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May 4, 2015

U.S. Fish and Wildlife Service
Arctic National Wildlife Refuge
101 12th Ave, Room 236
Fairbanks, AK 99701

Comments submitted via email to: arctic_refuge@fws.gov

RE: Comments on the Draft Environmental Assessment for the Proposed Study of Hydrological, Glacial, and Meteorological Factors that Control Water and Sediment Input to Lake Peters

Dear Responsible Official,

Below are comments submitted by Wilderness Watch on the above captioned proposal and Draft Environmental Assessment. 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. Our members use and will continue to use the Mollie Beattie Wilderness for outdoor recreation of all kinds, including hiking and wildlife viewing. The Fish and Wildlife Service's proposed action adversely affects Wilderness Watch's organizational interests, as well as its members' use and enjoyment of the Mollie Beattie Wilderness within the Arctic National Wildlife Refuge.

Wilderness Watch appreciates the value of wilderness as a unique place where one can study how nature functions when left alone. However, as the Draft Environmental Assessment (DEA) indicates, the proposed research project would involve "numerous actions prohibited by Section 4c of the Wilderness Act," including several temporary weather stations, other temporary installations, helicopter use and landings (2-3 landings per year), airplane use and landings (3 per year), and motorboat use (daily from June to August) over a three year period. Based on our review of the DEA and the Minimum Requirements Analysis (MRA), the FWS has not demonstrated that these otherwise prohibited actions are necessary to meet the minimum requirements for the administration of the area as wilderness, or in the unlikely event that the FWS could demonstrate the project as proposed is necessary, that the FWS has authorized otherwise prohibited actions only to the extent necessary. While research is a contemplated use of designated wilderness, it must adhere to the same rules as every other contemplated use.

Additionally, Wilderness Watch is concerned by the manner in which the FWS approached this project. The public is just now receiving notice of this proposal – only

a month before the project is to begin, and it doesn't appear that tribal interests have been consulted. It appears that a decision has already been made, rendering the NEPA process merely an exercise in post hoc rationalization. This is particularly troubling where the FWS itself admits that "the proposed project would substantially increase the number and types of activities and technologies normally prohibited in Wilderness." Given the increasing demand and funding for climate change research, particularly research on the impacts to remote ecosystems and glacial features, it is likely that we will see more proposals for these types of actions within designated wilderness areas. This raises important questions regarding the purpose of wilderness, the role of research in these areas, and the role of administering agencies in authorizing actions that degrade wilderness character. Public involvement in this process is essential.

WILDERNESS ACT CONCERNS:

The Wilderness Act prohibits the use of use of motor vehicles, motorized equipment or motorboats, and other forms of mechanical transport, as well as the landing of aircraft and the presence of structures or installations in designated wilderness with only one exception: "except as necessary to meet minimum requirements for the administration of the area for the purpose of [the] Act." 16 U.S.C. § 1133(c). *All* of these prohibited activities are proposed in this project, so the FWS must demonstrate that each of the activities, and each instance of each activity, is necessary to meet the minimum requirements for the administration of the area pursuant to the Wilderness Act.

The FWS acknowledges that the actions and installations proposed in this project are prohibited by the Wilderness Act "except when 'necessary to meet the minimum requirements for the administration of the area for the purpose of this Act,'" and also acknowledges that the overriding purpose of the Act "is to preserve wilderness character." DEA at 1; *See also* DEA at 10 (noting that the "overarching mandate of the Wilderness Act is to preserve a designated area's wilderness character."). However, it is unclear from the DEA why this research project is necessary for the FWS to meet the minimum requirements for preservation of wilderness character.

The MRA sheds some light on the mistaken rationale by stating that the proposed private research project is necessary for two reasons: 1) to preserve "natural conditions" and 2) to preserve "other features of value." As to the second reason, the MRA incorrectly discusses science and education as "other features" of wilderness thereby conflating public uses of wilderness with wilderness character. The "Keep It Wild" guidance for administering agencies is clear that "other features" pertains to site-specific features (environmental, geological, and/or ecological features) – not public uses.

As to the first reason, the DEA states that "[c]ollecting, analyzing, interpreting and reporting on data that document [the influence of humans on climate] will help achieve the following Refuge purposes: To conserve fish and wildlife populations and habitats in their natural diversity; ensure necessary water quantity and quality and continued subsistence uses; and fulfill international treaty obligations with respect to fish and wildlife and their habitats." DEA at 19. It further indicates that the information that may result from the research project may also improve understanding of processes

that affect fish and wildlife habitat in other drainages and compliment / validate monitoring data from other glaciers in the Arctic. *Id.* These statements raise several questions: Is the research, including each of the accompanying prohibited actions, *necessary* to meet the *minimum* requirements for administration of the area *as wilderness*? If the answer is yes, why? Is the agency unable to administer the area as wilderness without authorizing these prohibited actions? What will the FWS do with the information gleaned from the research? Will the FWS even have access to the data from the private project? Is there an agreement with the private researcher? If the FWS intends to use the resulting information to take a more active role in the management of this area, perhaps through intervention and manipulation, how does this comport with the Wilderness Act's mandate that wilderness areas remain free from trammeling (meaning free, unbound, unhampered, unchecked, etc.)? ¹

The mistaken analysis in the MRA likely resulted from the fact the Refuge's wilderness specialist was excluded from preparing the MRA, and instead the wilderness specialist's report, the MRA, was prepared by individuals other than the wilderness professional.²

As discussed above, the purpose and need for the project is focused on private research interests, and the DEA statements referenced in the preceding paragraph above reflect Refuge goals (not wilderness goals). All of these interests must be managed in a manner that preserves wilderness character. FWS management guidance also takes this position noting that “[a]s [the FWS] carr[ies] out individual refuge establishing purpose(s), and Administration Act purposes, the Refuge System mission and goals, and the Service's mission in areas designated wilderness, we do so in a way that preserves wilderness character.” 610 FW 1.12 B. And, while the management guidance appreciates that wilderness areas provide unique opportunities for research, it also states that the FWS “may authorize private research in a wilderness area, with a special use permit (SUP) if it is appropriate and compatible with refuge purposes, including Wilderness Act purposes, *and does not involve generally prohibited uses.*” 610 FW 2.27 C (2)(emphasis added).

The DEA fails to acknowledge that a system of long term ecological monitoring sites have already been established in the Refuge which do not require exceptions to Wilderness Act prohibitions. This

¹ The FWS's management guidance for designated wilderness defines “untrammled” as “[a] key descriptor of wilderness in the Wilderness Act, untrammled refers to the freedom of a landscape from the human intent to permanently intervene, alter, control, or manipulate natural conditions or processes.” 610 FW 1.5 DD. Similarly, this guidance defines “wildness” as “[t]he state of being free from human control and untrammled.” 610 FW 1.5 KK. The Comprehensive Conservation Plan for the Refuge also clearly states that human manipulation is contradictory to preservation of wilderness character.

² Wilderness Watch executive director, George Nickas, was told by the refuge manager that in the wilderness specialist's professional opinion the project was not necessary to meet the minimum requirements for administering the wilderness and would be in violation of the Wilderness Act, therefore other staff that supported the project were assigned to prepare the MRA.

system of sites was created for the purpose of monitoring changes over time. Also not mentioned are standard existing programs that monitor population status of most hunted species and some non-hunted species with the purpose of guiding management actions to properly conserve wildlife. The Refuge staff also monitors public use and has ample authority to regulate such use to conserve resources as necessary.

Whatever the reason for a proposed use of the Wilderness, whether it be scientific use or otherwise, that use must be compatible with the preservation of wilderness character, and if a generally prohibited use is proposed, that use must be *essential* for the FWS to meet the minimum requirements for administration of the area as wilderness. Even if the FWS could demonstrate that the prohibited activities are necessary to meet the minimum requirements for administration of the area as wilderness, the FWS has not demonstrated that the activities would be authorized only to the extent necessary. The agency must also ensure that it is authorizing the prohibited action only to the extent necessary. *Id.* The DEA provided no analysis of alternatives that may avoid or lessen the need for prohibited activities. These concerns are more fully discussed in the sections below.

NEPA CONCERNS:

PUBLIC INVOLVEMENT AND EXPENDITURE OF RESOURCES

The DEA for the project was released on April 6, 2015 with a notice that the public would have 15-day period to review the DEA and provide public comment. Wilderness Watch expressed its concern over the abbreviated public comment period, particularly where the normal public comment period for an EA is 30 days and where this is a project that would authorize several prohibited activities within a designated wilderness area over the span of three years. After reviewing the request, the FWS extended the comment period to May 5, 2015.

While the extension to a normal 30-day period is appreciated, a project such as this is logistically complicated, as indicated in the DEA and accompanying documents, so it is likely that the FWS has known about this project for some time – likely a year or longer. Yet, this is the first time that the public has heard about the proposal – one month before it is to begin. Given that the project is to begin on May 15, and given that arrangements would have to have been made by the researchers well in advance for plane tickets, grant funding, helicopter charters, etc., the apparent conclusion is that the decision has already been made to authorize this project and any NEPA analysis and public participation is a formality.

Has the FWS provided support, verbal or otherwise, for this project or assurance to the researcher that this proposal would be approved? Such a stance, combined with the resources that have already been expended in preparation for this project, makes it unlikely that the agency could or would alter course at this point in time. This is precisely the type of situation that NEPA serves to avoid. Regardless of Wilderness Watch's ultimate position on this project, the process by which the agency has authorized the project is troubling. Wilderness Watch has several concerns about the proposal; had the FWS involved the public early in the NEPA process, these concerns could have been

identified and addressed.

PURPOSE AND NEED AND RANGE OF ALTERNATIVES

The Draft EA describes the purpose and need for the project as follows:

The purpose of the proposed action is to provide Northern Arizona University (NAU) access to Peters Lake to study the hydrological, glacial and meteorological factors that control water and sediment input to the Lake. The need for the proposed action is to respond to the request for a Special Use Permit by NAU to monitor and sample sediment in the lake, in its tributary streams and on the Chamberlain Glacier over a three-year period.

The stated goal of this work is to improve understanding of how modern-day climate controls processes that affect fish and wildlife habitat in glacier-fed watersheds, and to provide a better basis for interpreting cores from lake sediments that reveal a wealth of information about how glaciers, hydrology, physical processes and biota have responded to climate change on millennial time scales. Collected data will be used to create and validate a model that can be used to forecast future changes and provide a basis for interpreting paleolimnological data from cores collected from the Lake sediments. DEA at 2.

This purpose and need statement is focused solely on the goals and objectives of the project proponents (private researchers) and does not explain why this project is necessary for the FWS to meet the minimum requirements for administration of the area as wilderness. While the project proponent's purpose and goals are relevant to the agency's analysis, the FWS still has the responsibility to ensure that the purpose and need of the project, as well as reasonable alternatives proposed to meet that purpose and need, are defined pursuant to the agency's objectives.

The DEA offers no mention or consideration of any alternatives aside from the proposed action and the no-action alternative nor does it contain any discussion as to why the FWS declined to consider alternatives that would not offend, or that would offend to a lesser extent, the Wilderness Act. In addition to NEPA's mandates, the FWS's management direction for designated wilderness discusses how alternatives are analyzed and states that "[a]t a minimum, we evaluate the impacts of: (1) An alternative where we take no management action, (2) An alternative allowing no generally prohibited uses, and (3) Alternative(s) to conduct the activities inside the wilderness and outside the wilderness." 610 FW 1.18 A. The DEA provides no discussion as to why the FWS has deviated from this policy in this case.

At a minimum, the FWS should have considered a third alternative in its EA modifying the proposed action to exclude or minimize helicopter, motor boat, structure and installation, and other generally prohibited uses. With specific regard to helicopter access to the glacier, the FWS has not explained why authorization of this prohibited activity is necessary – and not just necessary for a component of the research proposal but necessary to meet the minimum requirements for administration of the area as wilderness. Why can't a team pack in the equipment? Others have done this in the past. With

regard to fixed wing plane access, why can't a float plane be used during open water season on the lake? This would alleviate damage from tundra landings. With regard to motorboat use, there does not appear to be any limitation on the amount of motorboat use authorized. Why not? How many sampling sites will there be? Will the motorboat be used for recreational purposes such as angling or sightseeing? What is the total array of equipment and instrumentation and where will each nonconforming installation be located? Why is a gas powered ice auger necessary? A hand auger could be used to draw a few smaller holes and an ice chisel could then be used to break out a larger hole.

Finally, neither the DEA nor the MRA provides an evaluation of other research approaches for obtaining knowledge of past climate changes in the Arctic region that could be studied outside of the Wilderness area, and may yield comparable insight as to how ecosystems have responded in the past. For example, studies of pollen in the sediment of other lake bottoms located outside of the Wilderness have potential of providing information as well, yet the documents only provide a narrow focus that can only be obtained at Lake Peters. Also, the sediments from lake bottoms that were deposited during periods when glaciers were active in the lake headwaters may also yield comparable information, yet this approach is not discussed. It appears that the DEA is designed to exclusively justify this particular proposal rather than objectively analyze other possible alternative sources of information.

SUBSTANTIAL QUESTIONS CONCERNING SIGNIFICANCE OF PROJECT AND CUMULATIVE IMPACTS.

The DEA explains that the FWS prepared an EA because the project involves several actions and technologies normally prohibited in wilderness. In addition to authorizing actions that are prohibited under the Wilderness Act, Wilderness Watch is concerned about several other factors that would indicate a need for a more involved NEPA process. A few examples are as follows:

- *Speculation of future benefit.*

Any future benefit to the Mollie Beattie Wilderness from this research proposal is speculative. Regardless, even if the FWS believes that the effects of the research project will be beneficial, the FWS cannot discount the significance of other impacts based solely on this belief. Likewise, the Wilderness Act does not provide for this type of balancing act with regard to prohibited activities. As discussed above, the Wilderness Act's exclusive test for allowing an otherwise prohibited activity is whether the activity (or structure / installation) is necessary to meet the minimum requirements for administration of the area as wilderness.

- *Unique character of wilderness.*

NEPA's regulations note that an action may be significant if the geographic area demonstrates unique characteristics. By definition and designation, designated wilderness is the epitome of a geographic area demonstrating unique characteristics, and the proposed action would authorize multiple actions, over three years, that are expressly prohibited by the Wilderness Act because they degrade the characteristics that make wilderness unique. In addition to these direct impacts, and as

discussed below, this proposal should not be viewed in isolation given the attractiveness of this area for research projects and the ongoing and foreseeable future research activities that may add to this degradation.

- *Establishing precedent for future authorizations.*

As discussed above, Wilderness Watch is concerned about the way the FWS approached this proposal, particularly the lack of early public discourse about this project in particular, as well as the lack of a larger discourse about the role of research of this type (with its accompanying nonconforming activities) in designated wilderness. Wilderness Watch supports important research, but when that research involves degradation of the very thing the agency is charged with protecting, the agency has a duty to take a hard look at those impacts and involve the public in the process. It appears that the FWS has taken a position on these research activities that foreordains the outcome of the NEPA process.

Additionally, authorization of use of the G. William Holmes Research Station is of concern given its history and the ongoing debate over removal of the structure. The FWS has a long history of removing miscellaneous refuse from the site – much of it left by researchers. More recently, the research station has received scant use by researchers and agency staff – although, it has been used on occasion, and inappropriately, for agency-sponsored junkets. Because of its lack of utility for administration of wilderness and its obvious incompatibility with wilderness, there has been a long-standing public interest for removal of the buildings at this site. The recently finalized Comprehensive Conservation Plan commits the Service to conduct an environmental analysis of building removal and a report within 2 years of the final CCP. The DEA fails to mention this requirement or explain how the proposed project will influence the building removal analysis.

- *Cumulative Impacts*

Climate change is at the forefront of ecological concern and study. Because of the unique opportunities presented by wilderness areas, it is likely that more researchers will find these areas desirable, and more funding will be available, for climate change research. The DEA states that “[i]t is reasonably foreseeable that near-term future science proposals will include requests for meteorological stations and other instrumentation like the kind analyzed here. There are currently a number of semi-permanent instruments in the greater Lake Peters area, and their continued presence and use, combined with the Proposed Action, could threaten the undeveloped quality of wilderness character.” The cumulative effects analysis, however, concludes that no negative cumulative effects are likely because the proposed action includes only temporary installations and temporary activities. The discussion of cumulative impacts in the DEA provides no detail regarding past, present, and reasonably foreseeable projects, activities, or installations. The fact that this particular research project will end in three years does not alleviate the FWS’s burden of sufficiently analyzing cumulative impacts, particularly where it appears that these types of research proposals are likely to be commonplace.

In addition to the above concerns, the direct impacts of the proposal are understated. For example,

noise disturbance from motorized equipment is likely to have greater impacts than portrayed. It is important to realize that Lake Peters is a narrow body of water with steep mountainous slopes on its sides. Sound is efficiently transmitted across water, reverberates off the barren rock surfaces of the mountains and often can be heard remarkably far from the source. This project has multiple sources of sound (helicopter, aircraft, motor boat, ice auger, generator, and even human voices from the camp) that will be heard over a relatively large area during most of the summer season. Compounding this problem, as discussed above, the DEA avoids describing the extent of motorboat use that may occur.

REQUESTED ACTION

Due to the above concerns regarding violations of the Wilderness Act and NEPA, we request that you select the no-action alternative, and we request that the public be notified early in the process the next time a proposal such as this is considered.

Sincerely,



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