



January 16, 2020
Gifford Pinchot National Forest Supervisor
987 McClellan Road
Vancouver, WA 98661

RE: Comments on Notice of Proposed Action and Scoping for Spirit Lake Intake Gate Replacement and Geotechnical Drilling

Dear Forest Supervisor,

Thank you for the opportunity to comment on the Spirit Lake Intake Gate Replacement and Geotechnical Drilling Notice of Proposed Action (NOPA). The Cascade Forest Conservancy's (CFC) mission is to protect and sustain forests, streams, wildlife, and communities in the heart of the Cascades through conservation, education, and advocacy. We represent over 10,000 members and supporters who share our vision for a forest where wild places exist, and wildlife thrives.

CFC acknowledges the need to protect public health and safety through the replacement of the Spirit Lake tunnel intake gate. We support the Forest Service's efforts to protect downstream communities; however, in the unlikely event of a gate failure it would take many months of inaction combined with a series of abnormal climatic conditions before downstream communities would be affected. We ask the Forest Service to consider the unique geology and ecology of the area as well as the ongoing need to replace the tunnel intake gate. Additionally, while we believe the drilling for core samples could provide valuable data and insight, combining the drilling project with the intake gate replacement project prevents the consideration of viable alternatives.

The Pumice Plain is a unique ecological anomaly and our members and partners care deeply about the preservation and protection of this special place. The two preferred alternatives do not adequately protect the Monument's ecological and scientific values, and they cause environmental harms that are extremely concerning to a variety of stakeholders. The current analysis for the Spirit Lake proposed action is inadequate, incomplete, and will have irreparable consequences.

We request that the Forest Service consider an alternative that mitigates both ecological harm and impacts to research and conducts adequate environmental review in the form an EIS. Additionally, given the time constraints of this comment period and the lack of available information and analysis, we request the Forest Service open a public comment period after the final Environmental Assessment (EA) is posted.

CFC's specific concerns with this project and suggested alternatives are explained in further detail as follows.

NEPA requires the consideration of an adequate range of alternatives.

We are concerned that the Forest Service has failed to consider, or dismissed without adequate analysis, a range of alternatives that protect the Monument values.

The Forest Service has suggested two alternatives for the gate replacement and drilling, both of which require a paved motorized access route across the Pumice Plain, which will be harmful to the unique ecology, geology, and recreational values of the Monument. Initial scoping meetings and prior projects proposed a UTV trail for a motorized accessed route. A paved motorized access route will leave a permanent scar on the landscape, impair the visual quality of the Monument, and invite unwanted motorized access to the Pumice Plain. The Forest Service should explore an alternative that does not require a permanent paved road.

An alternative that uses the Duck Bay access route should be adequately explored. The Duck Bay access route alternative (Gate Replacement 3)¹ would transport equipment in and out of Spirit Lake seasonally by helicopter to Duck Bay and by barge to the gate structure. Work crews would travel daily by utility terrain vehicle and boat to the intake structure. This alternative would mitigate both environmental impacts and harm to research plots. We have requested the project file to gain a better understanding of the dismissed alternatives; that request was turned down.²

The need for core sample drilling is premature and the Forest Service should explore an alternative that does not include the drilling project. The National Academy of Science report³ highlighted a need to fill a data gap, not an urgent need for core samples to prevent an imminent catastrophic event. We are concerned there is not a legitimate need for drilling additional cores, and by combining the gate replacement and drilling projects, adequate alternatives have been dismissed. The perceived need for drilling is driving the need for access west of Spirit Lake and across the Pumice Plain. Exploring an alternative that does not incorporate the drilling would mitigate environmental impacts and harm to research plots.

Inadequate analysis at the planning stage can result in irreparable environmental harm to the Pumice Plain and Spirit Lake. Alternative access routes not analyzed in the NOPA should be analyzed in further detail and compared not just with regard to economics, but also with a consideration of how well it protects the Monument values. We suggest the Forest Service revisit the prematurely dismissed alternatives and consider an alternative that results in fewer ecological harms and impacts to research.

The proposed action requires the preparation of an Environmental Impact Statement.

Under NEPA, an agency must prepare an EIS if a proposed federal action could “significantly affect the quality of the human environment.”⁴ The significant effect need not actually occur; it is sufficient to trigger the preparation of an EIS if a substantial question is raised “whether a project

¹ NOPA at 10.

² CFC requested the project file on 12/19/19, the Forest Service declined the request and recommend CFC make an official FOIA request for the documents. CFC submitted a FOIA request on 01/03/20.

³ A DECISION FRAMEWORK FOR MANAGING THE SPIRIT LAKE AND TOUTLE RIVER SYSTEM AT MOUNT ST. HELENS, NATIONAL ACADEMIES OF SCIENCE. ENGINEERING. MEDICINE (2018).

⁴ 42 U.S.C. §4332(c).

may have a significant effect on the environment." Council on Environmental Quality Regulations define significant effect by reference to both the context and intensity of the action. There are a number of factors the agency must consider in assessing the intensity of the action, including:

- (1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.*
- (2) The degree to which the proposed action affects public health or safety.*
- (3) Unique characteristics, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*
- (4) The degree to which the effects are likely to be highly controversial.*
- (5) The degree to which the possible effects are highly uncertain or involve unique or unknown risks.*
- (6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*
- (7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it into small component parts.*
- (8) The degree to which the action may adversely affect [sites/structures] listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*
- (9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*
- (10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

40. C.F.R. § 1508.27(b).

The environmental impacts of the proposed alternatives are both controversial and significant. The proposed road would cross five permanent streams and ten seasonal streams, encouraging soil erosion and sediment delivery into the streams, the Toutle River System, and Spirit Lake. These channels make up five separate watersheds that were created following the eruption of Mount St. Helens—a set of new watersheds globally unique to this landscape. The road would experience 1,980 passenger vehicle passes, 84 tractor-trailer passes, 464 single-unit truck passes, and 6-10 drill rigs passes per season.⁵ The impacts of sediment disturbances will cause significant harm to aquatic insects and fish, and may incite downstream migration, increasing turbidity and damage to benthic habitat. Additionally, a portion of these stream crossings are likely wash out every year, requiring additional construction and causing additional harms to the ecology of the landscapes—impacts that have not been discussed.

The proposed duration of the project is up to five years—three years longer than initially proposed in scoping meetings. The sounds from drilling will be heard throughout the region, affecting both the area's tranquility and nearby animal populations. Mountain goats, a sensitive

⁵ NOPA at 7.

species, as well as deer and elk, may avoid their current habitats in the area and potentially disappear off the landscape for an extended period of time given the proposed timeline of the project.

The human impacts on the landscape during the proposed project timeline are unmitigated. Specifically, there will be unintended consequences due to the density of workers for a prolonged period of time. The construction of a road will cause a permanent scar on the landscape due to its structure alone. The Forest Service's classification of the road has not been discussed and could require long-term maintenance and result in additional significant ecological harms. We are concerned about the limited analysis, which fails to adequately explore the wide-ranging impacts to the quality of the environment. We believe the Forest Service is obligated to prepare an EIS to address these concerns.

The proposed Comprehensive Management Plan amendment requires the preparation of an Environmental Impact Statement.

We have concerns that a project-specific amendment to the Comprehensive Management Plan⁶ (CMP) is being proposed without adequate environmental review. Plans themselves may not directly cause environmental impacts, but in this case, the proposed site-specific amendment is for the sole purpose of facilitating this project. The Forest Service is obligated to prepare an EIS for an amendment that causes significant impacts and is a major federal action.⁷ The proposal to amend the visual quality objective from retention to partial retention will have significant impacts on the character and landscape of the monument and is a major federal action. The retention objective currently required in the CMP is “the most restrictive visual quality objective” and “management activities are not evident to the casual forest visitor.”⁸ This visual quality objective is in place to preserve aesthetic values of the Monument and maintain a landscape that has negligible visible human influence. Deviation from this objective will have significant effects on recreation, opportunities and access, and the scenic character of the Monument. Additionally, this amendment may establish a precedent for future actions with significant effects.⁹ We do not support the proposed amendment and urge the Forest Service to conduct the necessary environmental analysis and prepare an EIS.

The impacts to research are controversial and significant.

When Congress designated Mt. St. Helens as a National Monument, it identified research as a priority. The Pumice Plain, specifically, was designated as a Class 1 Research Area; the two proposed alternatives could have irreversible impacts to this natural laboratory and its ongoing research. In fact, there are few places on earth that boast six square miles with almost no human influence, and researchers have spent 40 years observing nature recover from total destruction to a flourishing ecosystem of streams, soils, plants, and animals. It is an epicenter for learning and knowledge. We are concerned that any activity as invasive as the proposed action would have damaging consequences for global research. Both alternatives directly cause the loss of research

⁶ 36 C.F.R. 219.16(b).

⁷ “A proposed amendment that may create a significant environmental effect and thus requires preparation of an environmental impact statement.” 36 C.F.R. 219.13(b)(3).

⁸ NOPA at 18; CMP, appendix P.

⁹ 40. C.F.R. § 1508.27(b)(6).

plots and transects,¹⁰ destroying research, impacting funding, and potentially permanently altering the ecological conditions for all research on the Pumice Plain. Additionally, a Class 1 Research Area is a unique characteristic that requires the preparation of an EIS under 40. C.F.R. § 1508.27(b)(3), the list is not exhaustive, they are suggestions, and a Class 1 Research Area is exactly the kind of characteristic the legislators were striving to protect.

The public is not being given an adequate opportunity to provide meaningful comments.

In an attempt to circumvent opposition to a highly controversial project, the Forest Service is rushing this project through without adequate consideration of public input. The notice of proposed action was posted on December 17, allowing for a limited public comment window across the vacation period while agency staff are unavailable to answer public concerns and supply additional information. CFC sent a letter requesting a comment extension on December 19,¹¹ to which the Forest Service did not respond until January 3—two weeks later—when agency staff were back in the office. We are deeply concerned that the Forest Service is undermining the public comment process by failing to entertain a public comment period following the final EA. It is challenging, if not impossible, to provide meaningful comment and preserve standing on issues for which we have not been supplied adequate documentation. Additionally, the EA is likely to include substantial changes from the NOPA—especially if the Forest Service takes on board public comment—which requires a public comment period.¹² We request the Forest Service open up an additional public comment after review of these comments to allow CFC time to receive documents from our FOIA request and further understand the intricacies of this project.

The Presence of Endangered Species requires consultation under the Endangered Species Act.

The Notice of proposed action fails to acknowledge the population of Steelhead inhabiting Spirit Lake. Under the Endangered Species Act (ESA), any federal action that may affect threatened or endangered species or its habitat, the agency contemplating an action must consult with the consulting agency.¹³ For anadromous species, the consulting agency is the National Marine Fisheries Service (NMFS or NOAA Fisheries).¹⁴ Local biologists and researchers are fairly certain there is a population of Lower Columbia River steelhead in Spirit Lake.¹⁵ The North Fork Toutle River avulsed at least ten times from 1980 through 2017, which would have allowed the population of steelhead to connect with Spirit Lake. Anadromous steelhead, Lower Columbia River distinct population segment, are listed as Threatened under the ESA.¹⁶ If the proposed activity is likely to adversely affect the listed species,¹⁷ the Forest Service is required to consult with NMFS and request the issuance of a Biological Opinion.¹⁸ We are concerned that the effects

¹⁰ Alternative B causes the destruction of five research plots; Alternative C cause the destruction of three research plots.

¹¹ CFC comment extension request letter submitted as official comment 12/17/2019.

¹² See 36 C.F.R. §218.22.

¹³ *Karuk Tribe of California v. U.S. Forest Service*, 681 F.3d 1006, 1020 (9th Cir. 2012).

¹⁴ See 50 C.F.R. § 402.01.

¹⁵ Major, J.J., *et al.*, A MULTI-DECADE ANALYSIS OF FLUVIAL GEOMORPHIC EVOLUTION OF THE SPIRIT LAKE BLOCKAGE, U.S. GEOLOGICAL SURVEY OPEN-FILE REPORT (Draft, Publication expected 2020).

¹⁶ See 50 C.F.R. §223, §224.

¹⁷ 50 C.F.R. §402.13(a), §402.14(a)-(b).

¹⁸ 50 C.F.R. § 402.14(g),(h).

of the debris block drilling, gate replacement, and road construction are certain to harm the habitat and survival of the steelhead. Given the project may adversely affect the threatened steelhead and their habitat, we believe the Forest Service is obligated to prepare an EIS.¹⁹

The threat of invasive species has not been adequately considered.

The Forest Service has failed to account for the impacts and introduction of invasive species into this unique landscape. CFC is concerned about the potential introduction of invasive species because of the introduction of barges, machinery for drilling equipment, and materials for road construction. Specifically, the NOPA proposes a road constructed out of gravel and asphalt²⁰ without any mention of where these materials will be sourced from and methods to prevent the introduction of invasive species. Additionally, the New Zealand mudsnail, a known invasive species, has already been introduced to the Spirit Lake system.²¹ We are concerned that this project, as proposed, could allow for further introduction and more dispersal downstream into the Toutle River system, posing a potential ecological disaster. We suggest the Forest Service strongly consider taking a hard look at the environmental impacts of the project and conduct further analysis in the form of the preparation of an EIS.

The harms to recreation will be long-term and permanent.

We are concerned the proposed project will have long-term, permanent impacts on recreation. The project will impact hiking, birding, biking, hunting, and scenic views. The disturbance from the proposed project will be seen from a vast array of locations including Harry's Ridge, Windy Ridge, Johnston Ridge, and the Mount Margaret Backcountry. The thumping sound associated with drilling and the construction of the gate will displace the quiet and tranquil nature of the landscape. Additionally, the proposal identifies Windy Ridge as a staging zone, which will lead to the closure of the ridge and any associated trails for the duration of the project. This closure also includes the popular mountain biking and hiking trail, the Plains of Abraham, that would be rendered inoperable for the foreseeable future. The Truman Trail will be most significantly affected by the project; both alternatives propose the trail will be closed for five years and turned into a gravel road—no longer resembling a hiking trail. The impacts to recreation are significant and do not consider the values of the Monument. We request the Forest Service consider an alternative that mitigates any impacts to recreation.

The risk to downstream communities is relatively low.

We are sensitive to the potential risks to downstream communities; human safety is of the utmost importance. At the scoping meeting prior to the release of the NOPA, however, the Forest Service confirmed that the intake gate had been fixed, revealing no immediate need, or emergency, to replace the intake gate.²² Additionally, it would take an abnormal series of climatic events for negative downstream impacts to be realized, and even then, scientists predict the timeline to be “many months.”²³ Specifically, “unlike constructed dams where infrastructure failure can lead to a sudden reservoir release, failure or blockage of the existing tunnel will not

¹⁹ 40 C.F.R. § 1508.27(b)(9).

²⁰ NOPA at 10.

²¹ NOPA at 11.

²² Spirit Lake scoping meeting on 11/13/2019, Rebecca Hoffman confirmed the intake gate had been repaired.

²³ Grant, *et al.*, GEOLOGIC, GEOMORPHIC AND HYDROLOGIC CONTEXT OF THE SPIRIT LAKE OUTLET (2017).

result in an immediate release of Spirit Lake. Instead, under most circumstances, many months are required for the lake to fill to a level that will induce breaching of the blockage,” allowing for substantial response time to prevent catastrophic breaching and protection of the downstream communities.

Conclusion

Based on the alternatives presented in the NOPA, and the absence of an EIS, we request that the Forest Service choose Alternative A, the no-action alternative, to protect the scientific and ecological value of the Monument. Without the release of the project file and the preparation of an EIS, CFC does not feel comfortable supporting an action alternative. However, with the above documentation and appropriate environmental review we could be amenable to supporting a proposed or modified alternative.

The Cascade Forest Conservancy appreciates your consideration of our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Brookham".

Lucy Brookham
Policy Manager
Cascade Forest Conservancy