

June 18, 2021

RE: Volcano Monitoring System Expansion at Mt. Rainier National Park

These comments are submitted on behalf of **Wilderness Watch (WW)** and **Public Employees for Environmental Responsibility (PEER)**. The United States Geological Survey (USGS) proposes that the National Park Service (NPS) grant approval to install 12 monitoring stations, eight of which are proposed within designated wilderness, in Mount Rainier National Park for detecting lahars. Public Employees for Environmental Responsibility and Wilderness Watch request that the NPS reject the USGS request and adopt the "No Action Alternative" for the Lahar Detection System Environmental Assessment (EA). The Minimum Requirement Determination (MRD) for NPS action within designated wilderness is wholly inadequate.

The Proposal Violates the Wilderness Act and NEPA

First, the EA cites two laws for the "Purpose and Need" of the proposed action. The two laws—the 2019 Dingell Act and the 1974 Disaster Relief Act, as amended—do not repeal or modify the Wilderness Act in any way. The Wilderness Act of 1964, and its strict prohibitions, governs the designated wilderness of Mount Rainier National Park without qualification.

Second, the NPS may waive the Wilderness Act prohibition on structures/installations and landing of aircraft only "...except as necessary to meet minimum requirements for the administration of the area for the purpose of the Act (including measures required in emergencies involving the health and safety of persons within the area)...."

The MRD fails to determine that the action is necessary for the "purpose" of the Wilderness Act. The minimum requirement exception in the Act expressly requires that the action be necessary for the "purpose" of the Act—not "purposes." That purpose, enunciated in Section 2(a) of the Act, is to preserve the "wilderness character" of designated areas, unimpaired for future use and enjoyment as wilderness. Both the EA and the MRD acknowledge that the lahar monitoring stations and attendant landing of aircraft are inconsistent with preserving wilderness character. Thus, the proposed action does not serve the "PURPOSE" of the Act. 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)).

It falls to the NPS to demonstrate that the project as proposed is necessary to preserve the wilderness character of the area. Unless the NPS can make and support this demonstration in its analysis of the project, the project cannot proceed. *Wilderness Watch v. U.S. Fish & Wildlife Serv.*, 629 F.3d 1024, 1040 (9th Cir. 2010) (setting 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 NPS must review the Draft MRD and base it on the exact and precise wording of the Wilderness Act’s " necessary to meet minimum requirements," and not on an apocryphal

interpretation of what is "necessary."

Wilderness Visitor Safety

The MRD fails to make a convincing case that the proposed action is necessary for emergencies involving health and safety of persons *within* the wilderness area, as the law explicitly demands. Instead, the purpose of the action is the health and safety of persons *outside* of the wilderness area. The Wilderness Act provides for no such exception upon which to waive its prohibitions. As a federal court in Washington stated, the exception for emergencies "most logically applies to matters of urgent necessity rather than to conveniences for use in an emergency." It also quoted NPS policy recognizing this distinction:

The Wilderness Act and current NPS management policies encourage wilderness users to prepare for, and encounter the wilderness on its own terms, striving to provide "primitive and unconfined" recreation opportunities, complete with the risks that arise from wildlife, weather conditions, etc. NPS wilderness management policies do not support the provision of facilities in wilderness specifically to eliminate these risks.

If preventive measures were indeed legitimate, the agencies could allow all sorts of warning systems in Wilderness. Such a strained interpretation would allow monitoring devices to detect flash floods, avalanches, cold temperatures, heavy snow, high winds, or any number of natural events that create risk for visitors. There are inherent dangers that come with recreating in Wilderness, whether it be turning a corner on a trail to find a grizzly mother with cubs lumbering your direction or finding the volcano you are traversing has suddenly come to life. Violating the Wilderness Act and degrading the Wilderness with structures, installations, and motorized intrusions to make use of Wilderness "safer" undermines what a wilderness experience is all about.

Setting aside the above problem, there is no indication in the EA that a volcanic warning system will actually increase the safety of persons within the Wilderness. Even if the newly installed equipment detected an imminent eruption of Mt. Rainier, the EA does not disclose a plan for contacting wilderness visitors or explain how that might be accomplished.

Other Purposes

The MRD attempts to justify the installations because they serve "other purposes" of the Wilderness Act, namely "scientific." The minimum requirement exception is built around the "purpose" of the Act, not the "other purposes." Further, the Wilderness Act listing of "other purposes" also requires that they serve, not suspend, "wilderness character." Managing wilderness for the "public purposes" of recreation, scenery, science, education, conservation or historic use does not create wholesale exceptions to the Wilderness Act's prohibitions. A contrary conclusion would destroy wilderness and render the Act meaningless.

Permanent Installations

The EA is inconsistent on whether these are permanent installations. In the purpose and need, it admits as much stating, "These lands must be managed pursuant to the 1964 Wilderness Act, which normally prohibits permanent installations." EA at 4. Yet, when looking at the impacts from these installations, the EA also states, "The natural quality of the Mount Rainier Wilderness

would be affected by small scale, localized, and temporary impacts on the natural environment.” EA at 46. Thus, the EA fails to adequately and honestly analyze the impacts from this proposal.

Alternatives

Even assuming the placement of the structures was necessary to preserve Wilderness, the NPS should have fully considered alternatives such as the use of packable, temporary equipment.

The EA should have also looked at removing existing sites in the Wilderness. The NPS refused to fully analyze this alternative. The EA should have also considered an alternative that places all structures on non-Wilderness lands, including lands outside the national park. The monitoring program needs to be made compatible with Wilderness, not the other way around.

Cumulative Impacts

The EA fails to adequately analyze the direct, indirect, and cumulative impacts of the proposal on wilderness character, including impacts from permanent structures and motorized access, and fails to rigorously explore reasonable alternatives that would lessen or eliminate those impacts. The EA does not adequately discuss the enduring impacts of permanent structures on wilderness character or the cumulative impacts of these structures with other structures and installations already in the Wilderness. Similarly, the EA does not adequately address the impacts of motorized and mechanized intrusions in conjunction with other past and reasonably foreseeable motorized intrusions in the Wilderness.

A project that would install new structures in Wilderness with motorized equipment requires the preparation of an EIS. The EA and MRDG clearly show that wilderness character of the area will be harmed by the authorization of multiple prohibited uses within designated wilderness, including the installation of permanent structures and the associated motorized access to install and maintain them. The structures will remain in the wilderness for decades likely requiring repeated motorized intrusions to install and maintain them over their lifetime, causing significant enduring impacts on wilderness character.

The above inadequacies constitute a failure to take a hard look at project impacts in violation of NEPA.

Conclusion

Implementing the proposal as designed violates the Wilderness Act in a number of ways. PEER and WW reiterate our request that the NPS reject the USGS request and adopt the "No Action Alternative" for the Lahar Detection System Environmental Assessment (EA).

Sincerely,

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