



**Nooksack Indian Tribe
Natural Resources Department**

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June 7, 2022

Jody Weil, Forest Supervisor, Responsible Official
Mount Baker Ranger District, Mount Baker-Snoqualmie National Forest
2930 Wetmore Avenue, Suite 3A
Everett, WA 98201

Re: North Fork Nooksack Vegetation Management Project

Dear Supervisor Weil,

On behalf of the Nooksack Indian Tribe, we respectfully submit these objections and proposed remedies to certain aspects of the Revised North Fork Nooksack Vegetation Management Project, April 2022. We have previously submitted Scoping comments on the project in 2020 and comments on the Draft Environmental Assessment (EA) from September 2021. We objected to several aspects of the previous EA when we found that the Forest had not adequately addressed several of our substantive comments on the Draft EA. After the objections were set aside and a new Draft EA submitted, we are again asking for the National Forest to address some specific objections and our proposed remedies.

The Mount Baker-Snoqualmie National Forest's Mount Baker Ranger District is responsible for managing thousands of acres of forest lands in the ancestral territory of the Nooksack Tribe. Included in these are lands that directly affect natural and cultural resources that are important to Nooksack tribal members. The Nooksack Tribe hunts, gathers and engages in spiritual activities on these lands. The Nooksack Tribe also has Point Elliot Treaty-reserved fishing rights, including for salmon that live in the North Fork watershed for much of their life cycle. The USFS-managed lands are critical to both protecting and supporting recovery of these vastly diminished resources.

We continue to be concerned that the Forest is deferring the Endangered Species Act (ESA) consultation on the impacts to listed early chinook salmon, steelhead and bull trout, with the assumption that subsequent ESA review will address any potential effects. The North/ Middle Fork Nooksack early chinook population heavily uses the project area, particularly the North Fork Nooksack reach between Horseshoe Bend and Wells Creek and the alluvial fan of Canyon Creek. Our most recent abundance estimates for this population are only 131, 102, and 38 wild fish, respectively, for 2017 to 2019. The project area also contains the core of the ESA-listed

Nooksack bulltrout population, which has the highest water quality and habitat requirements of the salmonids present in the watershed. Habitat degradation is the root cause of the decline of all three listed species, and further habitat degradation due to land use is counter to recovery and de-listing.

The U.S. Department of Agriculture has a trust responsibility to protect Nooksack Treaty resources. We expect the Forest Service to consult and collaborate with the Nooksack Tribe on aspects of the North Fork Vegetation Management Plan that could impact treaty resources. Our expectation is that we will have the opportunity for direct involvement prior to and during sale layout, so that our cultural resources are protected. This is very important to us, but we also believe that the National Forest would benefit from incorporating our knowledge and expertise into the implementation of this management plan.

To ensure that we will be directly involved in project review, we have proposed entering into a Memorandum of Understanding with the Forest Service that outlines an approach for coordination and collaboration. We understand that this is still under review and will not be completed in a similar timeframe to the approval of this plan. Given that, we are seeking strong assurances that the Nooksack Tribe will be included in a meaningful review of the projects that come out of this planning effort. At the broad scale of the EA analysis, it is impossible for tribal reviewers to evaluate whether our resources are adequately protected. That will require site-by-site coordination between Forest Service staff and Nooksack Tribal staff. We have a track record of working cooperatively and collaboratively with state and private forest landowners, and we are similarly committed to working with the National Forest and contributing positively to a review process, once that process is developed and agreed to.

The Nooksack Tribe has expressed continuing support for forest management to improve wildlife habitat and generate income to improve forest roads and fund habitat restoration projects in the watershed as long as it was clear that our Treaty Resources would be protected. We have appreciated efforts to meet with us and discuss our previous concerns with this project and have been pleased to see some of those suggestions incorporated into the Modified Alternative 1 in the revised EA. We are disappointed in the reduced scope of the project that resulted from the wash-out of the Glacier Creek Road and hope that this area and others that contain similar-age forest stands will be considered for future work, once the Forest has demonstrated the success of this project.

We would also like to ensure that funding generated from the project stays in the watershed for improving our road systems and habitat. We have encouraged the Forest Service to engage in a stewardship contracting process that increases local involvement in the project. We envision a collaboration of local interests that can help identify and guide project development. We also support using the Good Neighbor authority to draw on other local experts to support the planning and lay-out of sales. Together, we believe these actions would lead to stronger support for local actions and improve the efficiency of implementing the projects. The Nooksack Tribe is committed to working with other partners to meet the broad goals of habitat enhancement, resource protection and support for the local economy included in the project plan.

While we are pleased that many of the objections that we presented in the September 2021 version of the EA have been addressed by the selection of the Modified Alternative 1 and the associated Design Criteria and Mitigation Measures in the current EA, we note that several of our concerns were not directly addressed in the revision. Our specific objections and proposed remedies are provided below:

Forest Roads

Our previous comments on forest road management were not directly addressed by the revised EA and the related mitigation measures. We see a general lack of consistency of this EA with the Memorandum of

Agreement between the USDA Forest Service, Region 6 and the Washington Department of Ecology (effective through July 2024) to meet Federal and State water quality laws. The MOA states that USFS roads will be kept in a condition that meets the level of protection specified in WAC 222. This includes culvert sizing and spacing for new construction, reconstruction or replacement of existing structures, management of road waste, side-cast and wasting restrictions on steep slopes and near streams, and general road lay-out restrictions to protect public resources. All haul routes need to be reviewed for consistency with WAC 222-24-052 before, during and following harvest.

While it is clear that the mitigation measures address many of the same road construction issues, there are specific rules in WAC 222-24 that should be included that are not reflected in the Design Criteria and Mitigation Measures. For example, full bench construction is required on slopes greater than 60% where there is potential for sediment delivery. The mitigation measures include not adding road fill within 150' of streams, which does not reflect the potential for road fill failure and sediment delivery to streams, which is driven by slope and confinement in addition to proximity. With so many of the past slope failures in the Canyon Creek watershed related to roads, it is critical to design roads to reduce the potential for fill failure. We propose that the Forest Service include this MOA in the mitigation measures- similar to the inclusion of the MOU between the Washington Department of Fish and Wildlife in SWF20 and the Regional General Permit #8 with the Army Corps and fisheries services (SWF21) – and adopt by reference the road and landing construction and maintenance measures described in WAC 222-24-015 through 222-24-040 as a minimum standard. We feel strongly that the Forest Service needs to acknowledge and begin acting on this agreement.

Unstable Slopes

The mitigation measures related to unstable slopes did not adequately address our concerns with slope stability in the project area. The indicators for unstable slopes included in the Design Criteria and Mitigation Measures are generally focused on identifying on-going deep-seated failure or past deposition from a shallow failure, rather than identifying areas at risk of future failure. In the case of shallow failures, it is critical to protect sensitive landforms regardless of indicators of past movement. The impacts of roads and timber harvest on slope stability was clearly identified in the EA, where the majority of shallow failures in the Canyon Creek watershed were associated with roads and harvest units. The mitigation measures discourage harvest on slopes greater than 80%, but do not address convergent slopes, which play an important role in increasing the run-out of debris slides. We propose the use of broadly defined landforms that reflect landslide hazard and allow foresters to identify unstable lands in the field when they are doing timber sale lay-out.

Low Flow Impacts

The project should be consistent with regional and local climate change adaptation plans. The EA assessed the potential for peak flow impacts from timber harvest, but did not address our comments about the potential for low flow impacts from altering transpiration rates and snow retention in the project area. Modeling of climate impacts on flow in the North Fork Nooksack indicate a 25% reduction in flow by 2025 and 63-75% by 2075 (Dickerson-Lange and Mitchell 2013, Murphy 2016). We propose that the Forest actively participate in on-going local research assessing the impacts of forest management on low flow. The Nooksack Tribe has worked with Western Washington University, the University of Washington and natural resources consultants to develop a modeling approach to evaluate the impacts of forest management on low flows. As this project moves forward, we would encourage the Forest Service to work with us and our partners to develop realistic forest management scenarios for Federal Lands and incorporate findings from the work into management plans.

In conclusion, we appreciate the relationship that we have with the Mount Baker-Snoqualmie National Forest and are committed to strengthening that relationship through this project. We feel strongly that meaningful Nooksack tribal participation and review are key to the project success. We hope these comments will provide an opportunity for continued discussion, and we ask the Forest Service to strongly consider and respond to these objections and proposed remedies.

Sincerely,

A handwritten signature in blue ink, appearing to read "George Swanaset, Jr.", with a stylized, cursive script.

George Swanaset, Jr.

Natural and Cultural Resources Director, Nooksack Tribe

A handwritten signature in blue ink, appearing to read "Michael Maudlin", with a stylized, cursive script.

Michael Maudlin

Forest and Fish Specialist, Nooksack Tribe, Lead Objector

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