crash solutions. But there are no instant ecologies; no instant wilderness. And so, in the final analysis, we must devote much more of our attention in the future to assessing each new technological development for its ultimate impact on man's environment. I hope it is never said of this generation, as Stephen Vincent Benet once said of another: "They thought, because they had power, they had wisdom also." We now have the power, literally, to move mountains. The next few years will determine if we have the wisdom to refrain from doing so. ~ Orville Freeman, Secretary of Agriculture, 1967

Wilderness Watch's comments stated (footnotes omitted):

INTRODUCTION

Nothing in the Wilderness Act compels the agency to translocate or kill mountain goats in the Olympic Peninsula Wildernesses. The proposal to collar and then move goats into Wildernesses in the Cascades via helicopter, where other mountain goats currently reside, is not supported. The draft EIS demonstrates inconsistencies in federal agencies' policies (particularly the Forest Service) regarding non-native wildlife. Such arbitrary actions hinder consistent and sound wilderness administration and stewardship.

The Park Service and Forest Service are obligated to choose the alternative that complies with the Wilderness Act. In this case, one that is the minimum necessary for preservation of the Wildernesses *as wilderness* is required. The heavy reliance on motorized intrusion into multiple Wildernesses, along with heavy-handed wildlife gunning, collaring, translocation, and manipulation, leaves all action alternatives wanting.

WILDERNESS ACT

The helicopter landing/helicopter gunning proposals are antithetical to the preservation of wilderness. The Wilderness Act establishes a National Wilderness Preservation System to safeguard our wildest landscapes in their "natural," "untrammled" condition. 16 U.S.C. § 1131(a). "A wilderness, in contrast with those areas where man and his own works dominate the landscape," is statutorily defined as "an area where the earth and its community of life are untrammled by man, where man himself is a visitor who does not remain" and an area "retaining its primeval character and influence... which is protected and managed so as to preserve its natural conditions...." *Id.* § 1131(c). Thus, wilderness "shall be administered for the use and enjoyment of

the American people in such a manner as will leave them unimpaired for future use and enjoyment *as wilderness*, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment *as wilderness*....” *Id.* § 1131(a) (emphasis added). The Act’s opening section “sets forth the Act’s broad mandate to protect the forests, waters, and creatures of the wilderness in their natural, untrammled state” and “show[s] a mandate of preservation for wilderness and the essential need to keep [nonconforming uses] out of it.” *Wilderness Soc’y v. U.S. Fish & Wildlife Serv.*, 353 F.3d 1051, 1061-62 (9th Cir. 2003) (en banc). At odds with this mandate, the proposal seeks Park Service approval for the use of helicopters to capture, remove or kill mountain goats in the Wilderness of Olympic National Park and to place radio collars on captured goats. It also seeks Forest Service approval for the use of helicopters to capture, remove or kill mountain goats in the Wildernesses of the Olympic National Forest, place radio collars on captured goats, and then to transplant mountain goats into national forest Wildernesses in the Cascades. The goats would then presumably be managed by the State primarily for recreational sport hunting opportunities.

Wilderness designation places restrictions on that management authority. It requires the Park Service and Forest Service to comply with the Wilderness Act and requires the Forest Service to also ensure that any state wildlife management activities in wilderness are conducted in a manner that preserves wilderness character. Congress was clear: “Except as otherwise provided in this chapter, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character.” 16 U.S.C. § 1133(b). Certain uses and activities, including helicopter landings and the use of installations, are antithetical to the preservation of wilderness character and are thus prohibited with narrow exception. The Park Service and Forest Service may authorize these uses and activities only where “necessary to meet minimum requirements for the administration of the area for the purpose of [the Wilderness Act].” 16 U.S.C. § 1133(c). In other words, the narrow exception applies only where the otherwise-prohibited activity is necessary for the “‘preservation and protection’ of wilderness lands ... in their natural, untrammled state.” *Wilderness Soc’y*, 353 F.3d at 1061 (quoting 16 U.S.C. § 1131(a)).

Both helicopter intrusions and the placement of installations in the Wilderness are prohibited under the Wilderness Act “except as necessary to meet minimum requirements for the administration of the area” as wilderness. 16 U.S.C. § 1133(c); *see also* 36 C.F.R. § 261.18(c) (Forest Service regulations prohibiting “[l]anding of aircraft, or dropping or picking up of any material, supplies, or person by means of aircraft, including a helicopter” in National Forest Wilderness); 36 C.F.R. § 293.6 (prohibiting “mechanical transport,” “landing of aircraft,” and

“dropping of materials, supplies, or persons from aircraft” in wilderness except as provided by Wilderness Act). Consistent with the Wilderness Act and its implementing regulations, the Forest Service’s management direction makes clear that the use of motorized equipment and mechanical transport in wilderness cannot be authorized to facilitate research “unless the research is *essential* to meet minimum requirements for administration of the area as wilderness and cannot be done another way.” FSM 2324.42(4) (emphasis added). Likewise, “Wildlife and fish management programs shall be consistent with wilderness values,” FSM 2323.32(3), and the Forest Service is directed to “[d]iscourage measures for direct control (other than normal harvest) of wildlife and fish populations,” FSM 2323.32(4), and “[p]rovide an environment where the forces of natural selection and survival rather than human actions determine which and what numbers of wildlife species will exist,” FSM 2323.31(1). Park Service direction in Directors Order 41 notes, “The use of motorized equipment and the establishment of management facilities are specifically prohibited when other reasonable alternatives are available.”

Accordingly, under the Wilderness Act, the Park Service and Forest Service may only approve the use of helicopters to kill, capture, or translocate mountain goats (and the installation of GPS-collars on some of those goats) in the affected Wildernesses in the Olympics and Cascades if the agencies rationally demonstrate that the actions are necessary to meet minimum requirements for administration of the area for the purpose of the Wilderness Act, and there is no alternative to otherwise-prohibited uses that would achieve that purpose. *See* 16 U.S.C. § 1133(c). The justifications for the project advanced in the draft EIS do not satisfy this stringent standard.

The Forest Service has not rationally demonstrated the following are both necessary:

- removing some (not all) mountain goats from the Wildernesses on the Olympic National Forest via aerial gunning and/or aerial net gunning is necessary to meet minimum requirements for administration of the area for the purpose of the Wilderness Act, and there is no alternative to otherwise-prohibited uses that would achieve that purpose. *See* 16 U.S.C. § 1133(c).
- translocating mountain goats via helicopter to augment an existing population and fitting them with radio collars to study wildlife population dynamics to inform routine state wildlife management objectives is necessary to meet minimum requirements for administration of the area for the purpose of the Wilderness Act, and there is no alternative to otherwise-prohibited uses that would achieve that purpose. *See* 16 U.S.C. § 1133(c).

The justifications for the project advanced in the FEIS and DROD do not satisfy this stringent standard, and the Forest Service is abdicating its statutory duties by deferring to either Washington state or other federal agencies’ objectives, rather than being concerned with administration of the Wildernesses under its jurisdiction.

One other point needs to be made regarding the requirements of the Wilderness Act. Use of the prohibited actions in Section 4(c) is only what is “necessary to meet minimum requirements for the administration of the area for the purpose of this Act.” This does not allow harming some Wildernesses to ostensibly help others while using prohibited means. Specifically, causing more damage to the Wildernesses on the Olympic National Forest, by using more prohibited means, to ostensibly help the Cascades Wildernesses (also using prohibited means) is not allowed. If mountain goats must be transplanted to Wildernesses in the Cascades, that can’t occur to the detriment of other Wildernesses. In essence, what the FEIS and DROD show is the minimum necessary for the Wildernesses on the Olympic National Forest is not compatible with what WDFW wants to have done on the Cascade Wildernesses. The FEIS states:

Alternative 4 would remove mountain goats through lethal removal only, without capture and removal for translocation. This alternative would have less impact to wilderness character than Alternative 1. Washington Department of Fish and Wildlife has primary responsibility for management of mountain goats on National Forest System lands. WDFW has identified the mountain goat population on the Olympic Peninsula, including mountain goats from the Olympic National Forest, as a source to augment mountain goat populations in the North Cascades, consistent with the state’s goals and objectives for mountain goat management. Alternative 4 would not allow WDFW to carry out wildlife management activities according to its authority.

FEIS at F-38. We examine the two bullet points above in reverse order.

Translocating Mountain Goats

Of the alternatives analyzed in the *Conclusion* section, the FEIS admits impacts to Wilderness are greater under the DROD proposal than two of the other alternatives:

The capture, translocation, and lethal reduction of mountain goats, the use of motorized equipment, noise production, temporary area closures, and temporary placement of drop nets and salt blocks would have short-term, adverse impacts on the untrammelled, natural, undeveloped, solitude or primitive and unconfined recreational qualities of wilderness character during the two 2-week management periods per year of initial management, or four years total. These management tools would, however, indirectly benefit recovery of natural conditions in wilderness by eliminating the mountain goat population. Alternative D would have more adverse impacts on wilderness character than alternative A, because it would trammel wilderness by reducing the mountain goat population, affect the undeveloped quality of wilderness character by the use of motorized equipment, affect solitude by utilizing noise-producing tools such as aircraft and firearms, and affect primitive and unconfined recreation by temporarily closing certain areas of the park or national forest. Alternative D would have fewer adverse impacts than alternative B because maintenance activities would primarily consist of lethal removal, which would reduce the duration and frequency of impacts on wilderness character. Furthermore, future helicopter- based population surveys, which would negatively affect the undeveloped quality of wilderness character,

would become unnecessary. However, alternative D would have more adverse impacts than alternative C because initial management would last longer. The cumulative effects of alternative D would be similar to those in alternatives B and C, and are expected to be adverse. Overall, when the impacts of the past, present, and reasonably foreseeable future actions are combined with the impacts of alternative D, an overall adverse impact would be expected. Alternative D would contribute a substantial adverse increment in the short term and a minimal adverse increment to the overall cumulative impact in the long term.

FEIS at 150. With this admission, one has to ask why the Forest Service, would adopt Alternative D, and its greater impacts on Wilderness over alternatives A or C? The DROD defies logic.

Transplanting of mountain goats to Wildernesses in the Cascade Range is not an original purpose or need for the project, but rather a convenient afterthought. The FEIS states, “The purpose in taking action is to allow the NPS to reduce or eliminate impacts on park resources from exotic mountain goats (*Oreamnos americanus*), while reducing potential public safety issues associated with the presence of mountain goats in the park.” FEIS at 1. Further, nowhere in that section of the FEIS that follows, the *Need for Action*, is it stated that augmentation of mountain goats into the Wildernesses in the Cascade Mountains is a purpose and need. As such, the proposal is not necessary, by definition, and therefore doesn’t meet the minimum necessary for preservation of the areas as Wilderness.

Our comments noted (footnotes omitted):

“The purpose in taking action is to allow the NPS to reduce or eliminate impacts on park resources from exotic mountain goats (*Oreamnos americanus*), while reducing potential public safety issues associated with the presence of mountain goats in the park.” DEIS at 1. “As a result of these concerns, a plan/EIS is needed to address the impacts of exotic mountain goats in the park and in the adjacent Olympic National Forest, which would include the interference with natural processes, native species, natural habitats, and impacts on visitor use and safety.” *Ibid* at 2. There is nothing in this about the need to put goats into Wilderness or elsewhere in the Cascades.

In fact, that concern over translocation doesn’t come later, until the objectives. None of the following is for the purpose of Wilderness:

- Work cooperatively with co-managers of mountain goats or habitats in Washington State (US Department of Agriculture (USDA) Forest Service, WDFW, and tribes).
- Support the wildlife management objectives of cooperating agencies and tribes, to the extent practicable, with respect to mountain goats.
- Provide opportunities to reestablish or augment sustainable native mountain goat populations in suitable mountain goat habitat on NFS lands in the North Cascades national forests.

Id. at 2. Further, the description of the purpose and need is so narrow as to preclude a reasonable range of alternatives. “All alternatives selected for detailed analysis must meet all objectives to a large degree and resolve the purpose of and need for action.” *Id.* at 2. NEPA requires the agencies to “[r]igorously explore and objectively evaluate all reasonable alternatives” to a proposed action. 40 C.F.R. § 1502.14(a). The Park Service or Forest Service “may not define the objectives of its action in terms so unreasonably narrow that only one alternative . . . would accomplish the goals of the agency’s action, and the EIS would become a foreordained formality.” *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991). As discussed above, the DEIS has not demonstrated a need for the proposal, especially for translocating mountain goats to other Wildernesses, and has refused to look at alternatives that don’t contradict the Wilderness Act or even alternatives that would be less harmful to Wilderness. The Park Service and Forest Service have an obligation under both the Wilderness Act and NEPA to rigorously explore those alternatives. *See Wilderness Watch, Inc. v. U.S. Fish & Wildlife Serv.*, 629 F.3d at 1039; *High Sierra Hikers Ass’n*, 390 F.3d at 647. This leads into the topic of alternatives.

The FEIS tries to paper over this omission in the response to comments:

However, the NPS believes alternative D best accomplishes the purpose and need for the project by meeting the project objectives of providing opportunities to augment native mountain goat populations in suitable mountain goat habitat and to support the wildlife management objectives of cooperating agencies and tribes.

FEIS at J-6. Even though this augmentation is not mentioned in either of the specific sections, *Purpose of Taking Action* or *Need for Action*, it is shoehorned as a reason to adopt Alternative D. Alternative C, though problematic for the Wildernesses on the Olympic National Forest, is not as offensive to those Wildernesses as Alternative D because there would be no helicopter landings to capture goats. Additionally, Alternative C would not violate the Cascade Range Wildernesses. The proposed action appears to be a rationalization of a decision concocted after the initial proposal but before the EIS, rather than a critical look at alternatives. In that sense, it fails the requirements of the Wilderness Act and the National Environmental Policy Act (NEPA).^{1,2}

The status of mountain goats in the Cascades is uncertain and the cause of decline not clearly explained. The minimum necessary can’t be determined if the status of mountain goats is uncertain. The FEIS is opaque, and tries to lead the reader to believe they are either extirpated or in grave danger. Yet, the FEIS itself is not clear that is indeed the case. This is important because the FEIS conflates reintroduction of an extirpated species (which the Forest Service Manual, rightly or wrongly, would permit under very rare circumstances via motorized means).

¹ It would appear that for reasons of public perceptions and/or politics, rather than killing all of the mountain goats in Olympic National Park and the surrounding Wildernesses on the Olympic National Forest, an excuse was invented to translocate half of them elsewhere.

² The FEIS at F-48 and F-49, which is the MRA, operates as if a purpose of this project is to recover goats in the Cascades in spite of the fact that it is to remove goats in the Olympics.

Even if Cascade goats are extirpated, which they are not, the FEIS rejects a longer time frame for recolonization, inappropriately insisting on use of motorized equipment and installations (collars) in Wilderness. The FEIS does not explore whether the desired populations numbers and connectivity of mountain goats in the Cascades can be achieved (if they ever were connected) and how that might inform a decision on what is the minimum necessary.³ The minimum necessary can't be determined if the cause of the decline, assuming it has occurred, isn't understood. We showed in our comments citing the very literature found in the FEIS that the most likely culprit, assuming a decline is real (and any evidence of a decline seems to be decades in the past), is hunting. As such the minimum necessary would be a cessation of hunting to allow for populations to fill in habitat in the Cascades. Even if augmentation is needed, 274 flights into Wilderness is not the minimum necessary as there are sites outside of Wilderness. We also show that mountain goat populations may be in trouble anyway, and negatively affecting Wilderness is not the minimum necessary.

The FEIS is misleading and not transparent regarding the status of mountain goats in the Cascades. The FEIS alleges, "In the North Cascades forests, translocation of mountain goats would restore an indigenous species, consistent with USDA Forest Service policy for wilderness management at FSM 2323.33a." FEIS at J-27. However, that is not what is stated in FSM 2323.33a:

Reintroduce wildlife species only if the species was once indigenous to an area and **was extirpated** by human induced events. Favor federally listed threatened or endangered species in reintroduction efforts. **Reintroductions shall be made in a manner compatible with the wilderness environment.** Motorized or mechanical transport may be permitted if it is impossible to do the approved reintroduction by nonmotorized methods (sec. 2326).

FSM 2323.33a, emphasis added. Again, this is not a reintroduction as mountain goats already exist in the Cascades. The FEIS states, **Mountain goat populations have recovered in some portions of the North Cascades forests, and in 2016, 21 permits for recreational harvest were offered within 9 hunting units.** Emphasis added, FEIS at 119. While the FEIS also notes what it terms "substantial declines" there is uncertainty as to the decline. What the DROD and FEIS fail to address is an issue we raised in our comments, citing the DEIS, which is little changed in the FEIS:

The finding of necessity for the translocation of mountain goats into other Wildernesses in the Cascade Range is equally, if not more, problematic. The DEIS recognizes declines in Cascade Mountain goats, "although the precise magnitude of the decline is uncertain (WDFW 2015a, 2015b)." Nonetheless, "Mountain goat populations have recovered in some portions of the North Cascades forests, and in 2016, 21 permits for recreational harvest were offered within 9 hunting units." *Id.* at 115 and 116. This clearly suggests goats are increasing to the extent additional hunting permits were granted. What isn't clearly stated in the DEIS is that over-hunting is the overriding reason for mountain goat decline in the Cascades (Rice and Gay 2010 and USDA 2016, attached as Exhibit 1, citing to Rice

³ The issue of desired populations is discussed elsewhere in this objection.

and Gay 2010).

It should also be noted that “approximately 130” mountain goats “were translocated to the Cascade Range in the 1980s.” Exhibit 2 at 3604 and 3605 (Shirk et al. 2010). Why those translocations didn’t result in the desired populations goals is not explained in the DEIS. Neither is how the agencies expect different results from the proposed translocations now.

In other words, the FEIS and DROD largely fail to admit that WDFW mismanagement of goats is the likely cause of the decline (over hunting) in the Cascades⁴ and that by allowing continued hunting in the Cascade Range, even if not in the areas targeted for transplants, the connectivity of populations the FEIS claims the agencies, including WDFW, want to re-establish would be hampered. Assuming the growth of mountain goat populations are both valid and possible in Wilderness, the minimum necessary in Wilderness is to let populations expand to regain connectivity by deferring hunting⁵ or limiting human stress in and out of Wilderness, not use 274 helicopter flights in Wilderness to augment the populations.⁶

Getting back to the issue of the status of mountain goat populations, The FEIS misleads the public by talking about “extirpation” and “local extirpation” (FEIS at J-40) that are supposedly documented in the wildernesses in the Cascades in the body of the FEIS. No specific extirpations are documented anywhere in the body of the FEIS.

One of the strangest inconsistencies is that nonwilderness places in the North Cascades Forests can't be used, “Release of mountain goats outside of wilderness in the North Cascades forests was not expected to be successful due to lack of suitable escape terrain in noncontiguous habitat patches outside of wilderness.” FEIS at J-40. However, the FEIS lists 5 release sites in the Cascades outside of Wilderness where goats will be transplanted. There is no reason why using just these five transplant sites outside of Wilderness would not be the minimum necessary, assuming augmentation is indeed necessary.⁷ Indeed, it would make more sense to defer any decision about motorized access into Wilderness until after results of transplants outside of wilderness are available.

Radio collars are not the minimum necessary. Our comments noted:

The DEIS fails to recognize that radio collaring is a trammeling action.

⁴ Only FEIS F-67 makes this admission clear. Punishing the Wilderness for bad management decisions made by WDFW over thirty years ago, as the DROD does, rewards unaccountable behavior.

⁵ FEIS I-6 shows relatively good connectivity for the Glacier Peak complex, an area of prime concern. There are still 21 permits across the length of the Cascades for mountain goat hunting in 2018. See attachment 2. This attachment also documents that nannies can be hunted in spite of concerns over population. If the expressed concerns in the FEIS for the mountain goat population in the Cascades were genuine, there would be changes in hunting and possibly recreation uses mandated by WDFW and the Forest Service.

⁶ In any case, mountain goat populations may be in trouble across their range due to climate change and other human factors. See the attachment 3 a letter sent to the Park Service and attached research, that came out after the close of the comment period. The fact that 130 mountain goats were already transplanted to the Cascades begs the question as to why that effort was not successful and why doing the same thing again will have a different result.

⁷ The MRA suggests that goats can't be put outside the Wilderness because “connections from this habitat to the larger more contiguous alpine areas is often lacking.” FEIS at F-48. Again, translocating mountain goats is not a purpose and need of this project. If it is, the agencies need to redo the analysis and reinitiate public input.

However, the Forest Service admits that placing radio collars to “track [the animals] movement and interactions [] is also a clear trammeling action as it is an attempt to control nature and is human interference in the normal lifecycle of the animals.” Exhibit 5 at 24. Since the DEIS fails to recognize collars as either trammeling or installations, it does not explain why the electronic installations are the minimum necessary. As with helicopter use, the agencies must demonstrate that the placement of radio-telemetry collars within the Wildernesses is necessary to meet minimum requirements for administration of the areas as wilderness and, in doing so, reconcile the inherent conflicts with radio-collaring technology and wilderness preservation.

Radio collars are installations that are being placed in Wilderness under the selected alternative. The FEIS admits, “[A]dditional research and monitoring efforts are not part of this NEPA action,” even though “the NPS and WDFW would continue to seek funding for additional research and monitoring.” FEIS at J-9. Indeed, there will be “ongoing aerial surveys.” FEIS at J-23.

There are two related points that need to be addressed. First, the FEIS analysis says negative impacts to Wilderness are temporary under the action alternatives and the only long-term impacts are under the no-action alternative where the current policy is consistent monitoring of goats in the Olympics. Second, the aerial monitoring of collared goats and any future helicopter use to capture and collar goats in Wilderness, both cumulative and connected actions, are not analyzed in the FEIS. The failure to do this analysis not only circumvents the Wilderness Act, it violates NEPA.⁸

Even if an objective of the proposal is for augmentation in the Cascades, The Forest Service cannot rely on objectives of other agencies to justify transplanting mountain goats, via helicopter and studying population movement, also via helicopter-assisted radio-collaring as necessary to administer the areas in the Cascade Range as wilderness. The Forest Service is considering authorizing intensive management actions normally prohibited in wilderness based on the perceived need “to support the wildlife management objectives of cooperating agencies” (FEIS at J-6). “Congress made preservation of wilderness values ‘the primary duty of the Forest Service, and it must guide all decisions as the first and foremost standard of review for any proposed action.’ *Wilderness Watch v. Vilsack*, No. 4:16-cv-12-BLW, at 19-20 (D. Id. Jan. 18, 2017) (citing *Greater Yellowstone Coalition v. Timchak*, 2006 WL 3386731 at *6 (D. Idaho Nov. 21, 2006)). To comply with the Wilderness Act, the Forest Service in turn must make the requisite finding of “necessity” before it may authorize the action. *Id.* at 20. Aside from the points made in this objection, the FEIS tacitly admits the Forest Service cannot rationally make this finding because the no transplant option “would have less impact to wilderness character” of the Wilderness in the Olympic National Forest and the reason for selecting a more damaging alternative is to be “consistent with the state’s goals and objectives for mountain goat management.” FEIS at F-38.

⁸ The FEIS also misses the point about collaring stating, “Any tagging or collaring would be done at staging areas post-capture, pre-release, and would occur outside of designated wilderness.” FEIS at 53. Presumably collared goats would be placed into the Wilderness so the collars would be installations in the Wilderness.

Our comments stated:

B. The Park Service and Forest Service cannot rely on WDFW's wildlife management objectives in the Wildernesses in the Cascade Mountains to justify a conclusion that augmenting population dynamics via helicopter-assisted translocation is necessary to administer the areas as wilderness.

As discussed above, the draft EIS does not provide the specialized finding of necessity required by the Wilderness Act; instead, the Park Service and Forest Service are considering authorizing intensive management actions normally prohibited in wilderness based solely on WDFW's desire for increased numbers of goats in the Cascades, mainly for hunters. "The 'overarching purpose' of Congress in passing the Wilderness Act was to preserve the 'wilderness character' of [the] land." *Wilderness Watch v. Vilsack*, No. 4:16-cv-12- BLW, at 20 (D. Id. Jan. 18, 2017) (citing *High Sierra Hikers Ass'n v. Blackwell*, 390 F.3d. 630, 648 (9th Cir. 2004)). "Congress made preservation of wilderness values 'the primary duty of the Forest Service, and it must guide all decisions as the first and foremost standard of review for any proposed action.'" *Id.* at 19-20 (citing *Greater Yellowstone Coalition v. Timchak*, 2006 WL 3386731 at *6 (D. Idaho Nov. 21, 2006)). To comply with the Wilderness Act, WDFW must seek approval for management actions involving prohibited uses in wilderness, and the federal administering agencies in-turn must make the requisite finding of "necessity" before authorizing the action. *Id.* at 20.

WDFW manages mountain goats for sport hunting. Indeed, Rice, Jenkins and Chang 2009 cited in the DEIS at 116 states, "Unbiased estimates of mountain goat (*Oreamnos americanus*) populations are key to meeting diverse harvest management and conservation objectives." This reality is important because the DEIS is analyzing the focal question of what is "necessary" for the minimum administration of the Wildernesses through WDFW's lens of what is "natural" for the areas. It is WDFW setting population targets based on hunter opportunity goals, and it is WDFW asserting that the current populations are too low based on those targets. Further, WDFW's methods for implementing its desired population targets (translocating goats to Wilderness) are antithetical to the administration of the areas as wilderness. These management approaches may conflict with the congressional direction to administer the Wildernesses "so as to preserve [their] natural conditions" and protect them as "area[s] where the earth and its community of life are untrammled by man." 16 U.S.C. § 1131(c). Additionally, WDFW's objectives are at odds with the Forest Service Manual, which requires the Forest Service to "[p]rovide an environment where the forces of natural selection and survival rather than human actions determine which and what numbers of wildlife species will exist." FSM 2323.31; *see also* FSM 2320.2 (Forest Service objective to "[m]aintain wilderness in such a manner that ecosystems are unaffected by human manipulation and

influences so that plants and animals develop and respond to natural forces.”).

Nowhere in the DEIS does it discuss changes to hunting practices in lieu of translocating goats in Wildernesses in the Cascade Mountains. In this regard, the agencies cannot proffer a justification for the proposed helicopter use that would set a precedent for the routine use of helicopters to facilitate wildlife population augmentation to reach WDFW goals. WDFW’s desires to increase hunting opportunities cannot justify actions that are generally prohibited under the Wilderness Act. *See Wolf Recovery Foundation*, 692 F.Supp.2d at 1270 (authorizing limited helicopter use for wolf collaring in the River of No Return Wilderness based on unique objective to “restor[e] ... a specific aspect of the wilderness character of the Frank Church Wilderness that had earlier been destroyed by man”—*i.e.*, native wolf populations—and stressing that “the next helicopter proposal in the Frank Church Wilderness will face a daunting review because it will add to the disruption and intrusion of this collaring project. *The Forest Service must proceed very cautiously here because the law is not on their side if they intend to proceed with further helicopter projects in the Frank Church Wilderness.*”) (emphasis added). Further, as discussed below, the Forest Service cannot rationally determine that helicopter-assisted augmentation is the only possible method for meeting the stated goals. In any case, WDFW 2015b, cited in the DEIS, notes that goats are doing well in areas, including places for selected for translocation. “Goat populations in the Darrington area west of Glacier Peak, along the northern shore of Lake Chelan, surrounding Mount Baker, and in the Alpine Lakes Wilderness Areas appear to have increased in recent years.” Changes in hunting and/or changes in recreation use management in the three Wildernesses in the Cascades should be considered and tried before the heavy-handed manipulation and motorization of the preferred alternative.

Where the Forest Service’s wilderness administration guidance directs the Forest Service to “[p]rovide an environment where the forces of natural selection and survival rather than human actions determine which and what numbers of wildlife species will exist,” FSM 2323.31(1), a proposal to utilize prohibited activities in three designated wildernesses to investigate a population decline of an introduced species that is intensively managed by the State to eventually meet population targets for big-game hunting⁹, or even for some kind of connectivity (assuming that is possible and did occur historically), is quite a hurdle. This is because, as excerpted from part of footnote 2 of our DEIS comments:

In contrast to other public land management statutes, which typically authorize agencies to consider and weigh diverse values through exercise of their scientific and policy expertise, the Wilderness Act required certain areas to be managed predominantly for one use: wilderness preservation

⁹ Contrary to what the FEIS text leads readers to believe, the purpose for the translocation does include hunting. See FEIS at E-50, F-48, F-54 and F-66.

[...]

Unlike all other land-management statutes, the Wilderness Act's basic purpose was not to delegate authority to expert agencies, but rather, to exclude certain lands from the application of the agencies' specialized expertise, to restrain agency flexibility, and to protect (with limited, narrow exceptions) certain lands from the impact of the sort of policy choices land managers typically make.

Sean Kammer, *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 100-101 (2013). Exhibit 9.

The agencies' desire to increase big-game species also explains the Forest Service's impermissible position here that the statutory terms "natural" and "untrammeled" often conflict with one another. FEIS at x, for example. The FEIS later states:

The definition of wilderness found in section 2(c) of the 1964 Wilderness Act identifies four qualities of wilderness character that unify all wilderness areas regardless of size, location, or any other feature. These four qualities are natural, untrammeled, undeveloped, and providing opportunities for solitude or primitive and unconfined recreation. A fifth quality, "other features of value," is often added to these four because wilderness may preserve other features that are of scientific, educational, scenic, or historical value. Based on the following issue statement, this impact topic is carried forward for detailed analysis.

FEIS at 15. However, the Wilderness Act does not state that there are four or five qualities of wilderness nor does it provide conflicting definitions for wilderness qualities.¹⁰ To the extent that there is an administrative conflict between various uses of wilderness and preservation of wilderness, the statute and the agencies' regulations and management guidance provide direction for resolving those conflicts in favor of wilderness preservation. *See, e.g.*, 16 U.S.C. § 1133(b); 36 C.F.R. § 293.2(c); FSM 2320.6.

Ultimately, "whatever 'wilderness character' means, it cannot be something that depends upon the active manipulations of humans." Sean Kammer, *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 86 (2013). Restraint and humility are important values underpinning the Wilderness Act, and "[l]and managers should exercise this same humility in dealing with wilderness areas, lest they lead us down a path to where there are no longer any places that are truly 'wild,' no places beyond the control of human institutions and cultural imperatives." *Id.* The Forest Service should not authorize the project because it is incompatible with the purpose of the Wilderness Act.

¹⁰ It is a well-established rule of statutory construction that a statute should be construed "as a symmetrical and coherent regulatory scheme," *Gustafson v. Alloyd Co.*, 513 U.S. 561, 569 (1995), and a "harmonious whole," *Fed. Trade Comm'n v. Mandel Brothers, Inc.*, 359 U.S. 385, 389 (1959)

Aerial Gunning and Capturing of Mountain Goats

Nowhere in the Wilderness Act does it require removal of non-native species. However helicopter landings are prohibited. Even if one were to assume that mountain goats need to be removed from the Wildernesses in the Olympic National Forest, the analysis of minimum necessary is skewed. For example, we are told that the terrain is too rough to kill all of the goats on foot. Yet, in the equally rough Cascades, the goats declined because of hunters on foot to the extent that the FEIS alleges the population must be augmented.¹¹

Regardless, the FEIS is clear Alternative C, “would have less impact to wilderness character than” the proposed alternative. By definition, the proposed action is not the minimum necessary.

In selecting an alternative that removes via aerial gunning (mainly) or helicopter net-gunning most of the mountain goats, the Forest Service is putting naturalness in conflict with untrammelled or wild. In a program review initiated by the four federal agencies and conducted by the Pinchot Institute for Conservation in 2001, the importance of untrammelled (or wildness)¹² is emphasized. (See Attachment 1). The purpose of the study was to examine the critical administrative or stewardship issues facing Wilderness. One of the eight “fundamental principles” for stewardship emphasized the need to preserve the wildness in Wilderness. As the Pinchot report stated, “Protection of the natural wild, where nature is not controlled, is critical in ensuring that a place is wilderness... Since wild is a fundamental characteristic of wilderness that is not attainable elsewhere, if there is a choice between emphasizing naturalness and wildness, stewards should err on the side of wildness.”

The FEIS tries to dismiss the impacts, saying they are only temporary. A decision to trammel wilderness is permanent. You can't take back that decision. The very idea that impacts to untrammelled nature are temporary downplays that preeminent aspect of Wilderness and skews the analysis in the FEIS.

Other Wilderness Analysis, NEPA, and General Concerns

The FEIS biases the analysis in a few ways other than those already described in this objection. One of the ways the Wilderness analysis is skewed is by conflating actions prohibited in the Wilderness Act with actions that though they have an impact, are not prohibited. The most obvious example is the use of aerial overflights. The FEIS describes ongoing impacts from aerial overflights in the Wilderness on the Olympic National Forest (and Olympic National Park) and considers those greater than landing of aircraft in the Wilderness. While overflights do affect Wilderness (and as we show earlier in this objection, the FEIS illogically considers them a problem for the Olympic but not the Cascades) they are not prohibited by the Wilderness Act.

The FEIS alleges, “To remove mountain goats by ground-based efforts only would take a tremendous amount of time and resources and even with these resources, would still likely be impossible.” FEIS at 65. However, the FEIS also concludes that hunting (ground-based) in the

¹¹ This inconsistency is telling. In any case, the extensive use of helicopters in Region VI seems to be a reflection of the Forest Service's unwillingness to use traditional skills. Attachment 4 is another example of the loss of traditional skills in Wilderness on the Mt. Baker-Snoqualmie National Forest.

¹² There is arguably a difference between wild and untrammelled. *Untrammelled* speaks more to our relationship to the place and *wild* to the place itself.

equally rugged Cascade Range removed too many mountain goats so they are threatened with extirpation.¹³

Simply put, the agencies went into this analysis with the predetermination that helicopters, including helicopter landings are needed. No serious thought was given to options outside of helicopter use.

Lastly, the MRAs have been signed by the Regional Forester. Those documents approve the proposed action. As such, the objection reviewing officer is not a neutral party and has made a decision prior to the issuance of a final ROD. This makes the objection process a pro-forma exercise.

Remedy

For the above reasons, Wilderness Watch requests that the Forest Service either deny authorization for the proposed action by adopting the no-action alternative or consider preparing a new EIS (for either the whole project or the Cascades part of it). Other possible partial remedies would include:

- a- Select a ground-based option for the Olympic National Forest Wildernesses, which would adopt the no action alternative for the Wildernesses in the Cascades.
- b- Defer analysis and decision on the Cascades Wildernesses and/or decide on translocation outside of designated Wilderness and not in the Wilderness.

¹³ While we disagree with much of that assertion, the point is the FEIS is biased and inconsistent.

