

**AMERICAN RIVERS ♦ AMERICAN WHITEWATER ♦ CONSERVATION NORTHWEST ♦
NORTH CASCADES CONSERVATION COUNCIL ♦
SIERRA CLUB – WASHINGTON CHAPTER ♦ THE MOUNTAINEERS ♦
THE WILDERNESS SOCIETY ♦ WASHINGTON TRAILS ASSOCIATION ♦
WASHINGTON WILD ♦**

January 30, 2014

Theresa Mathis, Environmental Coordinator
Mt. Baker Snoqualmie National Forest
810 State Route 20
Sedro-Wooley, WA 98284
Submitted electronically to: tjmathis@fs.fed.us

Re: Scoping Comments for the Environmental Assessment for proposed access improvements, repairs, and sampling at the Great Excelsior Mine

Dear Ms. Mathis:

On behalf of the nine undersigned organizations and the tens of thousands of forest users, Washington residents and federal taxpayers who they represent, we are writing to identify items that need to be included in the environmental analysis for the proposed Plan of Operations submitted by the Excelsior Gold Corporation.

We recognize that mining and mineral extraction is a legitimate use of certain Federal lands and we acknowledge the necessity of some industrial activities to support our contemporary society and economy. However, we also strongly feel that such activities are not appropriate everywhere or at any cost.

I. General Concerns

Eligible Wild and Scenic River

Much of the area of the proposed operations is in or adjoins the Wells Creek drainage, a tributary of the North Fork Nooksack River. Wells Creek was found eligible for Wild and Scenic River Designation as part of the 1990 Mount Baker Snoqualmie National Forest Plan. The Outstandingly Remarkable Value for this stream cited was “wildlife,” including mountain goat winter range and Spotted Owl Habitat Area (SOHA)¹.

The US Forest Service Handbook,² states as follows:

To the extent the Forest Service is authorized by statute, a Responsible Official may authorize site-specific projects and activities on NFS lands within river corridors eligible or suitable only where the project and activities are consistent with all of the following:

- 1. The free-flowing character of the identified river is not modified by the construction or development of stream impoundments, diversions, or other water resources projects.*
- 2. Outstandingly remarkable values of the identified river area are protected.*

¹ Appendix E Final Environmental Impact Statement to the MBS Forest Plan p. E-35, June 1990

² Section 1909.12, Chapter 80

The North Fork Nooksack, which is within the watershed and downstream of the Excelsior Mine, was found suitable as a Wild and Scenic River in the 1990 Mount Baker Snoqualmie National Forest Plan. The Outstandingly Remarkable Value for this river includes scenic, recreation, fish, wildlife and historical/cultural.³ The proposed action and future development of the mine could impact the river values the Forest Service is obligated to protect. The North Fork Nooksack River provides important spawning and rearing habitat for Nooksack/Middle Fork spring Chinook (“Threatened” under ESA), North Fork/Middle Fork Nooksack pink salmon, North Fork Nooksack River fall chum salmon, Nooksack coho, unique riverine sockeye salmon, Mainstem/North Fork Nooksack winter steelhead (“Threatened” under ESA) and bull trout (“Threatened “under ESA).

Spotted Owl Critical Habitat

The Wells Creek Drainage seems to include areas designated as Critical Habitat for the Northern Spotted Owl identified in November of 2012.⁴ It is difficult to determine the exact boundaries of this designation, but a map is attached showing the designated areas in “Unit 4” (Attachment 1) ⁵. We understand that this designation does not in itself prescribe specific management actions or regimes, but efforts to conserve the habitat and to minimize other controllable disruptions are important.

Late Successional Reserves

Areas of Late Successional Reserves appear to border parts of FS Road 3700-031. Under the Northwest Forest Plan, these areas “are to be managed to protect and enhance conditions of late-successional and old-growth forest ecosystems...”⁶ Regarding Multiple Use Activities, the Standards and Guidelines state that “Road construction in Late-Successional Reserves for silvicultural, salvage and other activities generally is not recommended...”⁷ The assessment should make clear any overlap or proximity to LSRs to the project area and should justify any road construction or maintenance activities within such an area.

Aquatic Conservation Strategy & Riparian Reserve

Part of the area of proposed activity is likely within a Riparian Reserve area, which by definition is meant to “confer benefits to riparian dependent and associated species other than fish, enhance habitat conservation for organisms that are dependent on the transition zone between upslope and riparian areas, improve travel and dispersal corridors for many terrestrial animals and plants, and provide for greater connectivity of the watershed. The Riparian Reserves will also serve as connectivity corridors among the Late-Successional Reserves.” ⁸ It is necessary that any management action in such an area be evaluated for consistency with the Aquatic Conservation Strategy. The assessment should address potential impacts on this sensitive area.

The proximity of the proposed mining and road-construction activities to these important wildlife habitat conservation areas raises several concerns about their impacts. We believe that the Environmental

³ Appendix E Final Environmental Impact Statement to the MBS Forest Plan p.E-23. June 1990

⁴ Endangered and Threatened Wildlife and Plants; Designation of Revised Critical Habitat for the Northern Spotted Owl; Federal Register Vol.77 No. 233 Dec 4, 2012

⁵ Final Spotted Owl Critical Habitat Maps Washington Unit 1

<http://www.fws.gov/oregonfwo/species/data/northernspottedowl/UnitMaps.asp> accessed 1/12/14

⁶ Standards and Guidelines Attachment C to the 1994 ROD; p.C-11

⁷ Standards and Guidelines Attachment C to the 1994 ROD; p C-16

⁸ Standards and Guidelines Attachment B to the 1994 ROD; p.B-13

Assessment process will provide the information needed to make a sound decision on the proposed Plan of Operations.

II. Specific Concerns Relating to Phase 1

We would like to ensure the following items are thoroughly addressed in that assessment as it pertains to Phase 1:

A. Impact of using FS Road 3700-033 to access private “upper road”

Based upon the map provided and on INFRA data from the Mt. Baker Snoqualmie National Forest, it appears that FS Road 3700-033 is currently closed and is slated for decommissioning. Although the scoping document does not specifically state this, it seems the proposed activities would require re-opening and using this road at least on a temporary (approximately five years) basis in order for the Excelsior crews to access the privately owned “upper” service road that leads to the mine portals. If this is the case, the assessment must include the impact of renewing the high clearance vehicle traffic on Road 3700-033, as well as the impact of such traffic on the private “upper” road.” The assessment must also consider the ongoing sustainable roads analysis that is being conducted by the Forest under Subpart A of the Travel Management Rule.⁹ At a time when the agency is trying to grapple with an \$8 billion road maintenance backlog by “right-sizing” the road system, improving a road that has an objective maintenance level of “to be decommissioned” needs some justification.

B. Location of the private “upper road”

The assessment must clarify that the provisions of the 2001 Roadless Rule are met with regard to prohibitions on road construction. It appears that a small portion of this user-created road may actually be included in an Inventoried Roadless Area. We would like this to be clarified. New roads are generally prohibited in inventoried roadless areas, and provisions for roads associated with a mineral lease include minimizing effects on surface resources, preventing unnecessary or unreasonable surface disturbance and complying with all applicable lease requirements, land and resource management plan direction, regulations and laws.¹⁰ In addition, the lands must have been under lease as of January 12, 2001.

C. Potential impacts of activities at the mine portals

The two mine portals are upslope about 200 ft, and perhaps 1/10th mi. from Wells Creek. While mining is not prohibited near this waterway, the potential effects of excavating material and depositing it in this area, along with the storage of ore in bins, need to be evaluated.

D. Potential impact of storing excess excavated material on the “lower road”, FS Road 3700-031.

The plan to store excess material, if needed, on the site of the existing road washout, again upslope and not far from Wells Creek, begs the question of what will happen to this material in a rain event.

⁹ 36 CFR § 212.5

¹⁰ 66 Fed. Reg. 3272, CFR § 294.12(b)(7)

III. Specific Concerns Relating to Phase 2

We would like to ensure the following items are thoroughly addressed in that assessment as it pertains to Phase 2:

A. Impacts of significant construction on and re-opening of a road (FS Road 3700-031) on Wildlife around Wells Creek and on the creek itself.

If further sampling is needed, this road would be reconstructed to Maintenance Level 2, which would involve significant excavating, compaction, surfacing and so forth. Once completed, this would support about nine round trips per day of full-size vehicles for a period of about five years. Our understanding is that this road was not originally constructed to current FS standards and the amount of reconstruction would be significant. Again, this road is upslope of, and in close proximity to Wells Creek. We are concerned for the potential impact of this construction so near to a Riparian Reserve area, alongside a tributary of a river (the North Fork Nooksack) supporting several endangered and threatened species. We believe the assessment must determine whether the proposed construction would “meet” and “not retard or prevent attainment of Aquatic Conservation Strategy objectives.”¹¹

B. Impacts of significant construction on and re-opening of a road (FS Road 3700-031) on adjacent Late Successional Reserves.

It appears that a substantial portion of this road is bordered by trees between 80 and 160 years of age. The assessment should make clear what lands associated with the proposal are identified as Late Successional Reserves as directed by the Northwest Forest Plan. The 1994 ROD states, “Non-silvicultural activities within late-successional reserves are allowed where such activities are neutral or beneficial to the creation and maintenance of late-successional habitat.” We are concerned that the amount of road construction and maintenance would not be neutral or beneficial given the amount of disturbance from construction equipment and subsequent traffic. Appendix A to the 1994 ROD specifies that: “**Mining** - The impacts of ongoing and proposed mining actions will be assessed, and mineral activity permits will include appropriate stipulations (e.g., seasonal or other restrictions) related to all phases of mineral activity. The guiding principle will be to design mitigation measures that minimize detrimental effects to late-successional habitat.”¹² If any areas within the project area are in a LSR, the assessment must identify mitigation measures.

C. Funding of the construction and maintenance of FS Road 3700-031.

It is not stated in the scoping document whether the claimant or the Forest Service would be responsible for this construction work and the subsequent maintenance. Reference is made to the MBS Forest Plan goal of “providing for exploration, development and production of mineral and energy resources...” but specific obligations are not clear. We are aware of the required sustainable road system analysis underway and sympathize with the challenge of making many hard decisions. Accordingly, our view is that re-opening or improving the maintenance levels of closed roads requires strong justification. Given the current and projected Federal road maintenance budget constraints, we would like to understand the funding source for the proposed work. If the source includes federal fund, a justification will be necessary.

¹¹ Standards and Guidelines Attachment B to the 1994 ROD; p.B10-11

¹² Amendments to Forest Service and Bureau of Land Management Planning Documents with the Range of the Northern Spotted Owl Apr 13, 1994. page 8.

We appreciate the opportunity to give substantive comments to this scoping for the Environmental Assessment.

Feel free to contact Tom Uniack, Conservation Director for Washington Wild directly, or on behalf of the undersigned organizations, at 206-633-1992 or tom@wawild.org.

Sincerely,

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