WILDERNESS WATCH
Keeping Wilderness Wild

P.O. Box 9175 | Missoula, MT 59807 | 406.542.2048 | wild@wildernesswatch.org | www.wildernesswatch.org

August 11, 2023

McKinley Dam Project Manager
Lolo National Forest
24 Fort Missoula Road
Missoula, MT 59801

RE: The McKinley Lake Dam Draft Environmental Assessment (EA)

Sent via the internet to: https://cara.fs2c.usda.gov/Public/CommentInput?Project=63564. Copies sent via email to: kimberly.smolt@usda.gov and crystal.stonesifer@usda.gov

Wilderness Watch is providing these comments to *The McKinley Lake Dam Draft Environmental Assessment (EA)*. 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 has been involved in dam reconstruction, maintenance and breaching issues in Wilderness since our inception in 1989 including dams in Montana, Washington, California, Utah and Wyoming. We would be hard-pressed to come up with an example of a dam project that is more conducive to being completed without the use of motorized equipment than McKinley Lake. It's a relatively small dam with easy access and a plethora of local talent, skills, expertise, and resources to readily accomplish the work, and a dam owner—Missoula City—that we believe is open to completing the project the "Wilderness way" with a little bit of leadership on the Forest Service's part.

I. Introduction

Wilderness Watch supports breaching the dam on McKinley Lake that will allow the area to return to something resembling its natural conditions. Our knowledge of McKinley Lake and the nearby Little Lake, breached years ago, suggests the area around McKinley will naturally revegetate and won't require much in the way of active restoration.

Wilderness Watch recognizes the City of Missoula has a legal right to access and operate or breach the McKinley Lake dam. The Forest Service has the authority to condition that access to protect the Rattlesnake Wilderness. That said, the rights of the City shouldn't be an issue since what is best for the Wilderness and what is best for the City should be in alignment on this project.

As explained below, we believe the Forest Service analysis of the project is flawed in many respects, biases the analysis in favor of the use of helicopters and other motorized equipment, and significantly fails to provide a reasoned analysis of options to the proposed action.

The Forest Service has been provided with credible independent information, including from former agency personnel, showing the project could be completed on time using only traditional skills. And there are many, more challenging projects completed that way of which the agency is no doubt aware. A few examples are provided with this comment, including a couple that involved building or breaching and repairing dams. The Forest Service needs to revisit and revise its MRAF and analysis of a traditional skills analysis and present a revised analysis to the city and the public.

II. The EA and MRAF lack a lot of basic information needed to justify the proposed action or to seriously evaluate non-motorized, traditional skill alternatives to the proposed action.

Neither the EA nor MRAF include basic information necessary to determine if the use of motorized equipment is warranted.

Neither document describes what materials will be airlifted by helicopter, or explains why those materials can't be delivered on foot or by horse or mule.

Neither document describes the size or weight of the motorized pump or motorized drill or explains why a helicopter is necessary to transport those.

Neither document explains why the motorized pump is chosen over the hand-primed siphon, though both are assumed to do the job.

Neither document explains why a motorized drill is preferable to hand-boring drill holes except the statement in the MRAF that hand-drilling might require multiple blasts creating a "greater risk" to the work crew. How much greater risk? While there is some risk involved with every blast (or every helicopter trip, for that matter), the Forest Service routinely uses blasting on projects and one has to assume the blaster and crew are trained in how to safely do their job. It's awfully thin gruel to justify using motorized equipment because multiple blasts pose more risk when the risk is neither quantified or qualified.

Neither document explains how many helicopter flights will occur under the proposed action, or what will be delivered to the dam site on those flights.

Neither document explains why it would require 67 pack loads (8,000 lbs.) to supply camping gear and food just for *mobilizing* the project. Even a very generous estimate of 100 lbs. of camping equipment per person leaves 7,000 lbs. of food for 10 people just to get started.

Neither document explains why supplying the camp after mobilization requires only 3 pack train trips for the proposed action, but requires "continued supply/resupply over

several weeks" for the traditional skills alternative when the number of workers and the work being performed at the dam site is essentially the same under both alternatives.

Neither document explains what constitutes the 18,000 pounds of supplies and materials—in addition to camping gear and food—needed to be hauled to the site or why such a huge amount of material is needed. Since the workers are walking and using hand tools, what makes up the 9 tons of supplies?

Neither document explains why the traditional skills alternative requires 48 pack train loads and the proposed action requires only 3 pack train loads, when presumably the supplies needed by the work crew of 10 would be the same regardless of the alternative chosen.

Neither document explains why the traditional skills option will take 119 days vs 91 days for the proposed action when both alternatives use the same number of workers using the same hand tools (except for boring the drill holes) for creating the breach and restoring the stream channel.

Neither document describes the amount of material to be removed from the dam and transported to the drop zone, and how the estimates made regarding days to complete the project relate to the amount of material to be moved. Previous communications with the city suggest creating the breach will require removing about 500 cubic-yards of soil, but that number can't be found in the FS analyses.

Neither document explains why it will take 119 days (under the traditional skills alternative) to move this relatively small amount of material. Even allowing for a week of set-up, a week of take-down, and a week of delays for unforeseen reasons, it leaves 100 days for a crew of nine (ten minus a camp-tender/cook) to move 500 cubic yards of earth. **That works out to about ½-yard per person per day or only three standard wheelbarrow loads per day (a standard wheelbarrow being about 6 cu-ft)!** How were the estimates in the MRAF arrived? That information is completely lacking and seems on its face to be incredibly faulty.

Neither document explains why it is necessary to drive two miles into the Wilderness then walk the last two rather than walking the 4.5 miles from the Wilderness boundary. Since the workers will be camped at the dam, walking from the end of the road would add only an hour each way for each hitch.

Neither document explains why the size of the work party has to be limited to 10 when such an arbitrary, discretionary decision biases the analysis toward motorized use. While the management plan limits the public to group sizes 10 persons or less, the Forest Service doesn't limit other administrative activities, such as firefighting, to a 10-person limit. Nor would it restrict a private rights holder to that limit. Since the amount of time needed to complete the project using traditional skills is the basis for rejecting that option, the arbitrary limit on group size unjustifiably biases the decision. While we certainly believe a group of 10 workers can complete the project in less time than the

> Forest Service proposed option, there is no question allowing a larger work party could meet the Forest Service's and city's desire to complete the job in one season. A similar problem exists with limiting the number of animals in a packtrain or assuming only one pack train per day. Both of these artificial limits point toward a "need" for helicopter access.

Perhaps the failure of the EA and MRAF to meaningfully address traditional skill opportunities can be tied directly to the purpose and need statement in the EA: "The purpose of the decision to be made is to authorize sufficient helicopter and vehicle access." If the purpose is to approve helicopter use and other motor vehicle access then it's no wonder the EA and MRAF lack a credible assessment of traditional skill use. The purpose should have been to authorize the access needed to breach the dam that best protects wilderness character, upholds wilderness values, including the use of traditional skills, and comports with the rights of the dam owner.

Further, the EA[1] doesn't even analyze a non-motorized alternative, instead analyzing only the proponent's alternative. This begs the question of whether the EA complies with the National Environmental Policy Act (NEPA).

III. Forest Service Authority and Responsibility

The EA is misleading in its contention that helicopter and motorized access are required by statute. The enabling legislation for the area recognized the water rights holder's right to customary and usual access to "necessary motorized use over and along existing roads and trails" in the Wilderness and National Recreation Area. *See* PL 96-476 Section 4(d)2. The statute didn't define what those rights were, nor does the current EA. Helicopter use is certainly not explicitly authorized by that language, nor does it require the Forest Service to allow any or all amount of vehicle use on the "existing roads and trails." The Forest Service is derelict in accepting as the only viable access the alternative put forth by the project proponent rather than developing alternatives that better uphold wilderness values.

While the Forest Service is obligated to authorize some kind of access, it cannot abdicate its responsibility to limit access to the minimum necessary. *See* 36 C.F.R. § 293.13.
As we stated earlier in our comments, the decommissioning of this dam or any other dam in the Rattlesnake Wilderness needn't raise issues around the rights of the dam owners, because the dam owner's goals can be achieved without the need for motorized access. The problem with the Forest Service analysis is it makes assumptions about access that drive the decision toward motorized use.

IV. Wilderness, Dams, and the Minimum Necessary

The question of how to maintain or repair dams in Wilderness has been discussed before the wilderness bill became law. In testimony on the wilderness bill the Secretary of Agriculture described how the Forest Service would interpret and implement the law:

1 The Minimum Requirements Analysis Framework (MRAF) does consider such an option, but the EA doesn't.

> Water developments for the storage and diversion of water for irrigation, domestic, and other uses have been allowed in this wilderness-type areas. The works generally have been constructed and maintained by means which did not involve motorized transportation. There are 144 such projects. We would construe the provisions of [the Wilderness Act] as permitting the continued maintenance of these existing projects by means which would not involve motorized transportation as in the past.

S. Rep. No. 109 p.29, 88th Cong. 1st session (1963).

Moreover, Forest Service reports show there have been more than two dozen dams in the Bitterroots that have been abandoned and breached over the years, none of which has been done with motorized equipment. There is nothing particularly unique about the McKinley Lake dam that suggests it's any different. What is it that has caused the Forest Service to backtrack from the promise made in 1964 such that even a relatively minor dam project can't be done without the intrusive impact of helicopters?

Utilizing traditional skills and foregoing the use of motorized equipment is a sign of respect for and commitment to upholding the spirit of the Wilderness Act, and other Forests have successfully completed major dam projects using traditional means.[2] Invading Wilderness with helicopters and other tools of modern technology strikes at the heart of Wilderness as a place set apart.

There are a number of arbitrary, discretionary provisions in the Forest Service analysis of using traditional skills that bias the analysis toward allowing motorized use. For example, limiting the size of the work group to 10 individuals, as is done for recreation parties, but not for other administrative activities like firefighting, increases the time to complete the project (and time is the rationale for eliminating the traditional skills option). Doubling the number of workers would reduce the amount of time to complete the project such that it would fit within the timeframe of the motorized option, even using the Forest Service's grossly inflated time estimates for completing the job. While we recognize pack trains will have an impact on the Wilderness, the use of stock is an appropriate, allowable use that is compatible with Wilderness whereby helicopters never are. Even with all of the biases in the analysis, the MRAF rating charts for each option shows the traditional skills option as the best outcome for Wilderness.

V. Violations of NEPA

The EA fails to analysis of a non-motorized or even a less motorized access option. While we do not believe that any motorized or mechanized equipment is needed for this project, the failure of the EA to fully evaluate what is the minimum necessary is glaring. There is simply a false conclusion in the MRAF, based in part on constraints of the Forest Service's own making, that

2 See attached examples, including a different Forest declining a helicopter use request as incompatible with the Wilderness Act and instead requiring a dam company to haul 500 tons of sand and cement for dam repair by pack mules. Over 100 mule loads were unloaded at the dam site each day for a total of "over 4,000 mule loads of sand and cement [] hauled over steep, precipitous trails."

traditional skills are infeasible. The EA does not even analyze options that might have fewer impacts such as:

- Having workers walk to the dam site from the end of the cherrystem rather than driving into the Wilderness to save less than one hour's walking.

- Using more pack strings to greatly reduce the time frame for bringing in supplies.

- Having more workers on-site to reduce the time frame.

NEPA requires USFS to "[r]igorously explore and objectively evaluate all reasonable alternatives" to a proposed action. 40 C.F.R. § 1502.14(a). USFS "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). The EA violates these requirements by failing to analyze a traditional skills option. The Forest Service should work with the project proponents and other interested parties on a plan that could be completed without motorized access.

Similarly, the fact the EA didn't even analyze a no-action alternative violates NEPA. While the agency may not feel it can choose such an option, a no-action needs to be analyzed.

As described above, the EA lacks the kind of information needed to adequately evaluate alternatives to the proposed action. The assumptions behind so many of the numbers aren't disclosed such that the public or a decision-maker for that matter can make an honest assessment about alternatives.

Conclusion

The Forest Service has been presented with a credible analysis by a retired FS engineer, with decades of experience working on backcountry/wilderness projects, that describes how this project could be completed using entirely hand tools and wheelbarrows (not explosives) in less than one month and at a fraction of the cost ($60,000 compared to the $600,000 estimate the city used at its public meeting). Using explosives would further reduce the time required. Why wasn't this information used in the EA and MRAF or, at a minimum, why doesn't the MRAF or EA describe where this analysis is flawed?

The FS has clearly sabotaged its own analysis to arrive at a conclusion that is not in the end the best solution for the City of Missoula or the Rattlesnake Wilderness. One can only wonder why.

Sincerely,

George Nickas
Executive Director

Attachment: Traditional Skills Examples