



May 27, 2016

Submitted via email to: comments-pacificnorthwest-mtbaker-snoqualmie@fs.fed.us

Martie Schramm, District Ranger
Snoqualmie Ranger District
902 SE North Bend Way
North Bend, WA 98045

Re: Greenwater Access Travel Management Environmental Assessment

Dear District Ranger Schramm:

WildEarth Guardians respectfully submits these comments to the U.S. Forest Service concerning the draft environmental assessment (EA) under the National Environmental Policy Act (NEPA) of the Greenwater Access Travel Management (ATM). Guardians has also signed on to a comment letter with conservation and recreation non-profit organizations, submitted by Tom Uniack on behalf of the groups that expressed our support for the Forest Service's efforts and proposed a modified alternative B. In addition, Guardians submits this comment letter to highlight our interest in ensuring the Snoqualmie Ranger District takes the next step towards an economically and environmentally sustainable road network.

We are very encouraged to see the Mt. Baker-Snoqualmie National Forest considering the Greenwater area road system on a watershed scale. We support a thoughtful, strategic approach to improving public access to the forest, reducing adverse impacts from forest roads to water quality and aquatic habitats, and improving watersheds and forest resiliency by returning expensive, deteriorating, and seldom used forest roads to the wild.

We are also very supportive of the Forest Service's analysis that incorporates the Mt. Baker-Snoqualmie National Forest's Travel Analysis Plan (TAP).¹ The Forest Service faces with its oversized and under-maintained road system. In turn, decommissioning forest service roads and unauthorized roads to close the gap between current funding and maintenance needs, and also to prevent further soil and water degradation is a necessary step forward. We strongly support these actions.

We do, however, have several concerns about the project and analysis in the EA. First, given that the forest is considering management of a large number of road miles, and given the large geographic scale of the ATM, this is precisely the type of project where the Forest Service must

¹ Mt. Baker-Snoqualmie National Forest Forest-wide Sustainable Roads Report (Dec. 2015) (attached hereto as Attachment A).

identify the minimum road system.² In this EA the Forest Service acknowledges its duty under 36 C.F.R. 212.5(b)(1), but never addresses it. *See* Greenwater Access and Travel Management Project Draft Environmental Assessment (April 2016) (hereafter, EA), page 4. We urge the Forest Service to carefully evaluate the proposed ATM and its alternatives in light of its duties under subpart A of the 2001 Road Rule. This type of large-scale project is the perfect opportunity to begin making on-the-ground progress towards an economically and environmentally sustainable road network—the minimum road system.

Second, the Forest Service should refine the analysis in this EA to provide a robust discussion and ensure the agency takes the “hard look” required by NEPA. Finally, the third section urges the Forest Service to consider whether the roads that will be maintained under the ATM will minimize impacts to natural resources, wildlife, and minimize conflicts among uses.

1. The Forest Service must identify the minimum road system for this watershed in its NEPA analysis.

To address its sustainable and deteriorating road system, the Forest Service promulgated the Roads Rule (referred to as “subpart A”) in 2001. 66 Fed. Reg. 3206 (Jan. 12, 2001); 36 C.F.R. part 212, subpart A. The Roads Rule created two important obligations for the agency. One obligation is to identify unneeded roads to prioritize for decommissioning or to be considered for other uses. 36 C.F.R. § 212.5(b)(2). Another obligation is to identify the minimum road system needed for safe and efficient travel and for the protection, management, and use of National Forest system lands. *Id.* § 212.5(b)(1).³ The minimum road system is the system, determined by the Forest Service, as needed to:

- Meet resource and other management objectives adopted in the relevant land and resource management plan,
- Meet applicable statutory and regulatory requirements,
- Reflect long-term funding expectations, and
- Ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

Id. (minimum road system factors). *See also* Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012) (hereafter, 2012 Weldon Memo). The goal of subpart A is “to maintain an appropriately sized and environmentally sustainable road system that is responsive to ecological, economic, and social concerns.”⁴

² 36 C.F.R. § 212.5(b)(1) (“For each national forest . . . the responsible official must identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.”).

³ In promulgating its rules, the Forest Service indicated that “[t]he requirement to identify roads for decommissioning is ‘[e]qually important’ as the overall identification of the minimum road system.” *Center for Sierra Nevada v. U.S. Forest Service*, 832 F. Supp. 2d 1138 (E.D. Cal. 2011) (quoting 66 Fed. Reg. at 3207).

⁴ *See* 2012 Weldon Memo at 1 (“The national forest road system of the future must continue to provide needed access for recreation and resource management, as well as support watershed

The Forest Service's Washington Office has issued a series of directive memoranda that outline how the agency expects forests to comply with subpart A.⁵ First, each forest was required to submit its TAR by September 30, 2015. *See* 2013 Weldon Memo. In this case, the Mt. Baker-Snoqualmie National Forest completed its Sustainable Roads Report in December 2015 and has made it available on the forest's website.

Next, pursuant to its own regulations and directive memoranda, the Forest Service must consider the valid portions of its Sustainable Roads Report and begin to determine the minimum road system through site-specific projects of the appropriate geographic size that trigger NEPA. *See* 2012 Weldon Memo at 2 (directing forests to "analyze the proposed action and alternatives in terms of whether, per 36 CFR 212.5(b)(1), the resulting [road] system is needed"). By analyzing whether a proposed project is consistent with the relevant portions of the Sustainable Roads Report, and considering the minimum road system factors under 36 CFR 212.5(b)(1), the Forest Service expects each forest to identify the minimum road system for particular forest segments. *Id.* ("The resulting decision [in a site-specific project] identifies the MRS and unneeded roads for each subwatershed or larger scale").

- a. This is precisely the type of project for which the Mt. Baker-Snoqualmie National Forest must consider its Sustainable Roads Report and identify the minimum road system in its NEPA analysis.**

Now that Mt. Baker-Snoqualmie has completed its Sustainable Roads Report, it is time for the Forest Service to take the next step under subpart A: identify the minimum road system through site-specific projects subject to NEPA.⁶

This project provides the appropriate geographic scale for the Forest Service to identify the minimum road system. The Forest Service's Washington Office has directed forests to use Travel Analysis Reports to identify the minimum road system for proposed actions at the scale of a 6th code subwatershed or larger. 2012 Weldon Memo at 2. Consistent with that direction, the Forest Service must identify the minimum road system for this project, focused on the road system within the Lower Greenwater subwatershed. It would also make sense to consider the minimum road system factors from 36 C.F.R. § 212.5(b)(1) on this geographic scale.

restoration and resource protection to sustain healthy ecosystems."). *See also* Memorandum from Joel Holtrop, U.S. Forest Service Washington Office, to Regional Foresters *et al.* (Nov. 10, 2010) (hereafter, 2010 Holtrop Memo) ("Though this process points to a smaller road system than our current one, the national forest road system of the future must provide needed access for recreation and resource management and support watershed restoration and resource protection to sustain healthy ecosystems and ecological connectivity.").

⁵ 2010 Holtrop Memo; 2012 Weldon Memo; Memorandum from Leslie Weldon, U.S. Forest Service Washington Office, to Regional Foresters *et al.* (Dec. 17, 2013) (hereafter, 2013 Weldon Memo) (supplementing and reaffirming the 2012 Weldon Memo).

⁶ *See* 2012 Weldon Memo ("The next step in identification of the MRS is to use the travel analysis report to develop proposed actions to identify the MRS . . . at the scale of a 6th code subwatershed or larger. Proposed actions and alternatives are subject to environmental analysis under NEPA. Travel analysis should be used to inform the environmental analysis.").

Plus, the Forest Service's Sustainable Roads Report explains that it will be used to identify the minimum road system for site-specific projects subject to NEPA:

This report documents the science-based travel analysis to be used by the responsible official for **identification of the forest's sustainable road system** following appropriate NEPA analysis . . . It will be used to inform future analysis, decisions, and specific actions (**i.e., Access and Travel Management Plans**).

See Sustainable Roads Report, page vii. It also explains the forest's understanding that the TAR will be used in future site-specific projects to identify the minimum road system and identify the roads that are no longer needed:

The main objectives of the sustainable roads strategy process are to . . . [p]rovide a list of opportunities and analysis background necessary for the identification of the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System (NFS) lands, per 36 CFR 212.5(b)(1) [and to] [p]rovide a list of opportunities and analysis background necessary for the identification of the forest roads on lands under Forest Service jurisdiction that are no longer needed to meet forest resource management objectives and therefore should be decommissioned or considered for other uses, per 36 CFR 212.5(b)(2).

See Sustainable Roads Report at 9. The agency's Forest Service Manual (FSM) directs forests to "[e]nsure travel analysis informs travel management decisions, per FSM 7712." FSM 7710.3. *See also* 2012 Weldon Memo at 2 (same).

Pursuant to the plain language of the agency's own regulations, directive memoranda interpreting those regulations, and FSM, the Forest Service must use Mt. Baker-Snoqualmie's Sustainable Roads Report to inform its analysis of the Greenwater ATM and identify the minimum road system for this region of the forest.

b. The Forest Should apply only the valid portions of its Sustainable Roads Report, and reject the legally inadequate parts.

The Washington Office memoranda outline that each TAR must: (1) analyze all roads (maintenance levels 1 through 5); (2) produce a TAR summarizing the travel analysis; (3) produce a list of roads likely not needed for future use; (4) synthesize the results in a map displaying roads likely needed and likely not needed; and (5) provide an explanation of the underlying analysis for that map. *See* 2012 Weldon Memo, 2013 Weldon Memo. In addition, the Washington Office instructed forests to consider the Watershed Condition Framework process so as to integrate the two approaches with new information or where conditions change. *Id.*

Here, Mt. Baker-Snoqualmie National Forest completed its Sustainable Roads Report in December, 2015. As set forth by several examples below, portions of the TAR are inadequate. Based on this analysis, the Forest Service should consider only the valid portions of the Sustainable Roads Report when analyzing the ATM under NEPA, and reject the inadequate portions.

For example, the key issues identified in the TAR do not adequately reflect all of the risks and benefits of the forest system. The Forest Service Handbook (FSH) explains that soil and water resources, conflicts among uses, and economic costs and benefits are some of the factors the forest should consider in travel analysis. FSH 7709.55, Ch. 20, 21.11(1)(a), (c), (i). Yet Mt. Baker-Snoqualmie's Sustainable Roads Report does not identify soil risk or conflict among uses in its list of key issues. *See* Sustainable Roads Report at 15-17. Properly identifying key issues is critical to ensuring adequate analysis because the issues used to analyze the road system had a major influence on the results.

The Sustainable Roads Report makes it difficult to determine the extent to which the limited list of key issues might have skewed the risk and benefit analysis one way because it never compiles the risks and benefits for each road into a chart. The Report does supply the raw data, but it would be very difficult for the public to create this comparison. The agency should provide a chart comparison of the risks and benefits of each road within the scope of the Greenwater ATM in the EA because the Sustainable Roads Report failed to do so. Given that the Report failed to consider key issues like soil risks and conflicts among uses, the agency may need to rethink and rework its analysis when applying the Sustainable Roads Report to this site-specific project.

As another example, the fiscal analysis and management opportunities in the Sustainable Roads Report are not consistent with the agency's own guidance. The budget forecast in the Forest Service's Report must be realistic.⁷ It should account for the cost of maintaining roads to standard—including standards under the Clean Water Act, costs required to comply with Best Management Practices related to road maintenance, costs associated with bridge maintenance and annualized replacement, and increasing effects of high precipitation events as a result of climate change. Moving towards an economically sustainable road system on the forest is not a new concept for the Forest Service.⁸ Here, however, the Forest Service has shirked its duty to assess access needs and opportunities based on current budget levels and realistic future funding projections.

It appears the Forest Service did not really attempt to identify management opportunities based on results of the fiscal analysis in its Sustainable Roads Report.⁹ Despite the fact that the forest can only afford 35% of its existing road system, the Report identifies only 3% of the existing road miles as likely unneeded for future use. *See* Sustainable Roads Report at 14. This approach would do little to bridge the current gap between maintenance needs and the agency's budget. The Forest Service should not limit itself to these roads when analyzing the proposed ATM in its EA. Instead, it should rethink the road management opportunities on the ATM in light of the fiscal analysis to better bring costs in line with funding realities. Roads rated with high aquatic risk and low benefit are an easy

⁷ FSM 7712.4(5) ("The [travel analysis] report should identify access needs and opportunities based on current budget levels and realistic projections of future funding.").

⁸ *See, e.g.*, 63 Fed. Reg. at 4350 (noting in 1998 that "current funding mechanisms and levels are not adequate to maintain roads to the standards originally planned, to assure minimum ecological impacts, as well as to ensure efficient and safe use").

⁹ *See, e.g.*, U.S. Forest Service, Rocky Mountain Region, Regional Guidance & Expectations, Subpart A Travel Analysis (Dec. 21, 2012) at 4 ("Units must balance the costs of maintaining the recommended system such that the recommendation is not expected to result in accrual of deferred maintenance on roads and bridges once the TAP is implemented (i.e. there should be a zero balance between anticipated maintenance revenue and anticipated maintenance cost on an annual basis).").

place to start. Decommissioning these roads will permanently remove them from the maintenance cycle, reduce the deferred maintenance backlog, and allow the agency to focus on improving public access on needed roads.

A travel analysis should consider continuing maintenance levels on passenger vehicle roads to achieve an affordable system.¹⁰ Yet the changes recommended by the Mt. Baker-Snoqualmie's Sustainable Roads Report would reduce passenger vehicle access by 22%. This is inconsistent with stated purpose and need of the ATM, to "maintain access across the Forest for a variety of users." EA at 8. There has been a significant loss of passenger vehicle access to our national forests over the past several years. The Forest Service should not follow the Sustainable Road Report's recommendations that would further reduce passenger vehicle access.

Finally, the Forest Service should have, but failed to, consider or otherwise seek to integrate the Watershed Condition Framework (WCF) process in the Sustainable Roads Report, as directed by the Washington Office. The WCF involves a 6-step process in which national forests will (1) classify the condition of all 6th-level watersheds (10,000 to 40,000-acre watersheds), (2) prioritize watersheds for restoration, (3) develop Watershed Restoration Action Plans (WRAPs) for the high-priority watersheds, (4) implement restoration projects in those watersheds, (5) track restoration accomplishments, and (6) monitor and verify the success of their efforts. *See* WCF, FS-977 (May 2011), page v, *available at* http://www.fs.fed.us/publications/watershed/Watershed_Condition_Framework.pdf. Instead, Mt. Baker-Snoqualmie's Report only makes reference to Watershed Analyses. The agency should disclose to the public and consider any relevant WRAPs impacting the lower Greenwater subwatershed in this EA.

Given the serious impacts the Forest Service road and trail system has on watershed health, there is a natural connection between subpart A and the WCF.¹¹ Plus, based on the geographic scope of the WCF, the intended geographic scope for applying the Sustainable Roads Report, and the geographic scope of this proposal, it makes sense for the Forest Service to consider the WCF and any applicable WRAPs in this NEPA analysis. This is especially important because Mt. Baker Snoqualmie's Sustainable Roads Report failed to integrate the WCF.

These are just several examples of where Mt. Baker Snoqualmie's Sustainable Roads Report is inadequate. The Forest Service must consider the valid portions of its Report, but reject the inadequate portions when applying the Report in its analysis of the ATM. Yet in the EA the Forest Service states that it relied on the information from the Sustainable Roads Report to come up with the Proposed Action (Alternative 2) without verifying the veracity of this information. *See, e.g.*, EA at 16. Due to the problems with the Sustainable Roads Report identified above, and because the Sustainable Roads Report was never subject to public review and comment, the Forest Service

¹⁰ *See id.* ("As a goal, the total mileage of high clearance roads should not increase from the amount in the current system to the scenario showing affordable operational maintenance levels applied to the proposed minimum road system suggested in the TAP report.").

¹¹ 2012 Weldon Memo ("Units should seek to integrate the steps contained in the Watershed Condition Framework (WCF) with the six TAP steps contained in FSH 7709.55, Chapter 20, to eliminate redundancy and ensure an iterative and adaptive approach for both processes. We expect the WCF process and the TAP will complement each other.").

should take this opportunity to re-assess and consider whether the information in the Report meets the requirements under subpart A and guidance issued by the Forest Service Washington Office.

c. Based on the adequate portions of the Sustainable Roads Report, and pursuant to subpart A, the Forest Service must identify the minimum road system for this segment of the forest.

The Mt. Baker-Snoqualmie Sustainable Roads Report did not identify the minimum road system. Therefore the forest still has work to complete to come into compliance with subpart A.

Out of a total of 256 total miles of system roads in the project area and 16 miles of mapped non-system roads, under Alternative 2 the Forest Service would decommission 12.07 miles and close (convert to ML 1) an additional 158.93 miles. EA at 16. Under Alternative 3 the agency would decommission 15 miles and close 60.74 miles. EA at 19. As explained in the comments we jointly submitted with conservation and recreation non-profit organizations, the Forest Service should also consider a Modified Alternative 3 (namely, a “Conservation/Recreation Alternative”).

For each of these alternatives, the Forest Service must assess the proposed actions in relation to the Sustainable Roads Report as well as the factors for a minimum road system, with the goal of minimizing adverse environmental impacts. Specifically, the decisions to close, decommission, or maintain certain roads should reflect the results from the risks and benefits analysis in the Sustainable Roads Report. Routes identified as likely unneeded in the Report or other processes within the project area must be closed, decommissioned, and reclaimed to a stable and more natural condition during the life of the project. To the extent that the final decision in this project differs from what is recommended in the Sustainable Roads Report, the Forest Service must provide an explanation for that inconsistency. *See, e.g., Smiley v. Citibank*, 517 U.S. 735 (1996) (“Sudden and unexplained change . . . or change that does not take account of legitimate reliance on prior interpretation . . . may be ‘arbitrary, capricious [or] an abuse of discretion’”) (internal citations omitted).

The Forest Service must consider the minimum road system factors listed at 36 C.F.R. § 212.5(b)(1) and make a determination as to which roads within the ATM are not just “likely” needed, but needed. Specifically, for the roads it decides to keep as part of this project:

- The agency must determine each road, individually and in the cumulative, is needed to meet resource and other management objectives adopted in the Forest Plan. *See* Mt. Baker-Snoqualmie National Forest, Land and Resource Management Plan (1990) (hereafter, LMP), pages 4-68 – 4-79, *available at* http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3843200.pdf (last accessed May 27, 2016) (stating the “goal of road management in the Plan is to provide and manage the road system to serve the long-term resource needs and objectives of the management areas”). The EA for this ATM lists many of the Forest Plan standards and guidelines on pages 14-15. In determining which roads will be part of the minimum road system, the Forest Service must consider whether the road is needed or should be decommissioned to meet these standards and guidelines.

- In addition to the list in the EA, the Forest Plan states that road densities will average no more than two miles per square mile in deer, elk, and mountain goat winter range areas. LMP at 4-44. It also directs the agency to “minimize open road density and wildlife harassment whenever possible.” *Id.* at 4-69. Plus the agency should consider options for modifying the transportation system that would achieve desired conditions. See FSH 7709.55, Chapter 21.5.
- The agency must determine each road, individually and in the cumulative, is needed to meet applicable statutory and regulatory requirements. The Forest Service must consider whether each road is needed (as opposed to “likely needed,” which is the determination made in the Sustainable Roads Report) or should be decommissioned to meet its duties with respect to listed species and critical habitat designated under the Endangered Species Act, historic and cultural properties, waterbodies listed as impaired under the Clean Water Act, and special protections required by the Northwest Forest Plan.
- For example, the Greenwater River and White River watershed are Tier 1 Key Watersheds identified in the Northwest Forest Plan Record of Decision (ROD). This watershed directly contributes to conservation of at-risk anadromous salmonids, bull trout, and resident fish species. 1994 ROD at B18. Reducing the existing road system is one of the aquatic conservation strategies listed for key watersheds. *Id.* at B19. The Forest Service must consider in its EA analysis whether each road within the ATM is needed or should be decommissioned to reduce the existing road system within this Tier 1 Key Watershed.
- The agency must determine the identified minimum road system reflects long term funding expectations.¹² As noted above, funding expectations must be based on current budget levels and realistic projections of future funding.
- The agency must determine the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

The National Forest road system is in a serious state of disrepair. The Mt. Baker-Snoqualmie National Forest is no exception, with 2,440 miles of system roads, the required maintenance of which exceeds annual maintenance costs. *See* Sustainable Roads Report, Appendix G (Financial Analysis). The best available science shows that roads cause significant adverse impacts to national forest resources. Road-related impacts are a significant concern to the Mt. Baker Ranger District, especially considering the road failures and plugged culverts over the past three years, and numerous road closures over the past 10 years. EA at 7. This results in a significant backlog of deferred maintenance needs. As the analysis in the forest’s Sustainable Roads Report and this EA recognize, the existing road system is not reflective of current or long-term funding expectations and is not sustainable.

To the extent that Mt. Baker-Snoqualmie’s Sustainable Roads Report failed to address the minimum

¹² FSM 7712.1(1) (“Generally, use broad-scale travel analysis at the level of a ranger district or administrative unit to inform decisions regarding implementing the [minimum road system],” an example of which “is the ability to sustain the unit’s road system at objective maintenance levels with expected levels of funding.”).

road system factors, the Forest Service must do so now in determining whether each road within the proposed project is needed. Consistent with 36 C.F.R. § 212.5(b)(1), the environmental analysis of the ATM must identify the minimum road system, based on the Forest Service's determination of what is needed to, *inter alia*, ensure minimization of adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance. The Forest Service must take this next step to consider its Sustainable Roads Report, identify the minimum road system, identify unneeded roads for decommissioning, and implement those decisions as part of this ATM to begin to achieve compliance with subpart A.

d. The Forest Service must consider unneeded roads for closure or decommissioning.

Subpart A directs the agency to “identify the roads on lands under Forest Service jurisdiction that are no longer needed.”¹³ It refers to all roads, not just National Forest System roads. The rules define a road as “[a] motor vehicle travelway over 50 inches wide, unless designated and managed as a trail.”¹⁴ The EA explains that there are 16 miles of known, non-system roads within the ATM project area. EA at 5. For roads determined to be unneeded, the Forest Service should prioritize road decommissioning in this project to enhance landscape connectivity and ecological integrity based on:

- Effectiveness in reducing fragmentation, connecting un-roaded and lightly-roaded areas, and improving stream segments, with a focus on inventoried roadless areas, important watersheds, and other sensitive ecological and conservation areas and corridors;
- Benefit to species and habitats, including restoring aquatic and terrestrial habitats and habitat connections;
- Addressing impaired or at-risk watersheds;
- Achieving motorized route density standards; and
- Enhancement of quiet recreation experiences.

The Forest Service should use the National Best Management Practices for Water Quality Management on National Forest System Lands (Volume 1, April 2012) to guide road management in determining the minimum road system. The BMP program “was developed to improve agency performance and accountability in managing water quality consistent with the Federal Clean Water Act (CWA) and State water quality programs” and “[c]urrent Forest Service policy directs compliance with required CWA permits and State regulations and requires the use of BMPs to control nonpoint source pollution to meet applicable water quality standards and other CWA requirements.” National Best Management Practices. It directs forests to:

- Design the transportation system to meet long-term land management plan desired conditions, goals, and objectives for access rather than to access individual sites.
- Limit roads to the minimum practicable number, width, and total length consistent with the purpose of specific operations, local topography, geology, and climate to achieve land

¹³ 36 C.F.R. § 212.5(b)(2). *See also Center for Sierra Nevada*, 832 F. Supp. 2d at 1155 (“The court agrees that during the Subpart A analysis the Forest Service will need to evaluate all roads, including any roads previously designated as open under subpart B, for decommissioning.”).

¹⁴ 36 C.F.R. § 212.1.

management plan desired conditions, goals, and objectives for access and water quality management.

Id. at 104.

We urge the Mt. Baker-Snoqualmie National Forest to limit its road network to those roads that are necessary for access and management, and which can be adequately maintained within agency budgets and capabilities. We encourage road decommissioning and reductions in road density to improve watershed conditions and aquatic health in streams, as well as to protect and enhance wildlife habitat and connectivity. The Forest Service should continue working to reduce sediment delivery from roads, improve or remove road crossings, and close or decommission roads that cannot be adequately maintained.

2. The Forest Service’s environmental analysis under NEPA misses several crucial points.

NEPA’s purpose is “to foster excellent action,” and the “NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” 40 C.F.R. § 1500.1(c). The NEPA process requires that “environmental information is available to public officials and citizens before decisions are made and before actions are taken.” *Id.* at § 1500.1(b). Information agencies are required to gather and disclose during the NEPA process “must be of high quality.” *Id.* “Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” *Id.*

The Forest Service may not ignore topics in its environmental analysis pursuant to NEPA if the information is uncertain or unknown. Where information is lacking or uncertain, the Forest Service must make clear that the information is lacking, the relevance of the information to the evaluation of foreseeable significant adverse effects, summarize the existing science, and provide its own evaluation based on theoretical approaches. 40 C.F.R. § 1502.22.

a. The Forest Service should clarify its statement of purpose to be consistent with the agency’s regulatory duties.

The Council on Environmental Quality’s (CEQ) regulation implementing NEPA explains that the statement of purpose and need “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” 40 C.F.R. § 1502.13. An accurate statement of purpose and need is central to crafting an adequate environmental analysis because it will provide the guideposts for the analysis of the proposed action, alternatives, and effects. 40 C.F.R. § 1502.13.¹⁵ An accurate statement of purpose and need is important because it dictates the range of “reasonable” alternatives. *See, e.g., Klamath-Siskiyou Wildlands*

¹⁵ *See also, e.g.,* CEQ, Letter to Secretary of Transportation Mineta (May, 2003) (stating that “[t]houghtful resolution of the purpose and need statement at the beginning of the process will contribute to a rational environmental review process and save considerable delay and frustration later in the decisionmaking process.”), *available at* <http://ceq.hss.doe.gov/nepa/regs/CEQPurpose2.pdf>.

Center v. Graham, 899 F. Supp. 2d 948, 958 (E.D. Cal. 2012). Yet the statement of purpose must not be so narrow as to artificially limit the alternatives considered. *See, e.g., City of Carmel-by-the Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997).

The Forest Service has a substantive duty to address its over-sized road system. *See* 36 C.F.R. 212.5. This underlying substantive duty necessarily informs the scope of the agency's NEPA analysis. When an agency takes an action "pursuant to a specific statute, the statutory objectives of the project serve as a guide by which to determine the reasonableness of objectives outlined in an EIS." *Westlands Water Dist. v. U.S. Dept. of the Interior*, 376 F.3d 853, 866 (9th Cir. 2004). Therefore, the Forest Service's statement of purpose and need should reflect the agency's duty to identify the minimum road system and roads that are no longer needed and therefore should be decommissioned or considered for other uses. As currently written, the Forest Service's statement of purpose and need appears to ignore the agency's express duties under subpart A. After more than 15 years since promulgation of the subpart A rule, the Forest Service can no longer delay in addressing this duty.

Here, the Forest Service explains the purposes of the Greenwater ATM is to:

- "restore and protect the watershed's ecology from impacts of the road system" (EA at 7);
- "establish a sustainable road system in the watershed" (EA at 7); and
- "maintain access across the Forest for a variety of users" (EA at 8).

In general, we support these statements of need and applaud the Forest Service for taking a proactive look at their roads system. As noted in the group comment letter, we appreciate the Forest Service's effort in working to balance the demand from recreational interests and tribal and cultural needs while reducing adverse impacts to the natural resources, all under a limited budget.

The Forest Service should, however, clarify the second stated purpose so that it specifically refers to the agency's duty to identify the minimum road system and unneeded roads, consistent with subpart A. The Forest Service has a responsibility to accurately frame its actions and legal duties to properly communicate its goals to the public and interested stakeholders. It creates confusion when the agency refers a "sustainable road system" because this language is inconsistent with the agency's own regulations.

- b. In analyzing the ATM project, the Forest Service must consider a broad array of impacts that will result from decisions to close or decommission roads, as well as decisions to keep roads on the landscape.**

Connected, Cumulative, or Similar Actions

In assessing the impacts of this ATM, the Forest Service should consider impacts from other connected, cumulative, or similar actions. 40 C.F.R. § 1508.25. This would include any timber harvests ongoing or planned for this region or nearby regions that may result in cumulative impacts; road construction, decommissioning, restoration, or other road related activities planned for this region or nearby regions; planned or ongoing treatments to address invasive species in the region; gravel extraction activities; and any WRAP that identifies connected, cumulative, or similar actions

within the forest. The Washington Office specifically directed forests to consider adjacent subwatersheds for connected actions and cumulative effects.¹⁶

Direct and Indirect Effects from Forest Roads

The Forest Service must consider direct, indirect, and cumulative effects that will result from the ATM, including growth-inducing effects (i.e. increased demand and other effects related to induced changes in land use, population density, and related effects on air and water and other natural systems).

National Forests provide a range of significant environmental and societal benefits, including clean air and water, habitat for myriad wildlife species, and outdoor recreation opportunities for millions of visitors and local residents each year. *See* 66 Fed. Reg. 3244, 3245-47 (Jan. 12, 2001) (Preamble to Roadless Area Conservation Rule describing key ecosystem and other services of roadless National Forest lands). The Forest Service's extensive and decaying road system, however, poses a growing liability to the future ability of the National Forests to provide critical environmental, ecosystem, and recreation services. Collectively, the National Forest System contains over 370,000 miles of roads (not even counting the tens of thousands of additional miles of unclassified, non-system, temporary, and user-created roads). That is nearly eight times the length of the entire U.S. Interstate Highway System. The National Forest road system is primarily a byproduct of the big timber era. The system is often convoluted, unmanageable, and ineffective at meeting 21st century transportation needs. Much of the system is in serious disrepair: as of the end of Fiscal Year 2014, the National Forest road system had a 2.9 billion dollar maintenance backlog. USDA, Forest Service, National Forest System Statistics 2014.

Well-sited and maintained roads provide important services to society. But the adverse ecological and environmental impacts associated with the Forest Service's massive and deteriorating road system are well documented. Those adverse impacts are long-term, occur at multiple scales, and often extend far beyond the actual "footprint" of the road. Included in these comments is a 2014 literature review from The Wilderness Society that surveys the extensive and best available scientific literature—including the Forest Service's General Technical Report synthesizing the scientific information on forest roads (Gucinski 2001)—on a wide range of road-related impacts to ecosystem processes and integrity on National Forest lands. *See* The Wilderness Society, *Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review* (May 2014) (attached as Attachment A).

Erosion, compaction, and other alterations in forest geomorphology and hydrology associated with roads seriously impair water quality and aquatic species viability. *See* Attachment A at 2-4. Roads disturb and fragment wildlife habitat, altering species distribution, interfering with critical life functions such as feeding, breeding, and nesting, and resulting in loss of biodiversity. *Id.* at 4-6. Roads facilitate increased human intrusion into sensitive areas, resulting in poaching of rare plants and animals, human-ignited wildfires, introduction of exotic species, and damage to archaeological resources. *Id.* at 6, 9. Roads are also major vectors for spreading weeds.

¹⁶ 2012 Weldon Memo at 2.

Here, the Forest Service focuses on the impacts from closing or decommissioning roads. But this action decides both (1) which roads to keep, and (2) which roads to close or decommission. Therefore the analysis in the EA should discuss the impacts resulting from both of these decisions.

The following photos demonstrate the impacts of forest roads in the project area. The Forest Service needs to either dedicate funding to maintenance these roads or consider decommissioning the roads or a portion of the roads.

Forest Service Road 7150 (loop road off of 410 proposed as ML 2 under Alternative 2 and ML 3 under Alternative 3) with a washout into Minnehaha Creek:



Hole in FR 7150, at the northern entrance of loop:



FR 118, proposed for decommissioning in Alternatives 2 and 3:



Impacts from Climate Change and Forest Roads

A robust analysis under NEPA of the forest road system and its environmental and social impacts is especially critical in the context of climate change. As the CEQ's recent draft guidance on addressing climate change in NEPA analyses recognizes, "[c]limate change can increase the vulnerability of a resource, ecosystem, human community, or structure, which would then be more susceptible to climate change and other effects and result in a proposed action's effects being more environmentally damaging." CEQ, *Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts* (Dec. 18, 2014), page 22. The draft CEQ guidance makes clear that "[s]uch considerations are squarely within the realm of NEPA, informing decisions on whether to proceed with and how to design the proposed action so as to minimize impacts on the environment, as well as informing possible adaptation measures to address these impacts, ultimately enabling the selection of smarter, more resilient actions." *Id.*

Climate change intensifies the adverse impacts associated with roads. The Forest Service should consider the risk of increased disturbance when analyzing this proposed project. For example, as the warming climate alters species distribution and forces wildlife migration, landscape connectivity becomes even more critical to species survival and ecosystem resilience. *Id.* at 9-14. *See also* USDA, Forest Service, *National Roadmap for Responding to Climate Change* at 26 (2011), available at <http://www.fs.fed.us/climatechange/pdf/Roadmapfinal.pdf> (recognizing importance of reducing fragmentation and increasing connectivity to facilitate climate change adaptation).

Climate change is also expected to lead to more extreme weather events, resulting in increased flood severity, more frequent landslides, altered hydrographs, and changes in erosion and sedimentation rates and delivery processes. Many National Forest roads are poorly located and designed to be

temporarily on the landscape, making them particularly vulnerable to these climate alterations. Even those designed for storms and water flows typical of past decades may fail under future weather scenarios, further exacerbating adverse ecological impacts, public safety concerns, and maintenance needs. The Forest Service should analyze in detail the impact of climate change on forest roads and forest resources.

The President's Executive Order 13,653 (Nov. 2013) provides direction on "Preparing the United States for the Impacts of Climate Change." The Order recognizes that "[t]he impacts of climate change – including an increase in prolonged periods of excessively high temperatures, more heavy downpours, an increase in wildfires, [and] more severe droughts . . . – are already affecting communities, natural resources, ecosystems, economies, and public health across the Nation," and that "managing th[o]se risks requires deliberate preparation, close cooperation, and coordinated planning . . . to improve climate preparedness and resilience; help safeguard our economy, infrastructure, environment, and natural resources; and provide for the continuity of . . . agency operations, services, and programs." Exec. Order 13,653, § 1. To that end, the Order requires agencies to take various actions aimed at making "watersheds, natural resources, and ecosystems, and the communities and economies that depend on them, more resilient in the face of a changing climate." *Id.* § 3. For example, "recognizing the many benefits the Nation's natural infrastructure provides, agencies shall, where possible, focus on program and policy adjustments that promote the dual goals of greater climate resilience and carbon sequestration." *Id.* Agencies also must develop and implement adaptation plans that "evaluate the most significant climate change related risks to, and vulnerabilities in, agency operations and missions in both the short and long term, and outline actions . . . to manage these risks and vulnerabilities." *Id.* § 5(a).

Here the EA discusses likely climate change effects. EA at 115-122. But Alternative 2 and Alternative 3 would reduce the ML of a significant number of miles of roads, creating many miles of ML 1 roads. The analysis fails to assess how this will worsen the roads situation in the region. ML 1 roads are ineligible for emergency funding. Given the increased likelihood and severity of extreme weather events that will cause infrastructure failures, reducing a large number of miles of roads to ML 1 is likely to exacerbate future road problems in the watershed. Instead, the Forest Service should consider returning more of these roads to wild through decommissioning, as set out in the Recreation/Conservation Alternative in the group comment.

Alternatives 2 and 3 also seem to be inconsistent with the Forest Service's 2014 adaptation plan. It recognizes that the wide range of environmental and societal benefits provided by our national forests "are connected and sustained through the integrity of the ecosystems on these lands." *See* USDA Forest Service, *Climate Change Adaptation Plan*, page 58 (2014). The plan highlights USDA's 2010-2015 Strategic Plan Goal 2 of "[e]nsur[ing] our national forests . . . are conserved, restored, and made more resilient to climate change, while enhancing our water resources." *Id.* at 58. And consistent with section 5(a) of Executive Order 13,653, the plan identifies numerous climate change risks – including increased wildfire, invasive species, increasing water temperatures, extreme weather events, and fluctuating precipitation and temperature – that "pose challenges to sustaining forests and grasslands and the supply of goods and services upon which society depends, such as clean drinking water, forest products, outdoor recreation opportunities, and habitat." *Id.* at 60-64. With respect to transportation infrastructure specifically, the adaptation plan recognizes that, "[w]ith increasing heavy rain events, the extensive road system on NFS lands will require increased maintenance and/or modification of infrastructure (e.g. larger culverts or replacement of culverts with bridges)." *Id.* at 62.

The Forest Service's Climate Change Adaptation Plan points to a number of actions to address the risks of climate change to our forests, and in particular to forest roads. For example, the plan highlights the 2012 Planning Rule as a mechanism to ensure that "National Forest System . . . land management planning policy and procedures include consideration of climate change." *Id.* at 73. The final directives to the planning rule echo the importance of designing plan components "to sustain functional ecosystems based on a future viewpoint" and "to adapt to the effects of climate change." FSH 1909.12, ch. 20, § 23.11. The adaptation plan also points to Forest Service Manual 2020, which provides "Ecological Restoration and Resilience" directives designed "to restore and maintain resilient ecosystems that will have greater capacity to withstand stressors and recover from disturbances, especially those under changing and uncertain environmental conditions, including climate change and extreme weather events." *Id.* at 73.

Impacts to Endangered Species, Critical Habitat and Other Aquatic Life

The Forest Service must ensure compliance with the Endangered Species Act. The EA states that consultation for this ATM is covered under two documents: (1) Endangered Species Act – Section 7 Consultation Programmatic Biological Opinion for Aquatic Restoration Activities in the States of Oregon, Washington and portions of California, Idaho and Nevada (ARBO II) FWS reference 01EOFW00-2013-F-0090 (USDI Fish and Wildlife Service 2013), and (2) Endangered Species Act – Section 7 Programmatic Consultation Conference and Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for Reinitiation of Aquatic Restoration Activities in States of Oregon and Washington (ARBO II) Tracking number NWR-2013-9664 (USDC National Oceanic and Atmospheric Admin., National Marine Fisheries Service 2013). The Forest Service should provide the applicable provisions of those documents in the EA or appendices to allow for meaningful public comment.

Based on the information in these documents, the Forest Service determined this action "may affect, not likely to adversely affect" Puget Sound Chinook salmon, Puget Sound steelhead, and bull trout. It also determined the action "may affect, not likely to adversely affect" critical habitat for Puget Sound Chinook salmon, Puget Sound steelhead, and Coastal/Puget Sound bull trout. Without the substance of those documents, the public is unable to discern the reasoning for those conclusions. This is critical, given the detrimental impacts roads have on water quality and fish habitat.

For example, roads often contribute to degraded baseline conditions in watersheds containing bull trout. Roads are a primary source of sediment impacts to developed watersheds. Accumulation of fine sediment is detrimental to bull trout habitat. Lee et al. (1997) found a pattern of decreasing strong populations of bull trout with increasing road density. Sediment delivered to streams is greatest in riparian areas where roads cross the streams. Fords and approaches to the crossings deliver sediment directly to streams. Culverts can produce a large amount of sediment if the culvert plugs and fails. Travel management decisions affecting roads and trails are most likely to effect substrate embeddedness¹⁷ and stream bank condition.¹⁸ Plus roads and trails paralleling streams can

¹⁷ Which can be measured as change in total acreage open to motorized use, based on the assumption that embeddedness is related to the total area susceptible to erosion.

¹⁸ Which can be measured as an inverse of stream crossings.

interfere with large wood reaching the stream and cause increased erosion and decreased stream bank condition.

The EA recognizes that the Greenwater River was designated as a Tier 1 Key Watershed based on its direct contribution to conservation of at-risk anadromous salmonids, bull trout, and resident fish species, and for its high potential for being restored. EA at 4. In 2010 the U.S. Fish and Wildlife Service designated bull trout critical habitat on the Greenwater River that falls within the scope of this ATM. 75 Fed. Reg. 63898, 63986 (Oct. 18, 2010). Highway 70 runs adjacent to the Greenwater River, crossing it once, and many system and non-system forest roads run adjacent to the Greenwater River. It is unclear how the Forest Service concluded the proposed action, which would retain many of the roads adjacent to or crossing the Greenwater River and its tributaries, is not likely to adversely affect bull trout critical habitat.

The 2010 rule also designated bull trout critical habitat on the White River, which runs adjacent to 410 and just outside the scope of this ATM. *Id.* In the very least, the Forest Service should consider impacts to the White River and Greenwater River from its decisions to keep certain roads on the landscape.

It should assess whether those decisions to keep certain roads are consistent with the Mt. Baker-Snoqualmie Forest Plan, which includes several standards and guidelines applicable to protecting fish populations:

- All forest management activities should provide for unobstructed fish passage to historically accessible fish habitat (LRMP 4-126)
- Plan and conduct Land Management activities so that soil loss from surface erosion and mass wasting caused by these activities will not result in an unacceptable reduction in soil productivity and water quality (LRMP 4-117)
- Water quality shall be maintained or enhanced through application of Best Management Practices to meet Clean Water Act requirements and state Water Quality Standards for temperature, turbidity, and sediment (LRMP 4-126)
- Before project decisions are made, consult with Federal, State and other agencies, groups and individuals concerned with the management of T&E and sensitive species (LRMP 4-127)
- Develop and implement projects to correct road related water quality, anadromous fish habitat, and other resource problems (LRMP 4-140)

And under the Aquatic Conservation Strategy, this project must show how it meets the key watershed standards and guidelines as well as riparian reserve standards and guidelines for road management, listed in the EA at pages 14-15. In particular, ROD C-33 requires the Forest Service to minimize sediment delivery to streams from roads and provide and maintain fish passage at all road crossings of existing and potential fish-bearing streams.

The EA notes that existing road densities are 3.63 mi/mi². This is inconsistent with the Mt. Baker-Snoqualmie Forest Plan (desired condition of 2 mi/mi²). The EA notes that road densities within Riparian Conservation Areas, but it does not provide the densities within RCAs. This information must be provided to the public to allow meaningful comment as to the impact of these road management decisions on water quality and aquatic species.

The EA notes that the only subwatershed found to be functioning at risk due to Forest Service roads increasing drainage density is the Lower Greenwater Subwatershed. EA at 41. Unfortunately, this also happens to be the subwatershed with designated critical habitat for bull trout and other species. Despite these high road densities and the stated need to address them, Alternative 2 would reduce road densities in only some of the subwatersheds. EA at 51. The Forest Service also fails to commit to other watershed improvements, stating that Alternative 2 would “potentially” remove and stabilize 290 stream crossing culverts. *Id.* And Alternative 3 is no better, reducing road density in only some subwatersheds. *Id.* at 58-59.

The high road densities, especially within RCAs, also highlight the need to provide specific information not disclosed in the Sustainable Roads Report—specifically, the aquatic risk rating of each of the roads being considered under this ATM proposal.

Water Quality Standards

The Forest Service must consider and analyze the impact of the project on Washington’s water quality standards. Under the Clean Water Act, “federal agencies have a duty to ensure that activities carried out on federal land comply with state water quality standards in the same manner and to the same extent as any nongovernmental entity.” *Greater Yellowstone Coalition v. Larson*, 641 F. Supp. 2d 1120, 1130 (citing 33 U.S.C. § 1323(a)). The agency “shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution.” 33 U.S.C. § 1323(a). The agency should analyze the project’s impacts on water quality, considering Washington’s water quality standards as well as standards from the Mt. Baker-Snoqualmie Forest Plan. The Forest Service should consider whether the project will maintain or restore water quality to fully supported beneficial uses.

The only time Water Quality Standards are mentioned in this EA is in reference to the Forest Plan standards and guidelines. EA at 13. The Forest Service must discuss how its chosen action complies with Washington’s Water Quality Standards.

Cumulative Effects

Cumulative effects (distinct from cumulative actions) are the effects on the environment resulting from the incremental impact of the action when added to other past, present, and reasonably foreseeable future projects. 40 C.F.R. § 1508.7. The Washington Office directed forests to consider adjacent subwatersheds for connected actions and cumulative effects.¹⁹ The Forest Service should also consider past roads decisions in this NEPA analysis. If those decisions have yet to be implemented, the Forest Service should incorporate those decisions in this proposed action. If the agency chooses to exclude past decisions that have yet to be implemented, it should explain why.

c. The proposed ATM should include monitoring requirements.

Monitoring the impacts of specific actions contemplated under the ATM as they occur on the ground will be essential to ensure design features and potential mitigation measures are implemented

¹⁹ 2012 Weldon Memo at 2.

and effective. We suggest that (1) monitoring follow the new BMP proposed directives (USFS 2014), (2) monitoring include tracking of non-system roads, both temporary roads and unauthorized roads, (3) the forest dedicate personnel to evaluate BMP implementation and effectiveness and to sign off on specific projects (it is not enough to have a monitoring plan that simply uses project files or field observations as the compliance check), and (4) that this information be readily accessible to state and federal agencies, as well as interested stakeholders.

3. The Forest Service must consider how the roads that will be maintained under the ATM project will minimize impacts to natural resources, wildlife, and among conflicts of uses.

The Forest Service must minimize damage to soil, watershed, vegetation, wildlife, and conflicts among uses as required by Executive Order 11644, as amended by Executive Order 11989, and 36 C.F.R. § 212.55. § 3 of Executive Order 11644 mandates that the Forest Service regulations be in accordance with a set of criteria regarding route designations to include minimizing “damage to soil, watershed, vegetation, or other resources of the public lands,” harassment of wildlife or significant disruption of wildlife habitats,” and “conflicts between off road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.” Exec. Order 11644 § 3(a). These minimizing considerations are essentially mirrored in the Forest Service Regulations. *See* 36 C.F.R. § 212.55(b). Likewise, the 2005 Travel Management Rule requires designation of routes for motor vehicle use whereby the agency considers the various effects of those designations and a host of defined factors includes similar language.

Here, the Forest Service should consider whether the roads to be maintained under the ATM project will minimize impacts to the criteria identified in its 2005 TMR. The agency also has a duty under the Mt. Baker-Snoqualmie Forest Plan to minimize adverse effects of vehicular traffic on wildlife. *See* LRMP 4-7. The agency must account for harm caused by both the system roads and non-system roads, including previous unauthorized use. We strongly support the agency’s decision not to include creation of additional motorized trails in this proposed action. EA at 15.

Conclusion

The Forest Service’s current road system is over-sized and unaffordable. Identifying a sustainable road network is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, enhance recreation, and lower operating expenses. And it is a win-win-win approach: (1) it’s a win for the Forest Service’s budget, closing the gap between maintenance needs and congressional appropriations; (2) it’s a win for wildlife and natural resources in the national forest because it reduces impacts of the forest road system; and (3) it’s a win for the public because removing unneeded roads from the landscape allows the agency to focus spending on the ones we all use, *improving* public access across the forest.

If you have questions, please me at mnelson@wildearthguardians.org. Please confirm our organization is on the contact list to receive any future public notices regarding this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marla Nelson'.

Marla Nelson
Rewilding Attorney